



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

MUA13-2513 | 12-27-12

INSTRUCTION: 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.

1. Employer Town of Winthrop	2. Representative to Contact Atty. Howard Greenspan	4. Telephone Number 781 598 4545
3. Address (street and No., city/town, state, and ZIP code) 200 Broadway, Lynnfield, 01940	5. Fax Number	
6. Employee Organization (if any) AFSCME Council 93	7. Representative to contract Atty. Joseph L. DeLorey	9. Telephone Number 617 367 6024
8. Address (street and No., city/town, state, and ZIP code) 8 Beacon St., Boston, MA 02108	10. Fax Number 617 742 7666	

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)
10 (a) (5) and (1)

Failing to specify an appropriate section/subsection may result in the dismissal of the charge

13. Summary of basis of Charge (be specific as to names, dates, addresses, etc)

In October of this year AFSCME, through its Staff representative Ed Nastari, had occasion to interact with Town of Winthrop Public Works Director Steven Calla. At issue were certain benefits that may or may not have accrued to certain bargaining unit members (Messrs. Collins, Lindquist, and Craft).

During the course of this interaction, Ms. Calla sent correspondence to Mr. Nastari (copy attached as "a").

Within this correspondence is an unambiguous statement by Mr. Calla that he, on behalf of the municipal employer, had engaged in "direct dealing" with bargaining unit members over terms of compensation.

If the fact statements made in "a" are substantially true, there are no material facts in dispute, and the union charges as follows:

Count 1 - By engaging in direct dealing with unit members over matter(s) that are so-called "mandatory subjects of bargaining," the employer has violated s. 10 (a) (5) of the Act.

Count 2 - By engaging in direct dealing with unit members over matter(s) that are so-called "mandatory subjects of bargaining," the employer has derivatively violated s. 10 (a) (1) of the Act.

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

14. Have you filed a charge concerning the same allegation with the National Labor Relations Board?

☐ Yes

☒ No

12/27/12

15. (a) Is there a collective bargaining agreement that may apply to the conduct that is alleged to violate the Law?	YES ☐ NO ☒
(b) If you checked "Yes" in question 15 (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 ☒

16. 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:
Declare Act violated as alleged, and direct the employer to deal with the union, upon the union's request, over these issues, as they relate to Mr. Collins.

17. Have you attempted to settle this case? If not, why not?	YES ☒ NO ☐
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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)

INFORMATION ON CHARGING PARTY

18. Name AFSCME Council 93	19. Representative to contact Atty. Joseph L. DeLorey	21. Telephone Number 617 367 6024
20. Address (street and No., city/town, state, and ZIP code) 8 Beacon St., Boston, MA 02108		22. Fax Number 617 742 7666
23. 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 L. DeLorey	Signature 	Title (if any) General Counsel
Address (street and no., city/town, state, and ZIP code) 8 Beacon St., Boston, MA 02109		Telephone Number 617 367 6024

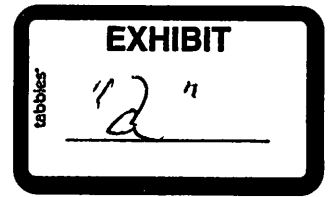
CERTIFICATE OF SERVICE

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

Name Atty. Howard Greenspan	Address (street and no., city/town, state, and ZIP code) 200 Broadway, Lynnfield, MA 01940	Telephone Number 781 598 4545
Method of Service ☐ In hand ☒ First Class Mail ☐ Other (specify):		
Signature of Person making Certification 		Telephone Number 617 367 6024

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.

10-31-12



Ed,

As requested, I've looked into all three FY12 retirement cases. (Lindquist, Craft, Collins) Both Mr. Lindquist and Mr. Craft were paid 200 sick days at a rate of \$30.00 per day. Neither individual was paid accrued sick time (only regular sick time). Both Mr. Lindquist and Mr. Craft were also only paid the percentage of their clothing allowance that equaled the amount of FY12 employment as agreed upon by all 3 parties involved. Mr. Lindquist and Mr. Craft were also asked to use 3 of their 5 weeks of vacation time prior to retirement leaving only 2 weeks pay out by the Town. It should also be known, that Mr. Lindquist and Mr. Craft each worked until the day of their respective retirements.

Mr. Collins retirement request came much sooner to the actual date of retirement than both Craft and Lindquist. Collins only had 2 weeks of his available 5 weeks of vacation remaining at the time of notice, so he agreed to utilize the two remaining weeks of vacation prior to retirement. Like the two previous retirements, Mr. Collins also agreed to use only 25% of his available clothing allowance as he would only be employed for 4 months of FY12. This was supposed to leave 75% available for the new hire (Exactly what Lindquist and Craft agreed to.) This was all agreed to in his signed acceptance letter on 9-11-12. It should also be known that because Mr. Collins did not have adequate accumulated sick time to benefit from the available 200 days @ 30.00 per day = \$6000.00 (like Lindquist and Craft), Collins was granted the opportunity to get full pay for 12 undocumented sick days which equated to \$2013.00 (167.75 per day x 12 days) as opposed to 19 eligible days at \$30.00 per day or \$570.00. Mr. Collins chose to stay home for his last 12 days prior to retirement and got full pay for these days

Mr. Collins also spent 100% of his clothing allowance even though he agreed to the 25% cap for FY12. This over expenditure equates to \$375.00.

Regular sick time increases at rate of 8.67 hours per month to be used when an employee is incapacitated by his own sickness or injury. Regular sick time must be depleted before an employee can access accrued sick time benefits. Accrued sick time increases at a rate of 2 days per year on the employee's anniversary and is made available if an employee has run out of his or her regular sick time while employed by the town.

All three employees had regular sick time available, so the accrued sick time was never utilized.

Best regards,
Steve Calla
Director of Public Works