

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of

CAREER SYSTEMS DEVELOPMENT CORPORATION

and

MAINE EDUCATION ASSOCIATION

CASE 01-CA-046727

MOTION IN SUPPORT OF CHARGING PARTY'S MOTION FOR SUMMARY JUDGMENT

NOW COMES Robert J. DeBonis, Counsel for the Acting General Counsel of the National Labor Relations Board ("Board"), who, pursuant to Section 102.24 of the Board's Rules and Regulations, files this Motion in Support of the Charging Party's Motion for Summary Judgment ("MSJ") filed in this matter on July 22, 2011, and, in support of this Motion, states the following:

Procedural Background

1. On March 25, 2011, Maine Education Association ("Union"), the charging party herein, filed the charge in the instant matter alleging, among other things, that Career Systems Development Corporation ("Respondent") committed unfair labor practices within the meaning of Sections 8(a)(5) and (1) of the Act. A copy of the charge is attached hereto and marked as Exhibit "A."

2. On March 28, 2011, a copy of the charge was served upon Respondent by regular mail. A copy of the Affidavit of Service of the charge is attached hereto and marked as Exhibit "B."

3. On June 16, 2011, the Union filed an amended charge alleging that the Respondent committed unfair labor practices within the meaning of Sections 8(a)(5) and (1) of the Act. A copy of the amended charge is attached hereto and marked as Exhibit "C."

4. On June 21, 2011, a copy of the amended charge was served upon Respondent by regular mail. A copy of the Affidavit of Service of the amended charge is attached hereto and marked Exhibit "D."

5. On June 30, 2011, the Regional Director for the First Region issued a Complaint and Notice of Hearing ("Complaint") in the instant matter, alleging that Respondent has committed unfair labor practices within the meaning of Sections 8(a)(5) and (1) of the Act. A copy of the Complaint is attached hereto and marked as Exhibit "E."

6. On June 30, 2011, a copy of the Complaint was served upon Respondent by certified mail. A copy of the Affidavit of Service of the Complaint is attached hereto and marked as Exhibit "F."

7. On July 12, 2011, Respondent filed an Answer to the Complaint, admitting many of the factual allegations of the Complaint. A copy of Respondent's Answer is attached hereto and marked as Exhibit "G."

8. On July 22, 2011, the Union filed the MSJ. A copy of the MSJ, is attached hereto and marked as Exhibit "H."¹

9. On September 9, 2011, the Regional Director for the First Region issued an Order Rescheduling the hearing in this matter to November 15, 2011. A copy of the Order is attached hereto and marked as Exhibit "I."

¹ Attached to the MSJ as Exhibits were copies of the charge, amended charge, Complaint and Notice of Hearing, and Respondent's Answer. Since all of these Exhibits are attached to this Motion, they have been omitted from Exhibit "H "

Analysis of the Pleadings

1. In paragraphs 1 through 5 of its Answer, Respondent admits the allegations in paragraphs 1 through 5 of the Complaint. It admits the timely filing and service of the charge and amended charge, the description of Respondent as an employing entity, the commerce allegations establishing jurisdiction, Respondent's status as an employer under the National Labor Relations Act (Act), and the status of the Union as a labor organization under the Act.

2. In paragraph 6 of its Answer, Respondent admits the allegations in paragraph 6 of the Complaint that Jeff Stinson, Kristie Moir, and Tina LePage are supervisors and agents for the Respondent under the Act. The only allegation that is denied is LePage's title as Career Development Director. For purposes of this Motion, the denial is insignificant because no allegation in the Complaint alleges that LePage individually committed any unlawful act.

3. In paragraphs 7, 8, and 9 of its Answer, Respondent admits the allegations in paragraphs 7, 8, and 9 of the Complaint. It admits the description of the bargaining unit, the election and certification of the Union as the collective-bargaining representative of the bargaining unit, and the Union's status under the Act as the exclusive collective-bargaining representative of the bargaining unit.

4. In paragraph 10 of its Answer, Respondent admits the allegations in paragraph 10 of the Complaint that Respondent laid off Bryan Cook, Roland Cyr, and Carole Belanger-Bittle. Although it denies the allegation that it laid off Darren Dumont, it admits that it transferred him to another position and Counsel for the Acting General Counsel does not dispute that assertion.

5. In paragraph 11 of its Answer, Respondent asserts that the required hours for members of the bargaining unit have always been from 7:45 a.m. to 4:45 p.m., but admits that previously these hours were not always enforced.

6. In paragraph 12 of its Answer, Respondent denies the allegation in paragraph 12 of the Complaint that Respondent changed the minimum TABE score required for students to enroll in GED classes taught by members of the bargaining unit.

7. In paragraph 13 of its Answer, Respondent admits the allegation in paragraph 13 of the Complaint that Respondent required members of the bargaining unit to accept additional duties regarding changes to student schedules.

8. In paragraph 14 of its Answer, Respondent denies the allegation in paragraph 14 of the Complaint that Respondent has required members of the bargaining unit to attend additional meetings during what had previously been their lesson preparation time.

9. In paragraph 15 of its Answer, Respondent admits the allegation in paragraph 15 of the Complaint that the subjects set forth in paragraphs 10 through 14 of the Complaint relate to wages, hours, and terms and conditions of employment. However, Respondent denied that “all of those subjects are mandatory subjects for the purposes of collective bargaining.”

10. In paragraph 16 of its Answer, Respondent admits the allegations in paragraph 16 of the Complaint that Respondent engaged in the conduct described in paragraphs 10 through 14 without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to the changes.

Although there are no additional allegations in the paragraph, Respondent denies the “balance of the allegations contained in paragraph 16.”

11. In paragraphs 17 and 18 of its Answer, Respondent denies the legal conclusions contained in paragraphs 17 and 18 of the Complaint, that Respondent’s conduct violated the Act and that its unfair labor practices affected commerce.

Argument

1. Respondent's Answer admits the threshold issues in this case. It admits timely filing and service of the charge and the amended charge, the description of Respondent's operations and the facts necessary to establish employer status and jurisdiction under the Act, and the Union's status as a labor organization. It further admits the description of the bargaining unit, the election and certification of the Union as the collective-bargaining representative of the bargaining unit, and the Union's status under the Act as the exclusive collective-bargaining representative of the bargaining unit.

2. Respondent also admits to making several of the changes that are alleged to be unfair labor practices in the Complaint. It admits to laying off Bryan Cook, Roland Cyr, and Carole Belanger-Bittle. It also admits to requiring members of the bargaining unit to accept additional duties regarding changes in student schedules. It further admits that these changes relate to the wages, hours, and working conditions of the bargaining-unit employees. Respondent also admits that it made these changes without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to the changes. In short, Respondent has admitted to the elements of 8(a)(5) violations with respect to these changes.

3. With respect to another of the other alleged unlawful changes, Respondent partially denies and partially admits the relevant allegation in the Complaint. It denies that it laid off Darren Dumont (Dumont), but admits that it "transferred" him. It admits that this change relates to the wages, hours, and working conditions and that it made the change without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent. Based on the circumstances of this case, the Counsel for the Acting General Counsel does not

consider the difference between “transfer” and “lay off” significant. It is more a matter of semantics. For purposes of this motion, the Counsel for the Acting General Counsel agrees with Respondent’s characterization of the change regarding Dumont to be a transfer. There being no factual dispute; Respondent has admitted to the elements of an 8(a)(5) violation with respect to transferring Darren Dumont.

4. Similarly, with respect to another of the other alleged changes, Respondent partially admits and partially denies the allegation regarding the change in hours. It admits that it has required bargaining-unit employees to work from 7:45 a.m. to 4:45 p.m., but denies that it had previously required employees to work from 7:30 a.m. to 4:30 p.m. Respondent avers that “the required hours have always been 7:45 a.m. to 4:45 p.m., however, prior to January 2011, the required hours were not always enforced.”

Hours of work have long been considered mandatory subjects of bargaining. See, for example, *Timken Roller Bearing Co.*, 70 NLRB 500 (1946). Moreover, the difference between what was alleged and what Respondent admits to is insignificant. Respondent clearly admits to at least a change in the *enforcement* of the required hours rather than a formal change in the hours themselves. However, it is well settled that an employer violates Section 8(a)(5) of the Act when it renews enforcement of previously unenforced work rules without notice to the union or affording the union an opportunity to bargain. See *Sevakis Industries*, 238 NLRB 309, 311-312 (1978); *Hyatt Regency Memphis*, 296 NLRB 259, 263 (1989) (employer violated the Act by unilaterally changing its past practice of lax enforcement after the union was elected.)

For purposes of this Motion, Counsel for the Acting General Counsel would agree to Respondent’s characterization of the change in hours as being a change in enforcement. Respondent goes on to admit that the change in enforcement relates to the wages, hours, and

working conditions and that it was made without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent. Therefore, Respondent has admitted to the elements of an 8(a)(5) violation with respect to this change.

5. In its Answer, Respondent denies that “all” of the changes alleged are mandatory subjects of bargaining. Implicitly, however, this denial admits that “some” of the changes are mandatory but Respondent fails to specify which changes it considers to be mandatory and which ones it considers to be non-mandatory and why. Moreover, Respondent admits that all the changes relate to wages, hours, and working conditions. According to Section 8(d) of the Act, subjects related to wages, hours, and working conditions are mandatory subjects of bargaining. See *NLRB v. Borg Warner Corp.*, 356 U.S.342, 348-349 (1958). Thus, the denial of the legal conclusion is meaningless in light of the admission of the facts. Similarly, Respondent’s denials of the legal conclusions in paragraphs 17 and 18 of the Complaint are meaningless in light of Respondent’s factual admissions.

Counsel for the Acting General Counsel acknowledges that two factual issues remain. Namely, the changes alleged in paragraphs 12 and 14 of the Complaint. Counsel for the Acting General Counsel requests that if the Board grants the Union’s MSJ, that these other allegations be severed from the rest of the case and remanded to the Regional Director for Region One for appropriate action.

Conclusion

ACCORDINGLY, Counsel for the Acting General Counsel respectfully moves:

1. That the Board transfer this proceeding to itself for decision as requested by the Charging Party;

2. That the factual allegations in paragraphs 1-11, 13, 15, and 16 of the Complaint be found to be admitted to be true, as set forth in Respondent's Answer;
3. That the Board find that Respondent committed unfair labor practices within the meaning of Sections 8(a)(5) and (1) of the Act, as alleged in paragraphs 1-11, 13, 15, and 16 of the Complaint, without the taking of evidence in support of these allegations;
4. That an appropriate remedial order be issued requiring that Respondent, *inter alia*, post a Notice to Employees, rescind the unlawful changes, reinstate the laid off or transferred employees, and make them whole;
5. With regard to the issues raised by Respondent's denials in paragraphs 12 and 14, that the matter be remanded to the Regional Director of Region One for further appropriate action; and
6. That this Union's MSJ and this Motion in support thereof be ruled upon in a timely fashion so that, in the event the MSJ and Motion are granted, the holding of the hearing currently scheduled for November 15, 2011 in this matter will either be unnecessary or limited to the remanded allegations.

Dated at Boston, Massachusetts this 15th day of September, 2011.

Respectfully submitted,



Robert J. DeBonis
Counsel for the Acting General Counsel
First Region
National Labor Relations Board
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street - Sixth Floor
Boston, Massachusetts 02222-107

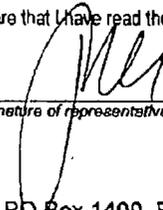
INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACECase
1-CA-46727Date Filed
Mar. 25, 2011

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Career Systems Development Corporation	b. Tel. No. 949-797-2000
	c. Cell No.
	f. Fax No. 207.328.4219
d. Address (Street, city, state, and ZIP code) 36 Montana Road Limestone, ME 04750, and 2465 Campus Drive Irvine, CA 92612	e. Employer Representative Jeff Stinson, Senior Vice President Of Human Resources and Administration
	g. e-Mail jstinson@ghrogroup.com
	h. Number of workers employed 18 [in unit]
i. Type of Establishment (factory, mine, wholesaler, etc.) educational institution	j. Identify principal product or service Job Corps training
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) and (5) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) The Union was certified as collective bargaining representative on January 11, 2011 [1-RC-22506]. Since certification, the Employer has made numerous unilateral changes in terms and conditions of employment; has implemented cost reductions and restructured its organization, resulting in elimination of at least 4 out of 18 unit positions; and has laid off unit employees: all of these actions were taken without notice to the union, and without providing the Union an opportunity to bargain. The employer also discriminatorily discharged the Union's election observer, Carole Belanger-Bittle, on March 11, 2011, because of her Union activity. Injunctive relief under Section 10(j) is requested. By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Maine Education Association	
4a. Address (Street and number, city, state, and ZIP code) 14 Sweden St. #203 Caribou, ME 04736	4b. Tel. No. 207-498-3191,x2401
	4c. Cell No.
	4d. Fax No. 207-498-3032,
	4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Maine Education Association, a/w National Education Association	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By  (signature of representative or person making charge)	Tel. No. 207-879-1556
Jonathan S. R. Beal, Attorney (Printtype name and title or office, if any)	Office, if any, Cell No.
	Fax No. 207-879-2447
	e-Mail jbeal@maine.nrb.com
Address PO Box 1400, Portland, ME 04104	3/25/11 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

EXHIBIT A

ORIGINAL

POSITION 02222-1072

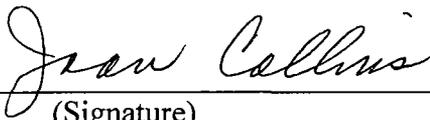
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RECEIVED
NATIONAL LABOR
RELATIONS BOARD

Re: Career Systems Development Corporation
Case 1-CA-46727

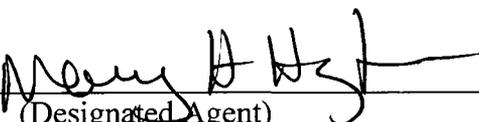
Mr. Jeff Stinson
Senior Vice President/Human Resources
Career Systems Development Corporation
36 Montana Road
Limestone, ME 04750

I CERTIFY THAT I served the above-referenced charge March 28, 2011, by regular mail on the addressee named together with a transmittal letter of which this is a true copy.



(Signature)

Subscribed and sworn to before me on March 28, 2011.



(Designated Agent)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

First Amended CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case I-CA-46727	Date Filed June 16, 2011

INSTRUCTIONS

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1 EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a Name of Employer Career Systems Development Corporation		b Tel No 949-797-2000
d Address (street, city, state, ZIP code) 36 Montana Road and 2465 Campus Dr. Limestone, ME 04750 Irvine, CA 92612		c Employer Representative Jeff Stinson, Senior Vice President of Human Resources and Administration
e Type of Establishment (factory, mine, wholesaler, etc.) educational institution		f Fax No 207-328-4219
g Identify principal product or service Job Corps training		g. E-mail jstinson@ghrpgroup.com
h. Number of workers employed 18 (in unit)		

k The above-named employers have engaged in and are engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) of the National Labor Relations Act and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2 Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Failure to bargain over the implementation and effects of the layoff of four unit employees.

Failure to bargain over the newly enforced hours of work.

Failure to bargain over change to TABE tests scores required to enter GED class.

Failure to bargain over change to student schedule adjustment policy.

Failure to bargain over change to required meetings.

3 Full name of party filing charge (if labor organization, give full name including local name and number)
Maine Education Association

1c Address (street and number, city, state and ZIP code) 14 Sweden St. #203 Caribou, ME 04736	4a Telephone No 207-498-3191 X2401
	4b Cell No
	4d Fax No 207-498-3032
	4e E-mail

5 Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) **Maine Education Association, a/w National Education Association**

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief

By 
(Signature of representative or person making charge)

Jonathan S. R. Beal, Attorney
(Print type name and title or office, if any)

Tel No
207-879-1556
Office, if any, Cell No

Fax No
207-879-2447
E-mail jbeal@maine.nlr.com

Address
PO Box 1400, Portland, ME 04104

Date 6/11/11

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**CAREER SYSTEMS DEVELOPMENT
CORPORATION**

Charged Party

and

MAINE EDUCATION ASSOCIATION

Charging Party

Case 01-CA-046727

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

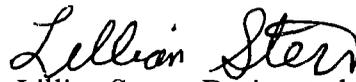
I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on June 21, 2011, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

JEFF STINSON Senior Vice President/Human Resources
CAREER SYSTEMS DEVELOPMENT CORPORATION
36 MONTANA RD
LIMESTONE, ME 04750-6107

JEFFREY I. PASEK Esquire
COZEN O'CONNOR
1900 MARKET ST
LBBY ATRIUM, 3RD FLOOR
PHILADELPHIA, PA 19103-3508

June 21, 2011

Date



Lillian Stern, Designated Agent of NLRB

Name

Signature

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of

CAREER SYSTEMS DEVELOPMENT
CORPORATION

and

MAINE EDUCATION ASSOCIATION

Case 1-CA-46727

COMPLAINT AND NOTICE OF HEARING

Maine Education Association, herein called the Union, has charged that Career Systems Development Corporation, herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Sec. 151, et seq., herein called the Act. Based thereon, the Acting General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge in this proceeding was filed by the Union on March 25, 2011, and a copy was served by regular mail on Respondent on March 28, 2011.

(b) The first amended charge in this proceeding was filed by the Union on June 16, 2011, and a copy was served by regular mail on Respondent on June 21, 2011.

2. At all material times, Respondent, a Delaware corporation with an office and place of business in Limestone, Maine, herein called the Limestone facility, has been engaged in the operation of a Job Corps training center.

3. (a) Annually, Respondent, in conducting its operations described above in paragraph 2, receives gross revenue from all sources of at least \$1 million

(b) Annually, Respondent purchases and receives at its Limestone facility goods valued in excess of \$5,000 directly from points outside the State of Maine.

4. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. At all material times, the following individuals held the position set forth opposite their names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Jeff Stinson	Human Resources Manager
Kristie Moir	Center Director
Tina LePage	Career Development Director

7. The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time state-licensed instructors employed by Respondent at its Loring Job Corp Center but excluding all non-licensed instructors, administrators, office clerical, managers, guards, and supervisors as defined in the Act.

8. On January 5, 2011, a representation election was conducted among the employees in the Unit and, on January 11, 2011, the Union was certified as the exclusive collective-bargaining representative of the Unit.

9. At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

10. On about March 11, 2011, Respondent laid off the following four Unit employees: Bryan Cook, Roland Cyr, Carole Belanger-Bittle and Darren Durmont.

11. Since about March 2011, Respondent has required members of the Unit to work from 7:45 a.m. to 4:45 p.m. rather than the previously required 7:30 a.m. to 4:30 p.m.

12. Since about March 2011, Respondent has changed the minimum TABE score required for students to enroll in the GED classes taught by members of the Unit.

13. Since about March 30, 2011, Respondent has required members of the Unit to accept additional duties regarding changes to student schedules.

14. Since about March 2011, Respondent has required members of the Unit to attend additional meetings during what had previously been their lesson preparation time.

15. The subjects set forth above in paragraphs 10 through 14 relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

16. Respondent engaged in the conduct described above in paragraphs 10 through 14 without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to the changes.

17. By the conduct described above in paragraph 16, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(5) and (1) of the Act.

18. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE as part of the of the remedy of the unfair labor practices alleged above in paragraphs 10 through 17, the Acting General Counsel seeks an order requiring reimbursement of amounts equal to the difference in taxes owed upon receipt of lump sum payment and taxes that would have been owned had there been no discrimination.

The Acting General Counsel seeks further, as part of the remedy for the unfair labor practices alleged above in paragraphs 10 through 17, an order requiring that the Respondent submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be received by this office on or before **July 14, 2011**, or postmarked on or before **July 13, 2011**. Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically by using the E-Filing system on the Agency's/Website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on the **E-Gov tab**, select **E-Filing**, and then follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section

102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **September 26, 2011**, at **11:00 a.m.**, at the Thomas P. O'Neill Federal Building, 10 Causeway Street, 6th Floor, Boston, Massachusetts 02222-1072, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Boston, Massachusetts this 30th day of June, 2011.



Rosemary Pye, Regional Director
National Labor Relations Board
First Region
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Sixth Floor
Boston, Massachusetts 02222-1072

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD
BEFORE THE NATIONAL LABOR RELATIONS BOARD
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8½ by 11 inch paper.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations, with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the administrative law judge will be considered unless received by the Chief Administrative Law Judge in Washington, DC (or, in cases under the branch offices in San Francisco, California; New York, New York; and Atlanta, Georgia, the Associate Chief Administrative Law Judge) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously on all other parties, and proof of such service furnished to the Chief Administrative Law Judge or the Associate Chief Administrative Law Judge, as the case may be. A quicker response is assured if the moving party secures the positions of the other parties and includes such in the request. All briefs or proposed findings filed with the administrative law judge must be submitted in triplicate, and may be printed or otherwise legibly duplicated with service on the other parties.

In due course the administrative law judge will prepare and file with the Board a decision in this proceeding, and will cause a copy thereof to be served on each of the parties. Upon filing of this decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, on all parties. At that point, the administrative law judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the administrative law judge's decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be served on the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations. If adjustment appears possible, the administrative law judge may suggest discussions between the parties or, on request, will afford reasonable opportunity during the hearing for such discussions.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of

CAREER SYSTEMS DEVELOPMENT
CORPORATION

and

MAINE EDUCATION ASSOCIATION

CASE 01-CA-046727

DATE OF MAILING June 30, 2011

AFFIDAVIT OF SERVICE OF copy of COMPLAINT AND NOTICE OF HEARING

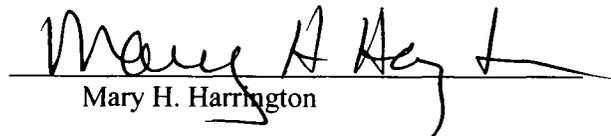
I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid certified/regular mail upon the following persons, addressed to them at the following addresses:

JEFF STINSON, SENIOR VICE PRESIDENT,
HUMAN RESOURCES
CAREER SYSTEMS DEVELOPMENT
CORPORATION
36 MONTANA RD
LIMESTONE ME 04750-6107
CERTIFIED NO. 7009 0080 0002 1697 6683

DAN ALLEN
MAINE EDUCATION ASSOCIATION
14 SWEDEN ST STE 203
CARIBOU ME 04736-3032

JEFFREY L. BRAFF, ESQUIRE
COZEN O'CONNOR
THE ATRIUM 3RD FL
1900 MARKET ST
PHILADELPHIA PA 19102-2066

JONATHAN S.R. BEAL, ESQUIRE
PO BOX 1400
PORTLAND ME 04104-1400


Mary H. Harrington

Subscribed and sworn to before me this 30th day of June, 2011	DESIGNATED AGENT NATIONAL LABOR RELATIONS BOARD
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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of	:	
	:	
CAREER SYSTEMS DEVELOPMENT CORPORATION	:	
	:	
and	:	Case 1-CA-46727
	:	
MAINE EDUCATION ASSOCIATION	:	

ANSWER OF RESPONDENT

Respondent Career Systems Development Corporation (“CSD” or “Respondent”), by its undersigned counsel, responds to the numbered paragraphs of the Complaint as follows:

1. (a) Admitted.
- (b) Admitted.
2. Admitted.
3. (a) Admitted.
- (b) Admitted.
4. Admitted.
5. Admitted.
6. Admitted in part; denied in part. It is denied that Tina LePage held the position of Career Development Director during all material times. The balance of the allegations contained in Paragraph 6 are admitted.
7. Admitted.
8. Admitted.
9. Admitted.

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10. Admitted in part; denied in part. It is denied that Darren Durmont was laid off on March 11, 2011. The balance of the allegations contained in Paragraph 10 are admitted. It is averred that Darren Durmont was transferred on March 11, 2011, from the position of Medical Assistance Instructor into the position of CNA Instructor.

11. Denied as stated. It is averred that the required hours have always been 7:45 a.m. to 4:45 p.m., however, prior to January 2011, the required hours were not always enforced.

12. Denied.

13. Admitted.

14. Denied.

15. The allegations contained in Paragraph 15 are conclusions of law to which a response is not required. To the extent that a response is deemed to be required, it is admitted that the subjects set forth in Paragraphs 10 through 14 relate to wages, hours, and other terms and conditions of employment, but it is denied that all of those subjects are mandatory subjects for the purposes of collective bargaining.

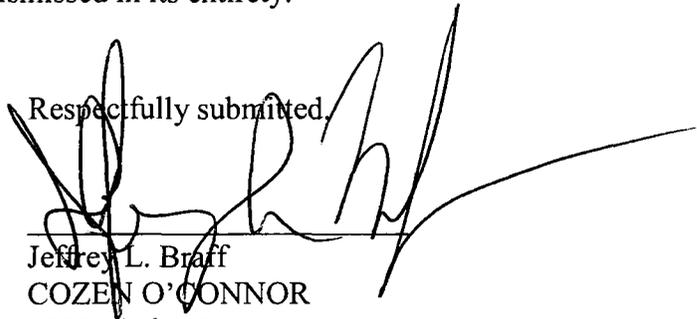
16. Admitted in part; denied in part. With respect to the conduct described in Paragraphs 10 through 14 that Respondent has admitted, it is admitted that such conduct was engaged in without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to the changes. The balance of the allegations contained in Paragraph 16 are denied.

17. Denied.

18. Denied.

WHEREFORE, having fully answered all of the allegations of the Complaint,
Respondent respectfully moves that it be dismissed in its entirety.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jeffrey L. Braff', is written over a horizontal line. The signature is stylized and extends to the right.

Jeffrey L. Braff
COZEN O'CONNOR
1900 Market Street
Philadelphia, PA 19103-3508
215-665-2000

Date: July 12, 2011

Attorneys for Respondent
Career Systems Development Corporation

CERTIFICATE OF SERVICE

I, Jeffrey L. Braff, Esquire hereby certify that on July 12, 2011, I caused to be served a copy of the foregoing Answer via first-class mail, postage prepaid as follows:

Dan Allen
Maine Education Association
14 Sweden Street, Suite 203
Caribou, Maine 04736-3032

Jonathan S.R. Beal, Esquire
P.O. Box 1400
Portland, Maine 04104-1400



Jeffrey L. Braff

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of

CAREER SYSTEMS DEVELOPMENT
CORPORATION

and

MAINE EDUCATION ASSOCIATION

Case 1-CA-46727

MOTION FOR SUMMARY JUDGMENT

Pursuant to Section 102.24 of the Rules and Regulations of the National Labor Relations Board (hereinafter “the Board”), the Charging Party in the above matter, Maine Education Association (hereinafter “Union”), moves for summary judgment with respect to the allegations in the Complaint and Notice of Hearing (hereinafter “the Complaint”) in the above matter.

In support thereof, the Union alleges:

- 1) On March 25, 2011 the Union filed the attached Charge in case 1-CA-46727 (Attachment A) and on June 16, 2011, the Union filed the First Amended Charge (Attachment B).
- 2) On June 30, 2011 Rosemary Pye, Regional Director of the First Region of the Board, issued the Complaint and Notice of Hearing (Attachment C).
- 3) By letter dated July 12, 2011, Career Systems Development Corporation (hereinafter “Respondent”) filed its Answer to the Complaint and Notice of Hearing (Attachment D).
- 4) Pursuant to the Complaint and Notice of Hearing, this matter is set for hearing before an administrative law judge on September 26, 2011 in Boston, Massachusetts.

5) However, based upon the formal papers and pleadings (Attachments A through D), it is clear that the Respondent has admitted almost all material¹ allegations, that further delay in reinstating the laid off and transferred employees should not be further delayed, and that the matter is ripe for summary judgment. Specifically:

COMPLAINT ALLEGATION

RESPONDENT’S ANSWER

1(a) and (b): allegations concerning the filing of the Charge and Amended Charge	Admitted.
2: Respondent is a Delaware corporation which operates a Jobs Corps training center in Limestone, Maine	Admitted.
3(a) and (b): At its Limestone operation Respondent annually receives gross revenue of at least \$1 million and goods valued in excess of \$5,000 directly from points outside the State of Maine.	Admitted.
4: Respondent is an employer engaged in commerce.	Admitted.
5: The Union is a labor organization.	Admitted.
6: The following individuals are supervisors within the meaning of the Act: Jeff Stinson – Human Resources Manager, Kristie Moir – Center Director, Tina LePage ² , - Career Development Director.	Admitted in part; denied in part. It is denied that Tina LePage held the position of Career Development Director during all materials times. The balance of the allegations contained in Paragraph 6 are admitted.
7: The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act: All full-time and regular part-time state-licensed instructors employed by Respondent at its Loring Job Corp Center but excluding all non-licensed instructors, administrators, office clerical, managers, guards, and	Admitted.

¹ Respondent admits all but two of the alleged unilateral changes, and the two denied, in Paragraphs 12 and 14, are the least consequential of the alleged changes. The Union would prefer to forgo those two allegations, rather than have their pendency delay the speedy resolution of the rest of the admitted violations.

² The Complaint makes no allegation that LePage committed any specific act.

supervisors as defined in the Act.

8: On January 5, 2011, a representation election was conducted among the employees in the Unit and, on January 11, 2011, the Union was certified as the exclusive collective-bargaining representative of the Unit.

Admitted.

9: At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

Admitted.

10: On about March 11, 2011, Respondent laid off the following four Unit employees: Bryan Cook, Roland Cyr, Carole Belanger-Bittle, and Darren Dumont³.

Admitted in part; denied in part. It is denied that Darren Dumont was laid off on March 11, 2011. The balance of the allegations contained in Paragraph 10 are admitted. It is averred that Darren Dumont was transferred on March 11, 2011, from the position of Medical Assistance Instructor into the position of CAN Instructor.

11: Since about March 2011, Respondent has required members of the Unit to work from 7:45 am to 4:45 pm rather than the previously required 7:30 am to 4:30 pm.

Denied as stated. It is averred that the required hours have always been 7:45 am to 4:45 pm, however, prior to January 2011, the required hours were not always enforced.

12: Since about March 2011, Respondent has changed the minimum TABE score required for students to enroll in the GED classes taught by members of the Unit.

Denied

13: Since about March 30, 2011, Respondent has required members of the Unit to accept additional duties regarding changes to student schedules.

Admitted.

14: Since about March 2011, Respondent has required members of the Unit to attend additional meetings during what had previously been their lesson preparation time.

Denied.

³ Improperly stated as "Durmont" in the Complaint and Answer.

15: The subjects set forth above in paragraphs 10 through 14 relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

The allegations contained in Paragraph 15 are conclusions of law to which a response is not required. To the extent that a response is deemed to be required, it is admitted that the subjects set forth in Paragraphs 10 through 14 relate to wages, hours, and other terms and conditions of employment, but it is denied that all of those subjects are mandatory subjects for the purposes of collective bargaining.

16: Respondent engaged in the conduct described above in paragraphs 10 through 14 without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to the changes.

Admitted in part; denied in part. With respect to the conduct described in Paragraphs 10 through 14 that Respondent has admitted, it is admitted that such conduct was engaged in without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to the changes. The balance of the allegations contained in Paragraph 16 are denied.

17: By the conduct described above in paragraph 16, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(5) and (1) of the Act.

Denied.

18: The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

Denied.

Based upon the above, the Respondent has admitted that it is an employer, and the Union is a labor organization within the meaning of the National Labor Relations Act; that it is engaged

in and affects interstate commerce, and that the Union represents a unit of employees at the Loring location.

The Respondent has admitted that:

(10) it laid off or transferred four bargaining unit employees without prior notice to the Union and without affording the Union an opportunity to bargain with respect to those changes;

(11) while Respondent asserts “that the required hours have always been 7:45 am to 4:45 pm, however, prior to January 2011 [the time of the Union’s certification], the required hours were not always enforced”.

(13) since March 2011, it has required members of the Unit to accept additional duties regarding changes to student schedules, without prior notice to the Union and without affording the Union an opportunity to bargain with respect to those changes;

(15) the allegedly unlawful actions admitted by Respondent all relate to wages, hours, and other terms and conditions of employment; and

(16) the allegedly unlawful actions admitted by Respondent were done without prior notice to the Union and without affording the Union an opportunity to bargain with respect to those changes.

The Respondent denies the allegation in Paragraph 15 which states that the subjects of Respondent’s admitted unilateral changes, in matters which Respondent admits to be wages, hours, and other terms and conditions of employment of the Unit, are mandatory subjects for the purposes of collective bargaining. This isolated denial is only a denial of the legal conclusion that “wages, hours, and other terms and conditions of employment” are “mandatory subjects of bargaining”. Since the statute and decades of law supply that legal conclusion, Respondent’s denial is insufficient to withstand summary judgment.

The Respondent denies the allegation in Paragraph 17 and 18 which assert the legal conclusions that Respondent’s admitted unilateral changes, in matters which Respondent admits to be wages, hours, and other terms and conditions of employment of the Unit, restrain employees in the exercise of their Section 7 rights, violate Section 8(a)(5) of the Act, and affect commerce within the meaning of the Act. Again, these are only denials of the legal conclusion

asserted in the Complaint, and the statute and decades of law supply those legal conclusions. Hence, Respondent's denials must be deemed insufficient to withstand summary judgment.

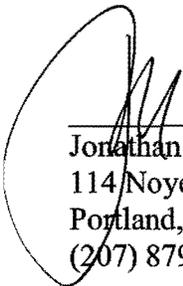
Respondent's factual admissions in Paragraphs 1 through 11, 13, and 15 through 16 are sufficient for the Board to issue a decision finding that the Respondent has engaged in the activities, and violated the Act, as alleged in Paragraphs 1 through 11, 13, and 15 through 18 of the Complaint.

WHEREFORE the Union moves that the Executive Secretary of the Board in Washington, DC promptly submit this motion to the Board for consideration; that the Board issue a notice to Respondent to show cause why the motion should not be granted; and that the Board, in considering this motion, determine that, with respect to those paragraphs 1 through 10, 11 in part, 13, and 15 through 18, should be granted, as there is no genuine issue of fact to be tried.

The Union further moves that the Board affirm the assertion in the Regional Director's Complaint with respect to the appropriate procedures for fully implementing the backpay aspects of the presumptively-valid remedies for the unfair labor practices, as set forth on Page 3 of the Complaint, and that the Board issue an appropriate order granting the Union relief upon the unfair labor charges as amended.

Respectfully submitted,

Date: July 22, 2011



Jonathan S. R. Beal
114 Noyes St | PO Box 1400
Portland, ME 04104
(207) 879-1556

Attorney for Union
Maine Education Association

CERTIFICATE OF SERVICE

I, Jonathan S. R. Beal, hereby certify that on July 22, 2011, I caused to be served an original and 8 copies of the attached Motion for Summary Judgment with the Executive Secretary of the National Labor Relations Board at the following address:

1099 14th St NW # 7500
Washington D.C., DC 20005

I simultaneously sent copies by certified mail to:

Jeff Stinson, Senior Vice President
Human Resources
Career Systems Development Corporation
36 Montana Road
Limestone, ME 04750-6107
Certified No. 7003 2260 0005 0885 7762

Jeffrey L. Braff, Esq.
Cozen O'Connor
The Atrium 3rd Floor
1900 Market Street
Philadelphia, PA 19102-2066
Certified No. 7003 2260 0005 0885 7779

With a courtesy copy by first class mail to:

Rosemary Pye, Regional Director, Region One, Boston

Dan Allen, Maine Education Association, Caribou, ME

Date: July 22, 2011


Jonathan S. R. Beal
114 Noyes St | PO Box 1400
Portland, ME 04104
(207) 879-1556

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION

In the Matter of

CAREER SYSTEMS DEVELOPMENT
CORPORATION

and

MAINE EDUCATION ASSOCIATION

Case 01-CA-046727

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter be, and the same hereby is, rescheduled to November 15, 2011, at 10:00 a.m., at a place to be determined in Maine.

DATED at Boston, Massachusetts this 9th day of September, 2011.



Rosemary Pye, Regional Director
National Labor Relations Board
First Region
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Sixth Floor
Boston, Massachusetts 02222-1072