

**STATE OF RHODE ISLAND
BEFORE THE STATE LABOR RELATIONS BOARD**

In the Matter of :
:
:
RHODE ISLAND STATE LABOR :
RELATIONS BOARD :
:
-and- :
:
:
TIVERTON SCHOOL :
COMMITTEE :

Case No. ULP 6264

 ORIGINAL

CONSENT ORDER

By agreement of the parties, the Rhode Island State Labor Relations Board (“SLRB”) makes the following findings of fact:

1. The Tiverton School Committee is a duly constituted committee, duly organized under the Constitution and the General Laws of Rhode Island, with their headquarters at the Tiverton School Department, 100 North Brayton Road, Tiverton, RI 02878.
2. NEA Tiverton, Local 833/NEARI/NEA, is the exclusive collective bargaining representative for teachers of the Tiverton School Department.
3. There was at all times relevant to this case a valid collective bargaining agreement in effect between the Tiverton School Committee and NEA Tiverton.
4. Amy Mullen is employed by the Tiverton School Committee as a Special Education Teacher.
5. At all times relevant to this case, Amy Mullen (“Mullen”) served – and continues to serve – as the President of NEA Tiverton.

6. Peter Sanchioni is employed by the Tiverton School Committee as the Superintendent of Schools.
7. On or about October 1, 2019, NEA Tiverton filed a grievance with the Superintendent regarding his refusal to allow Mullen to use her bereavement days per Article 13(C) of the collective bargaining agreement to attend a memorial service for her father-in-law in New Hampshire.
8. The Superintendent denied the grievance at Level 2 on the grounds that more than a month had passed since the death of Mullen's father-in-law, and he directed her to use personal days.
9. By letter dated October 17, 2019, NEA Tiverton, through its field representative at NEARI, requested certain information regarding the use of bereavement leave in the Tiverton School Department over the last five years, for the purpose of processing the grievance.
10. Specifically, NEARI requested five years of records, including the 2019-2020 school year to date, for the following items:
 - a. The number of bereavement day requests.
 - b. The number of denials of bereavement days, including the names of the teachers who were denied.
 - c. The number of notes required by the Superintendent explaining the purpose of the bereavement leave, including the names of the teachers from whom those notes were requested.
 - d. The number of times the Superintendent directed a teacher to use personal days instead of bereavement leave, including the names of the teachers who were so directed.

11. In an email dated October 21, 2019, the Superintendent responded that the “task would take a significant amount of time,” and further noted that, “we will work out an [sic] invoice the cost associated with the task per Rhode Island Freedom of Information Act regulations.”

12. In an email dated October 24, 2019, NEA Tiverton’s field representative responded, “This is not a FOIA request. The is information the Union needs to process a grievance. It is a reasonable request, the [Tiverton School Department] has a duty to furnish this information, and you may not charge us.”

13. In an email dated October 29, 2019, the Tiverton School Committee’s legal counsel responded to NEA Tiverton’s field representative, declining to provide the requested information, stating in part:

While we understand that the union does have some right to access information necessary to process grievances, that right has limits. As Dr. Sanchioni has pointed out, responding to the information request that you made will require extensive amounts of time in going through paper records.

Furthermore, we should remember that each individual employee’s situation will be different. Therefore, comparisons between one teacher’s situation and Ms. Mullen’s will likely have little to no probative value. Under these circumstances, we believe that your requests are unreasonable. For that reason, your request for information is denied.

14. The NEA Tiverton did not reply to the School Committee’s legal counsel’s October 29, 2019 communication.

15. For about the past two years since the NEA Tiverton’s October 17, 2019 request, Tiverton maintained records of teacher absences and/or requests for time off on what is known as the AESOP system.

16. Prior to the institution of the AESOP system, the records of teacher absences and/or requests for time off were maintained on paper, and stored in the paper personnel files of individual teachers.
17. Over the five years preceding the NEA Tiverton's October 17, 2019, Tiverton could employ anywhere from 183-200 teachers.
18. To retrieve all of the documentation requested by the NEA Tiverton, an employee would have to search each and every individual file for the teachers.
19. To complete the task of retrieving the documentation requested by the NEA Tiverton, a Central Office employee would need at least a week of work – provided that he or she was relieved of all other duties.
20. The Union has no knowledge of the allegations referred to in No. 15-19 (above) nor any reason to dispute it occurred and will address its relevance in the brief.
21. On November 4, 2019, NEA Tiverton filed an Unfair Labor Practice Charge with the State Labor Relations Board alleging that the Tiverton School Committee “violated the Act when it denied the Union’s request for information necessary to process a grievance regarding denial of bereavement leave.”
22. On December 12, 2019, the State Labor Relations Board issued a Complaint on the Unfair Labor Practice Charge, Case No. ULP 6264.
23. There being no material dispute of facts, the parties agreed to waive a formal hearing in this matter, which had been scheduled for March 12, 2020.
24. The parties have agreed upon exhibits, which will be submitted without objection by either party, when the parties file their briefs.

ORDER

Based on the foregoing and upon agreement of the Parties, the following order shall enter that the matter shall be briefed thirty (30) days from notification by the Board Administrator upon granting of this Order.

On behalf of the Respondent
By its Attorney,

/s/ Vicki Bejma

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On behalf of the Union
By its Attorney,

/s/ Jennifer Azevedo

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RHODE ISLAND STATE LABOR RELATIONS BOARD

/s/ Walter J. Lanni

Walter J. Lanni, Chairman

/s/ Scott G. Duhamel

Scott G. Duhamel, Member

/s/ Aronda R. Kirby

Aronda R. Kirby, Member

/s/ Kenneth B. Chiavarini

Kenneth B. Chiavarini, Member

/s/ Derek M. Silva

Derek M. Silva, Member

Entered as an Order of the
Rhode Island State Labor Relations Board

Dated: May 19, 2020

By: Robyn H. Golden
Robyn H. Golden, Administrator