



COMMONWEALTH OF MASSACHUSETTS
DIVISION OF LABOR RELATIONS CHARGE
OF PROHIBITED PRACTICE
M.G.L. c.150E

DO NOT WRITE IN THIS SPACE
Case No. Date Filed

116-5079 2-3-16

INSTRUCTIONS: Answer all applicable questions. Failing to provide information may result in the dismissal of the charge. File an original and two (2) copies of this form with the Division.

Note: Pursuant to 458 CMR 15.04, the Division will not issue a complaint unless the charging party has complied with the applicable provisions of M.G.L. c.150E, §§13 and 14.

1. Employer Town of Winthrop (Library)	2. Representative to contact James McKenna, Town Manager	4. Telephone Number 617-846-1852
3. Address (street and No., city/town, state, and ZIP code) 1 Metcalf Square Winthrop, MA 02152		5. Fax Number 617-846-5458
6. Employee Organization (if any): Winthrop Library Staff Assoc., Local 4928, MLSA, AFT Massachusetts, AFL-CIO	7. Representative to contact Joseph R. Lettiere Associate Counsel	9. Telephone Number 617-423-3342
8. Address (street and No., city/town, state, and ZIP code) AFT Massachusetts, 38 Chauncy St., Suite 402, Boston, MA 02111		10. Fax Number 617-423-0174
11. This charge is filed against (check one) ☒ Employer ☐ Employee Organization		
12. The above named employer or employee organization has engaged or is engaging in a prohibited practice within the meaning of Massachusetts General Law, Chapter 150E, Section(s) (enter all appropriate sections/subsections) Section 10 (a) (1) (3) and (5) <i>Failing to specify an appropriate section/subsection may result in the dismissal of the charge.</i>		
13. Summary of basis of Charge (be specific as to names, dates, addresses, etc.) Attach addition sheets, documents and/or affidavits if necessary. Please note: failure to allege specific facts may/will result in dismissal of the charge. See attached Summary of Charge.		

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By these and other acts, the party complained of has interfered with, restrained, and/or coerced rights guaranteed by the Law.

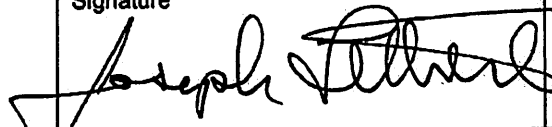
14. (a) Is there a collective bargaining agreement that may apply to the conduct that is alleged to have violated the law?	☒	Yes	☐	No
(b) If you checked "Yes in question 14(a), please list all of the clauses alleged to apply and attach a copy of each.				
(c) Is there a grievance concerning this matter pending?	☐	Yes	☒	No
15. Without limiting your rights to later amend your remedial request, please explain what remedy you seek. Include the amount of any financial remedy to which you claim entitlement. An order requiring that the discipline be rescinded and expunged from all records, and a posting.				
16. Have you attempted to settle this case? If not, why not?	☒	Yes	☐	No
<i>Note: the division may decline to issue a complaint unless reasonable settlement efforts have been made by the charging party 456 CMR 15.04(1). The Division may refer the charge to a Division mediator for settlement discussions.</i>				

INFORMATION ON CHARGING PARTY

17. Name Winthrop Library Staff Assoc., Local 4928, MLSA, AFT Massachusetts, AFL-CIO	18. Representative to contact Joseph R. Lettiere Associate Counsel	20. Telephone Number 617-423-3342
19. Address (street and No., city/town, state, and ZIP code) AFT Massachusetts, 38 Chauncy St., Suite 402, Boston, MA 02111		21. Fax Number 617-423-0174
22. The Charging Party is an: ☐ Individual ☒ Employee Organization ☐ Employer		

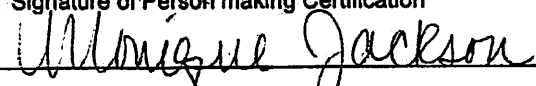
DECLARATION

I have read the above charge of prohibited practice and swear under the pains and penalties of perjury that the information contained in it is true and complete to the best of my knowledge and belief.

Name (print) Joseph R. Lettiere	Signature 	Title (if any) Associate Counsel
Address (street and no., city/town, state, and ZIP code) AFT Massachusetts, 38 Chauncy St., Suite 402, Boston, MA 02111		Telephone Number 617-423-3342

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this Charge of Prohibited Practice on the following representative of the opposing party.

Name Howard Greenspan, Esq.	Address (street and no., city/town, state, and ZIP code) Qua, Hall, Harvey & Walsh, 25 Fletcher St., Chelmsford, MA 01824	Telephone Number 781-598-4545
Method of Service	☐ In hand ☒ First Class Mail ☒ Other (specify): <u>e-mail</u>	
Signature of Person making Certification 		Telephone Number 617-423-3342

The Division does not discriminate on the basis of disability in access to its services. Inquiries, complaints or requests, including requests for auxiliary aids and information regarding access features should be directed to the ADA Coordinator (617) 626-7132. This document is available in alternative formats.

ATTACHMENT

13. Summary of Charge

By virtue of the actions described below, the Town of Winthrop (Employer) has violated M.G.L. c.150E, §§ 10 (a) (1) (3) and (5) by discriminating against the two (2) Association (Union) co- chairs, Richard Allen and Mary Connolly.

Mr. Allen and Ms. Connolly initially attempted, without success, to meet with the new Library Director, Diane Wallace, regarding the Union's concerns about her management style. Following that unsuccessful effort, the co-chairs sent a letter to the Library Trustees detailing the staff concerns. Shortly thereafter, on or about August 5, 2015, the Town's director of Human resources, Stacy DiChiara, emailed the staff indicating that she and Wallace were willing to meet with the staff on that same day to discuss their concerns.

Ms. Connolly and Mr. Allen wanted Shawn Flood to be present at the meeting. He was unable to do so given the short notice. Ms. Connolly therefore quickly sent an email to management on that same day requesting that the meeting be rescheduled. Director Wallace then called Ms. Connolly into her office and gave her an oral warning for conducting Union business on Library time, purportedly in violation of the Article 7 of the CBA. Please note that Article 7 of the CBA prohibits only internal Union business during Library hours and even that prohibition is partial rather than absolute. (See the excerpted Article 7 "Union Activity on Department Property" attached hereto as "A", together with Articles 6 "Non-discrimination" and 17 "Discipline".) Several days later, on or about August 10, 2015, Director Wallace issued a written reprimand to Mr. Allen, allegedly for sleeping while on duty. See attachment "B." Mr. Allen denied that accusation and maintains that denial.

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ATTACHMENT "A"

COLLECTIVE BARGAINING AGREEMENT



TOWN OF WINTHROP
AND
WINTHROP LIBRARY STAFF ASSOCIATION
M.S.L.A

JULY 1, 2005 THROUGH JUNE 30, 2008

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Section 05.1: The Union agrees that no employee shall engage in, induce or encourage any strike (whether sympathetic, general or any other kind), walkout, work stoppage, sitdown, slowdown, withholding of services, or any other direct or indirect interference, concerted or otherwise, with the Employer's operations. The Employer agrees not to conduct a lockout.

Section 05.2: The Employer may impose disciplinary action, including discharge, upon any and all of the employees involved in a violation of this Article. Such action shall not be subject to the grievance or arbitration procedure hereunder except as to the question of whether or not the employees who were disciplined in fact engaged in, induced or encouraged such conduct. Notwithstanding the foregoing, the parties agree that the Massachusetts Labor Relations Commission has jurisdiction under M.G.L. c. 150E over any strike or prohibited practice set forth above.

Section 05.3: The Employer also retains the right to recover from the Union or any officers, agents or members thereof, either through legal procedures as provided by law, or through the grievance and arbitration procedures established by this Agreement, or both, such damages as it may suffer by reason of violation of this Article except that no person (including the Union) shall be liable if he did not engage in, induce or encourage activity in violation of Section 1, and such persons take all lawful steps reasonably within their power to have such activity terminated.

The Union retains similar rights against the Town in the event of an illegal lockout by the Employer.

ARTICLE 06 NON-DISCRIMINATION
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Section 06.1: There shall be no discrimination, interference, restraint or coercion by the Employer or the Union or their respective agents against any employee because of membership or non-membership in the Union.

Section 06.2: The Union agrees to represent all employees covered in this Union without regard to membership or participation in, or association with the activities of the Union, or any other

employee organization, and continue to admit said persons to membership without qualification, other than the payment of periodic dues or initiation fees regularly required by the Union. There shall be no discrimination by either party against any employee because of race, creed, religion, color, sex, age, or where said employee is a qualified handicapped individual.

ARTICLE 07 UNION ACTIVITY ON DEPARTMENT PROPERTY

Section 07.1: Unless otherwise provided by this Article, the internal business of the Union including but not limited to soliciting membership, collecting dues, campaigning for officers, electing officers will be conducted during non-library and non-working hours.

Section 07.2: Upon reasonable notice to the Director, the Union will be permitted to use the Library premises for regular business meetings. Except as to said regular business meetings and to the extent expressly permitting in Article 8 or except as expressly approved by the Director, no members of the Union shall conduct Union business on Library property.

Section 07.3: The Director will designate a space in which the Union may erect a bulletin board. The purpose of the board will be for posting of appropriate material and notices by the Employer or the Union.

Section 07.4: The Union shall furnish the Employer with a written list of Union stewards and other representatives immediately after the designation of such representatives. The Union shall notify the Employer of any changes in the list of representatives.

Section 07.5: The Union steward shall be granted a reasonable amount of time during working hours, without loss of pay, to investigate and settle grievances, and conduct other urgent union business upon due notice to the Director.

ARTICLE 08 DUES DEDUCTION
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ARTICLE 17 DISCIPLINE
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Section 17.1: The Union recognizes the authority and responsibility of the Director and/or the Library Board of Trustees for reprimanding or disciplining an employee for delinquency of performance. The above language shall not prevent, or in any way effect, the Board of Selectmen from exercising its authority under the Grievance and Arbitration provisions of this Agreement or from upholding or otherwise enforcing a disciplinary action taken by the Director or the Board of Trustees as part of the grievance process.

Section 17.2: No permanent employee will be disciplined, reprimanded, reduced in rank, or compensation or deprived of any wage increase or increment without just cause.

Section 17.3: Employees shall have the right to have a Union representative present at any disciplinary action.

ARTICLE 18 HOLIDAYS

Section 18.1: All permanent full-time employees covered by this Agreement will be paid seven (7) hours pay at regular straight time wages for the following holidays whenever they fall on a regular work day, or the day following when any of said days occur on Sunday.

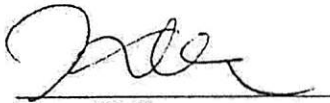
New Year's Day	Independence Day
Martin Luther King's Birthday	Columbus Day
Washington's Birthday	Labor Day
Evacuation Day	Veterans Day
Patriot's Day	Thanksgiving Day
Memorial Day	Christmas Day
Bunker Hill Day	

One-half (1/2) holiday will also be celebrated on Good Friday and the regular workday before Christmas. On all such days all permanent full-time employees otherwise eligible for holiday pay will receive seven (7) hours pay for four (4) hours worked on such day.

ATTACHMENT "B"

Documented Verbal Warning

Winthrop Public Library employee **Richard Allen** was found sleeping at his desk from approximately 10:45 am to 10:50 am on Friday, August 7, 2015. This is unacceptable behavior and this document will be placed in your personnel file. If this behavior occurs again the next step will be a written disciplinary warning.



August 10, 2015

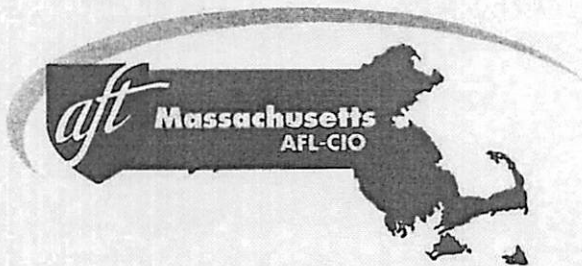
Diane Wallace
Director

Acknowledged receipt of this verbal warning
Do not agree with the contents
 August 10, 2015

Richard Allen
Technical Services Librarian

RS (witness)
MLO (witness)

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AMERICAN FEDERATION OF TEACHERS MASSACHUSETTS

38 Chauncy Street, Suite 402
Boston, MA 02111

(617) 423-3342 / 1-800-279-2523
Fax: (617) 423-0174

February 3, 2016

BY EMAIL AND MAIL

Mr. Edward B. Srednicki
Executive Secretary
Department of Labor Relations
19 Staniford St., 1st Floor
Boston, MA 02114

RE: Winthrop Library Staff Association, MLSA, Local 4928
AFT Massachusetts, AFL-CIO
and
Town of Winthrop
CHARGE OF PROHIBITED PRACTICE

Dear Mr. Srednicki:

Enclosed please find for filing an Unfair Labor Practice Charge on behalf of the Winthrop Library Staff Association, MLSA, Local 4928, AFT Mass. against the Town of Winthrop.

This will confirm that I have served the enclosed Unfair Labor Practice Charge and Exhibits upon the Town's legal counsel, Howard Greenspan, Esq.

Thank you for your attention to this matter.

Sincerely,


Joseph Lettiere
Associate Counsel

JL/mj

Enclosure

c: Howard Greenspan, Esq.
Mary Frances Best
Richard Allen
Shawn Flood

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