

STATE OF RHODE ISLAND  
NEWPORT, SC.

SUPERIOR COURT

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Teachers’ Association of Newport, NEARI :  
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 Plaintiff, :  
 :  
 v. :  
 :  
 Colleen Burns Jermain, Superintendent, :  
 Newport Public Schools; the City of Newport, :  
 by and through Laura L. Sitrin, Director of :  
 Finance, the Newport School Committee, by and :  
 through its members. :  
 :  
 Defendants. :  
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C.A. No. 2024-

**VERIFIED COMPLAINT AND  
MOTION FOR TEMPORARY RESTRAINING ORDER**

Now comes Plaintiff Teachers’ Association of Newport, NEARI (“TAN” or “Union”) and respectfully requests an Order Restraining and Enjoining the Superintendent from conducting a Job Fair on June 13, 2024, in violation of the collective bargaining agreement (“CBA”) between TAN and the Newport School Committee, until such time as the pending grievances and unfair labor practices can be resolved. As reason therefore, Plaintiff avers:

**JURISDICTION**

1. Jurisdiction of this Court is invoked pursuant to R.I.G.L. §§ 8-2-13 and 13.1 and §9-30-1 et. seq.

**PARTIES**

2. The Union is the collective bargaining agent for all certified teachers employed by the City of Newport.

3. Defendant City of Newport (“City”) is a municipal corporation duly organized under the laws of the State of Rhode Island and is sued through its Director of Finance, Laura Sitrin.

4. The City is the employer of certified teachers in Newport, Rhode Island.

5. The Newport School Committee is the public body responsible for the care, control, and management of the Newport Public Schools pursuant to R.I. Gen. Laws, § 16-2-9. It is sued through its duly elected members in their official capacities.

6. Defendant Colleen Jermaine is the duly appointed Superintendent of Newport Public Schools and is sued in her capacity as Superintendent.

### **STATEMENT OF FACTS**

7. Pursuant to the Certified School Teachers’ Arbitration Act (“CSTAA”), R.I.G.L. 28-9.3-1 et. seq., the Newport School Committee is statutorily mandated to bargain in good faith with the Union regarding hours, salary, working conditions and other terms and conditions of employment applicable to the members of the bargaining unit.

8. In accordance with the CSTAA, the Union and School Committee have collectively bargained over the terms and conditions of employment applicable to members of the bargaining unit, including the process for assigning and transferring teachers, and the filling of vacancies.

9. The Union and School Committee are parties to a CBA, with the most recent CBA covering the period from September 1, 2023 to August 31, 2026. See Exhibit 1.

10. Article VI(E)(3) of the CBA provides a mechanism and standards for involuntarily transferring teachers to another position:

The Committee shall present the transferred teacher the reason for such transfer and the teacher shall have the right to challenge the transfer under the grievance

procedure of the Collective Bargaining Agreement. Involuntary transfers shall take place only for good cause and in the inverse order of seniority

11. On May 30, 2024, the Superintendent sent notices to forty-five (45) teachers that they were being involuntarily transferred or displaced. Thirty-two (32) of the teachers were transferred to positions that should have been posted under the CBA. Thirteen (13) teachers were transferred to positions yet to be determined.

12. On June 5, 2024, the Union filed a grievance alleging that the involuntary transfers “have not been done according to our CBA.” See Exhibit 2. As a remedy, the Union requested that all involuntary transfers be rescinded, and teachers be allowed to “participate in the TAN Job Assignment Process. The Job Assignment Process shall not commence until the positions in the grievance are posted.” The grievance is pending. However, if the grievance is denied, the matter will proceed to arbitration under the parties’ CBA.

13. On June 5, 2024, Tracy Jacques, Director of Human Resources for Newport Public Schools, informed TAN members of a list of “anticipated teaching positions available for selection by the TAN membership... [at] the job selection process.. on Thursday June 13, 2024.” “This will be the only day you can select a position.... You must submit your matrix no later than 12pm THIS Monday June 10<sup>th</sup> in order to participate in the selection process. Only members who fill out the grid can attend.... We are respectfully asking that ONLY those members who have been displaced or are seriously considering a transfer submit their matrix and/or attend.” See Exhibit 3.

14. Some of the positions “available for selection by the TAN membership” are positions that are the subject of the Union’s grievance regarding involuntary transfers.

15. There should be an additional thirty-two (32) positions available for selection, but for the Superintendent's involuntarily transferring teachers to those positions in violation of the CBA.

16. The Superintendent also created new positions without bargaining with the Union, which had the result of displacing senior teachers. Nineteen (19) teachers received layoff notices.

17. The Superintendent and School Department have refused to bargain over the effects of how the creation of the new positions, including new certification requirements to fill those positions, impacts the bargaining unit.

18. The Union has filed an unfair labor practice charge regarding the School Department's unilateral changes, as aforesaid, and failure to bargain. See Exhibit 4.

19. Further, the "Job Selection Process" unilaterally established by the Newport School Department is inconsistent with the CBA and was not negotiated by TAN.

20. In past years, TAN and the Newport School Department had agreed to the "Job Selection Process." This year, the process was unilaterally set by the School Department over the objections of TAN.

21. On June 5, 2024, NEARI's Deputy Executive Director, Jennifer Azevedo, informed William Conley, the School Committee's attorney, that if the District attempts to go forward with the "job selection process" on Thursday, June 13, 2024, TAN would file another unfair labor practice charge. See Exhibit 5. Conley responded that the "job assignment process" would go forward.

22. TAN is in the process of filing an unfair labor practice charge against the Newport School Committee for unilaterally changing the terms and conditions of members' employment, specifically, the process for selecting jobs, without bargaining. See Exhibit 6.

23. The CBA requires vacancies to be awarded to the educator with the highest cumulative score based on specific matrix. One component of the matrix is the educator's most recent evaluation rating.

24. Many educators are not scheduled to receive their most recent evaluation rating until next week, after the June 13, 2024 "Job Selection Process." This not only deprives educators of their right to apply for a vacancy with their most recent job qualifications, it violates the CBA.

25. The "Job Selection Process" scheduled to go forward on June 13, 2024 is in clear violation of the CBA, the CSTAA and the State Labor Relations Act.

26. The "positions available for selection by TAN membership" are not all "vacancies" within the meaning of the CBA. Further, there are positions that should be listed as "available for selection" that are not.

27. The Superintendent has not determined whether the thirty-two (32) teachers that were involuntarily transferred (either to specific positions or positions to be named later) or displaced will be permitted to apply for the "vacancies." However, it appears she is discouraging them from applying. See paragraph 13, *supra*.

28. But, if they do apply, and their grievances are later sustained, the teachers that applied for the positions left vacant by the involuntarily transferred or displaced teachers will be left without a position.

29. Further, the positions that were filled by the involuntary transfers, should have been filled through the contractual job selection process. As a result, any job selection process that does not include those positions will have to be rescinded if the Union is successful in its grievances. Then, the “Job Selection Process” will have to be re-done.

30. Finally, if the “Job Selection Process” goes forward on June 13, 2024, educators who receive a higher evaluation rating than they had in previous years will be deprived of the opportunity to apply for the desired position with the correct (updated) matrix, in violation of the CBA.

31. There is no reason that the “Job Selection Process” must go forward on June 13, 2024. In past years, it has been held in July and as late as August.

32. The Union is amenable to an expedited arbitration or mediation process in an attempt to resolve the pending disputes and come to an agreement on the “Job Selection Process” and date, as it has in past years.

## **COUNT I**

### **Reverse Boys’ Market Injunction**

33. Paragraphs 1 through 32 are hereby incorporated herein as though fully set forth.

34. If Defendants are not enjoined from holding a “Job Selection Process” on June 13, 2024 until the pending grievances are resolved, the grievance arbitration process will be rendered meaningless. By the time an arbitrator issues a decision on the pending grievances (including whether the Superintendent violated the CBA when she involuntarily transferred and displaced forty-five (45) teachers), the school year will have begun and teachers will have already started in their new positions, either at Newport Public Schools or some other school.

35. If Defendants are not enjoined from holding a “Job Selection Process” on June 13, 2024 until the pending unfair labor practice charges are resolved, the Union will suffer irreparable harm in that it will be deprived of the “opportunity to exercise the authority granted to it by the legislature” in the CSTAA. See *State v. State Labor Relations Board*, 1983 R.I. Super. LEXIS 168 (R.I. Super. Ct. 1983). Further, by the time the State Labor Relations Board issues an Order requiring the School Committee to negotiate with the Union regarding the “Job Selection Process,” the 2024-2025 school year will have already begun (and may have even concluded). There will be no remedy available to the Union and the teachers who were negatively affected by the School Department’s unilateral and illegal actions.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Honorable Court:

- a. Preliminarily and permanently enjoin Defendants from holding a “Job Selection Process” until and unless it has bargained with the Union over the process;
- b. Preliminarily and permanently enjoin Defendants from holding a “Job Selection Process” until the pending grievances and unfair labor practices regarding the involuntary transfer and displacement of teachers has been resolved;
- c. Award Plaintiff its counsel fees and costs.
- d. Order such relief as the Court deems just and proper.

**VERIFICATION**

I, Jennifer Hole, a competent person of the full age of majority, declare:

I am President of TAN. I have personal knowledge of the facts set forth in the Verified Complaint, and if called as a witness in this matter, I could and would testify competently to those facts under oath.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Jennifer Hole

Jennifer Hole

Respectfully submitted,

**TEACHERS' ASSOCIATION OF  
NEWPORT,**

By its attorney,

/s/ Elizabeth Wiens

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**CERTIFICATION OF SERVICE**

I hereby certify that the within document has been electronically filed with the Court on this 11<sup>th</sup> day of June, 2024, and available for viewing and downloading from the ECF system.

Service on counsel of record, as listed below, will be effectuated by electronic means:

William Conley, Jr. (#2149) [wconley@wjclaw.com](mailto:wconley@wjclaw.com)

/s/ Janine Durand