



Western New York Regional Office
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Buffalo, NY 14201-1052
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Andrew Pallotta
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Jolene T. DiBrango
Executive Vice President
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Second Vice President
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August 27, 2019

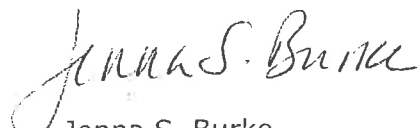
Ms. Melanie Wlasuk, Director
Public Employment Practices and Representation
New York State Public Employment Relations Board
P.O. Box 2074 - ESP Agency Bldg. 2, Floors 18 & 20
Albany, New York 12220-0074

Dear Ms. Wlasuk:

Enclosed please find an original and four (4) copies of an Improper Practice Charge herewith submitted on behalf of the Buffalo Teachers Federation.

Should you have any questions or require further information, please do not hesitate to contact me in the NYSUT Western New York regional office/ Buffalo Teachers Federation. Thank you for your assistance in this matter.

Sincerely,


Jenna S. Burke
Labor Relations Specialist
NYSUT

JSB/hlb

Enc.

www.nysut.org

New York State United Teachers
Affiliated with • AFT • NEA • AFL-CIO



STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

IMPROPER PRACTICE CHARGE

INSTRUCTIONS: File an original and four (4) copies of this Charge with the Director of Public Employment Practices and Representation, New York State Public Employment Relations Board, PO BOX 2074, ESP AGENCY BLDG 2, FLS 18 & 20, ALBANY, NY 12220-0074. If more space is required for any item, attach additional sheets, numbering item accordingly.	<u>DO NOT WRITE IN THIS SPACE</u> Case No. U- Date Received:
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1. CHARGING PARTY

- a. Name (If employee organization, give full name, including any affiliation and local name and number):
Buffalo Teachers Federation
- b. Address (No. & Street, City and Zip Code, County, Email):
Telephone Number: 716-881-5400
271 Porter Avenue
Buffalo, New York 14201
- c. Name and title of the representative filing charge:
Jenna S. Burke, Labor Relations Specialist
- d. Name, address, telephone number, and Email of attorney or other representative, if any, to whom correspondence is to be directed:
Telephone Number: 716-881-5400
271 Porter Avenue
Buffalo, New York 14201

2. PUBLIC EMPLOYER AND/OR EMPLOYEE ORGANIZATION AGAINST WHICH CHARGE IS BROUGHT

- a. Name and Address (No. & Street, City and Zip Code, County, Email): Board of Education, City School District
City of Buffalo, 801 City Hall, Buffalo, New York 14202
- b. Telephone Number: 716-816-3500

3. Is the charging party filing a separate application for injunctive relief pursuant to §204.7 of the Board's Rules of Procedure?

YES

NO

4. VIOLATIONS ALLEGED

Pursuant to Article 14 of the Civil Service Law, as amended (Public Employees' Fair Employment Act), the charging party hereby alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in an improper practice within the meaning of the following subsections of Section 209-a of said Act (check the subsection(s) allegedly violated):

If by a public employer

- 209-a.1(a)
 209-a.1(b)
 209-a.1(c)
 209-a.1(d)
 209-a.1(e)
 209-a.1(f)
 209-a.1(g)

If by an employee organization

- 209-a.2(a)
 209-a.2(b)
 209-a.2(c)*

* If the charge alleges a violation of Section 209-a.2(c) of the Act based on an employee organization's processing of or failure to process a claim that a public employer has breached its agreement with such employee organization, identify the public employer:

- a. Name and Address (No. & Street, City and Zip Code, County, Email):
b. Telephone Number:

DETAILS OF CHARGE

1. THE BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF BUFFALO (the "District") is a public employer pursuant to Article 14 of the New York State Civil Service Law (the "Act").
2. The BUFFALO TEACHERS FEDERATION ("BTF") is an employee organization pursuant to the Act, and is the certified, exclusive representative of teachers and various professionals employed by the District.
3. The District and the BTF are parties to a collective bargaining agreement with a term of July 1, 2016 through June 30, 2019.
4. These claims occurred from a period of time beginning on or around April 2, 2019, and continuing until the present by virtue of the District's willful refusal to provide dates on which its labor management team is available to negotiate the terms of a new collective bargaining agreement.
5. On April 2, 2019, a meeting was held to agree to and set ground rules for negotiating the terms of a new collective bargaining agreement. At that meeting the District willfully and unequivocally refused to agree to a ground rule establishing two tentative dates for future negotiating sessions.
6. The April 2, 2019 meeting ended when the District unequivocally refused to agree to set two tentative dates for future negotiating sessions.
7. On or about May 21, 2019, the BTF sent correspondence to the District asking the District to "advise [the BTF] of what the District needs to reach an agreement on scheduling 'tentative negotiating' sessions." A true and accurate copy of the May 21, 2019 correspondence is attached as Exhibit A.
8. In response to the May 21 correspondence, the District did not provide the BTF any dates for a future negotiating session.
9. The District did not provide any information that could help with reaching an agreement between the parties on scheduling tentative negotiating sessions.
10. The BTF was instead advised by Nathaniel Kuzma, the District's General Counsel, to contact Dr. Kriner Cash, the District's Superintendent.

11. On or about July 9, 2019, the BTF sent correspondence to Dr. Cash in order to reach an agreement on scheduling tentative negotiating sessions. A true and accurate copy of the July 9, 2019 correspondence is attached as Exhibit B.

12. The District did not respond to this July 9, 2019 correspondence.

13. The District did not provide the BTF any dates for a future negotiating session.

14. The District did not provide any information that could help with reaching an agreement between the parties on scheduling tentative negotiating sessions.

15. On or about August 12, 2019, the BTF sent correspondence to Mr. Kuzma which set forth a list of approximately nineteen (19) future dates when the BTF was available for negotiations. A true and accurate copy of the August 12, 2019 correspondence is attached as Exhibit C.

16. On or about August 15, 2019, Mr. Kuzma responded to the BTF's August 12, 2019 correspondence via email saying, "[W]e have a couple of team members on vacation until early next week. Once they return, I will discuss the dates with them and respond to [the BTF]. A true and accurate copy of the August 15, 2019 email correspondence is attached as Exhibit D.

17. On or about August 16, 2019, the BTF sent correspondence to the District notifying the District that if dates for negotiating sessions could not be secured from the District by August 20, 2019, the BTF intended to declare impasse pursuant to Article IV, B of the parties' collectively bargained agreement. A true and accurate copy of the August 16, 2019 correspondence is attached as Exhibit E.

18. On or about August 19, 2019, the District responded to the BTF's August 16, 2019 correspondence. The District's response contains some finger pointing about what occurred at the initial April 2, 2019 meeting, and some finger wagging at the BTF's decision to declare impasse, but notably, still does provide any dates on which the District is available for negotiations. A true and accurate copy of the August 19, 2019 correspondence is attached as Exhibit F.

19. According to the District's August 12, 2019 email, the District was postponing providing dates to the BTF until "a couple" negotiating team members returned from vacation "early next week." Exhibit F.

20. First, the District could have easily provided dates even with "a couple" negotiating team members on vacation. It is not reasonable that critical members of the negotiating team and high-level District employees could not have been reached remotely and

asked to provide a list of available dates. Even if it were somehow impossible to reach some members of the negotiating team while they were on vacation, dates for tentative negotiation sessions could have been set without all members of the negotiating team confirming their availability for each date.

21. Further, even if it were impossible to reach some members of the negotiating team while they were on vacation, and even if the District refused to schedule tentative negotiating sessions without the confirmation that all members could attend each date, “early next week” would have been Monday or Tuesday, August 19 or 20, 2019. And yet, even with the negotiating team members back from vacation, the District did not offer any dates for negotiating sessions.

22. On or about August 20, 2019 the BTF sent correspondence to Dr. Cash and Mr. Kuzma discussing the timeline of events and the BTF’s decision to declare impasse and seek the assistance of PERB. A true and accurate copy of the August 12, 2019 correspondence is attached as Exhibit G.

23. In its August 20 correspondence, the BTF clearly and unequivocally states “despite the District’s delays and our seeking the assistance of PERB, we remain available to meet with the District once its members return from vacation and meeting dates are provided.” Exhibit G.

24. As of the date of this filing, the District *still* has not provided the BTF with any dates on which it is available to negotiate.

25. The District had ample time from April 2, 2019 to the date of this filing to secure available dates from its team members, but it did not.¹

26. The District obviously, willfully, and purposely avoided providing the BTF dates for negotiating sessions in its August 19, 2019 correspondence.

27. The District has been obviously, willfully, and purposely avoiding providing the BTF dates for negotiating sessions since April 2, 2019.

¹ The District was aware: (1) the current collective bargaining agreement expired on June 30, 2019; (2) Article IV of the collective bargaining agreement provides that new negotiating sessions should have begun as early as the “the First Tuesday in January of the final year of the contract;” and (3) a new contract needed to be negotiated as soon as possible. It is bad faith negotiating not to have requested critical negotiating team members to provide a list of available dates at some point prior to them leaving for vacation.

28. This avoidance amounts to a refusal to negotiate in good faith in direct violation of § 209-d of the Public Employees' Fair Employment Act.

29. BTF unit employees have been injured by the District's willful refusal to negotiate in good faith with the BTF.

30. The District's continued, willful refusal to provide dates on which to schedule negotiating sessions is a violation of Section 209-1(d) of the Act.

EXHIBIT A



Buffalo Teachers Federation, Inc.
271 Porter Avenue
Buffalo, New York 14201
(716) 881-5400
www.btfny.org

President, PHILIP RUMORE

May 21, 2019

MEMO TO: Nathaniel Kuzma, General Counsel, BPS

FROM: Philip Rumore, President BTF

RE: Negotiations Ground Rules

As per our brief conversation last week, attached please find a copy of the changes to the ground rules the District sought and that we agreed to (red).

Please advise us of what the District needs to reach an agreement on scheduling "tentative" future negotiating sessions.

PR:su

EXHIBIT B



Buffalo Teachers Federation, Inc.
271 Porter Avenue
Buffalo, New York 14201
(716) 881-5400
www.btfny.org

President, PHILIP RUMORE

July 9, 2019

MEMO TO: Dr. Kriner Cash, Superintendent, BPS
FROM: Philip Rumore, President, BTF
RE: Negotiations

In May, we sent the attached to Nate Kuzma who later advised us that we should contact you.

Subsequently, in a conversation with Darren Brown, he advised me to contact Nate.

Obviously, we need this addressed so that we can begin negotiations and have them completed before school starts.

Please advise us as soon as possible, preferably this week, of the District's position on this issue.

We look forward to working together to find common ground for a positive beginning to the new school year.

PR:su

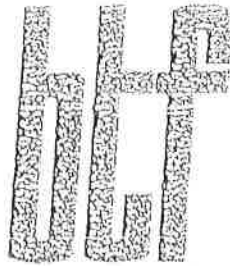
Encl.

cc: Darren Brown, Chief of Staff
Nathaniel Kuzma, General Counsel

EXHIBIT C

VIA EMAIL & U.S. MAIL

President PHILIP RUMORE



August 12, 2019

BUFFALO TEACHERS
FEDERATION, INC

271 PORTER AVENUE
BUFFALO, N.Y. 14201
(716) 881-5400
FAX (716) 881-6678

MEMO TO: Nathaniel Kuzma, General Counsel, BPS

FROM: Philip Rumore, President, BTF

RE: Negotiations Dates

While the BTF has continued to be available for negotiations, as per our previous correspondence, below is a list of the future dates when the BTF is available for negotiations:

August 15, 2019 – (Ground rules/exchange proposals)

August 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 2019.

September 1, 2, 3, 2019.

As I advised you, we have reserved Kleinhans Music Hall on September 3, 2019 for an all-teacher meeting to ratify a contract. We are confident we can reach an agreement and start the new school year on a positive note.

We look forward to a prompt response so that we can begin and complete negotiations before that date.

EXHIBIT D

Lupe Sauer

From: Kuzma, Nathaniel <NKuzma@buffaloschools.org>
Sent: Thursday, August 15, 2019 3:49 PM
To: Lupe Sauer
Subject: RE: Negotiations Dates

Lupe:

Please let Phil know that we have a couple of team members out on vacation until early next week. Once they return, I will discuss the dates with them and respond to Phil.

Nate

Nathaniel J. Kuzma
General Counsel
Buffalo Public Schools
717 City Hall, 65 Niagara Sq.
Buffalo, New York 14202
Ph. 716-816-3671
Fax: 716-851-3030

From: Lupe Sauer [lsauer@btfny.org]
Sent: Monday, August 12, 2019 4:17 PM
To: Kuzma, Nathaniel
Subject: Negotiations Dates

Good afternoon Mr. Kuzma – Nate,

The attached is being sent on behalf of Philip Rumore, President, BTF. Please read – we await your response.

Thank you,

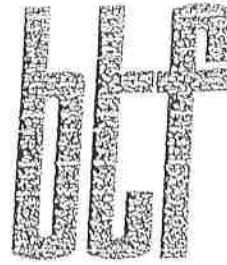
*Lupe Sauer, Secretary to the President
Buffalo Teachers Federation
271 Porter Avenue
Buffalo, New York 14201
Phone: (716) 881-5400
Fax: (716) 881-6678*

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EXHIBIT E

VIA EMAIL & U.S. MAIL

President PHILIP RUMORE



BUFFALO TEACHERS
FEDERATION, INC

271 PORTER AVENUE
BUFFALO, N.Y. 14201
(716) 881-5400
FAX (716) 881-6672

August 16, 2019

TO: Dr. Kriner Cash, Superintendent, BPS
Nathaniel Kuzma, General Counsel

FROM: Philip Rumore, President, BTF 

RE: Unacceptable Negotiations Delays

Since November 20, 2018, The Buffalo Teachers Federation has been attempting to begin negotiations for a successor to our current collective bargaining agreement. (Correspondence enclosed)

As you are aware, as per our contract, negotiations were to begin no later than the first Tuesday in January of this year. In addition, Article IV, B states "If the parties fail to reach agreement by March 1, thereafter, either party may declare that an impasse has been reached and submit the unresolved issues to the Public Employment Relations Board requesting that Board to render assistance as provided in Section 209 of the Civil Service Law. Any costs or expenses resulting from such assistance shall be borne equally by the parties."

Indeed, in another effort to get negotiations begun in order to have a contract in place for ratification before the school year; we on August 12, 2019, suggested many dates only to be advised that several of your team members were on vacation. "Once they return, I will discuss the dates with them and respond to Phil." (enclosed)

We have been more than patient. On Tuesday, August 20, 2019, we will be declaring impasse as per the above.

We regret that we have to take this action; however, if we are to have a contract in place by September 3, 2019, we have no alternative.

PR/pm

Encl: Correspondence from 11/20/18 to present

EXHIBIT F

Lupe Sauer

From: Kuzma, Nathaniel <NKuzma@buffaloschools.org>
Sent: Monday, August 19, 2019 3:40 PM
To: Lupe Sauer
Cc: Warren, Jamie; Pritchard, Geoffrey; Brown, Darren; Cash, Kriner
Subject: Letter to BTF, Negotiations
Attachments: Letter to BTF 8-19.pdf

Lupe:

Please provide the attached to Phil.

Nate

Nathaniel J. Kuzma
General Counsel
Buffalo Public Schools
717 City Hall, 65 Niagara Sq.
Buffalo, New York 14202
Ph. 716-816-3671
Fax: 716-851-3030



BUFFALO PUBLIC SCHOOLS
Office of Legal Counsel and Labor Relations
65 Niagara Square Room, 717 City Hall
Buffalo, New York 14202
Phone (716) 816-3742
Fax (716) 851-3030

Nathaniel J. Kuzma
General Counsel

VIA EMAIL

August 19, 2019

Philip Rumore, President
Buffalo Teachers Federation
271 Porter Avenue
Buffalo, New York 14201

Dear President Rumore:

I am in receipt of your correspondence dated August 16, 2019. What is glaringly missing from your correspondence is reference to the fact that the parties did meet on April 2, 2019 where you chose to walk out. Subsequent to that, I sent you the enclosed correspondence dated April 9, 2019.

It is unfortunate that you would not respect our request for a few more days to receive a date from the District in light of the fact that several of our team members are away on a summer vacation. If you are electing to declare impasse with PERB, then that is your prerogative. Do you suggest we wait to hear from PERB, or shall the District send you a date it is available to meet?

Respectfully,

A handwritten signature in black ink, appearing to read "Nathaniel Kuzma".

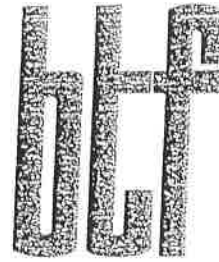
Nathaniel Kuzma

Copy: Dr. Kriner Cash
Darren Brown
Geoff Pritchard
Janie Warren

EXHIBIT G

VIA EMAIL & U.S. MAIL

President PHILIP RUMORE



August 20, 2019

BUFFALO TEACHERS
FEDERATION, INC

271 PORTER AVENUE
BUFFALO, N.Y. 14201
(716) 881-5400
FAX (716) 881-6678

TO: Dr. Kriner Cash, Superintendent, BPS
Nathaniel Kuzma, General Counsel

FROM: Philip Rumore, President, BTF

RE: District-delayed Negotiations

In response to your August 19, 2019 correspondence (enclosed), you have apparently forgotten what occurred at the April 2, 2019 meeting and failed to re-read May 21, 2019, July 9, 2019 and August 12, 2019 correspondence (again enclosed).

On April 2, 2019 after the BTF had agreed to several District proposed changes to the ground rules, we have agreed to for years. (see 5/21/19 correspondence), the District unequivocally and adamantly refused to consider the ground rule establishing negotiating sessions i.e. "6. the parties will schedule, in advance, a minimum of two tentative negotiating sessions with agreed time limits". (emphasis added) When the District, after BTF, made changes sought by the District, reiterated that it would not negotiate, what most consider a critical component of a successful negotiations, a tentative meeting schedule, the BTF left to allow the District to reconsider its detrimental and final position.

Even though the District, had at the April 2, 2018 meeting, refused to negotiate what the BTF considers a critical part of the ground rules, a negotiations meeting schedule, the BTF attempted to meet with and discuss the ground rules i.e. "Please advise us of what the District needs to reach an agreement on scheduling "tentative" future negotiating sessions". (5/21/19 enclosed)

The BTF, again on 7/9/19 and 8/12/19, reached out to the District to begin negotiations. (attached)

The BTF has since 4/2/19 continued its attempts to commence negotiations. What is "glaringly missing" and apparently purposely missing from your correspondence, is the complete delineation of events as outlined above.

Unlike the District, where negotiating team members are on vacation, whether one or more members of our negotiating team are available, will not prevent us from meeting.

We will, as per our 8/16/2019 correspondence, be seeking the assistance of PERB.

Except for the last negotiations, where both sides were in litigation for close to six years, the BTF and District have committed to having a contract in place for ratification before the opening of school.

Apparently, that is no longer the District's position.

Despite the District's delays and our seeking the assistance of PERB , we remain available to meet with the District once its members return from vacation and meeting dates are provided.

PR/pm

Encl:

cc: Darren Brown
Geoffrey Pritchard
Jamie Warren