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

In the Matter of THE LONGY SCHOOL OF MUSIC and AMERICAN FEDERATION OF TEACHERS, MASSACHUSETTS	CASE 1-CA-46304

AMENDED COMPLAINT AND NOTICE OF HEARING

American Federation of Teachers, Massachusetts, herein called the Union, has charged that Longy School of Music, 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 August 9, 2010, and a copy was served by regular mail on Respondent on August 9, 2010.

(b) The amended charge was filed by the Union on October 13, 2010, and is being served concurrently on Respondent with this Complaint and Notice of Hearing.

2. At all material times, Respondent, a private non-profit educational institution, with an office and place of business in Cambridge, Massachusetts, herein called Respondent's Cambridge facility, has been engaged in the business of operating a degree-granting Conservatory of Music and a Community Programs Division offering musical education programs to students of all ages.

3. (a) During the calendar year ending December 31, 2009, Respondent, in conducting its business operations described above in paragraph 2, derived gross revenues, excluding

contributions which, because of limitations by the grantor, are not available for operating expenses, in excess of $1 million.

(b) During the calendar year ending December 31, 2009, Respondent, in conducting its business operations as described above in paragraph 2, purchased and received at its Cambridge facility goods valued in excess of $5,000 directly from points outside the Commonwealth of Massachusetts.

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 positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(ll) of the Act and agents of Respondent within the meaning of Section 2(l3) of the Act:

Karen Zorn	----	President/CEO
Kalen Ratzlaff	----	Chief of Staff/Director of Human Resources and Information Technology
Wayman Chin	----	Dean, Conservatory
Miriam Eckelhoefer	----	Director, Community Programs
Howard Levy	----	CFO
Steven Tremble	----	Vice President Institutional Advancement

7. On about March 5, 2010, at an all-faculty meeting in the auditorium at Respondent's Cambridge facility, Respondent, by Karen Zorn:

i) Implied to employees that it would be futile for them to continue to support the Union or to have a union represent them in collective-bargaining; and

ii) Impliedly threatened employees with unspecified reprisals if they supported the Union and were not loyal to Respondent.

8. 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 faculty currently teaching, and who have a weekly average of at least three benefit units in one of the last two fiscal years, excluding all other employees, visiting faculty, administrators, confidential employees, office clerical employees, managers, guards, and supervisors as defined in the Act.

9. On February 1, 2010, the Union was certified as the exclusive collective-bargaining representative of the Unit.

10. At all times since February 1, 2010, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

11. (a) About February 15, 2010, Respondent, by email from President/CEO Zorn to employees, announced that a meeting with Unit employees would be held on March 5, 2010 to announce significant developments at Respondent and the implementation of unspecified "strategic initiatives."

(b) The significant developments and strategic initiatives referred to above in subparagraph 11(a), and described below in paragraph 15, relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

(c) On about February 23, 2010, the Union, by letter, requested Respondent bargain in good faith about any changes in working conditions before it announced them on March 5, 2010.

12. On about March 2, 2010, Respondent, by letter, refused to either meet with or bargain with the Union about the changes it planned to announce on March 5, 2010.

13. (a) On about March 5, 2010, Respondent, by President/CEO Zorn, at an all-faculty meeting, informed Unit employees the School had made changes in terms and conditions of employment to be effective the following school year and that each individual employee would receive a letter before about March 15, 2010 setting forth what would happen to his or her job.

(b) The changes in terms and conditions of employment to be effective the following school year referred to above in subparagraph 13(a), and described below in paragraph 15, relate

to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

14. On about March 12, 2010, Respondent, at a collective-bargaining session with the Union, informed the Union that Respondent would not bargain about its decisions to change terms and conditions of employment referred to above in paragraphs 11 and 13, and described below in paragraph 15, and would not provide the Union prior notice of the changes it was issuing to employees by the individual letters also referred to above in paragraph 13.

15. (a) On about March 11, 2010 and March 12, 2010, by individual letters addressed to each employee, Respondent informed employees that Respondent had made the following changes to their terms and conditions of employment, which were effective the following school year, 2010-2011:

i) The following employees were told their employment would be terminated entirely: Holly Barnes, Faina Bryanskaya, Eileen Hutchins, Eugne Kim, Dianne Pettipaw, Sally Pinkas, Sophie Vilker, and John Ziarko.

ii) The following employees were told their positions would no longer include performing work in the Conservatory: Elizabeth Anker, Deborah Beers, D'Anna Fortunato, Sandra Hebert, Clay Hoener, Emily Romney, and Shizue Sano.

iii) The following employees were told their positions would no longer include performing work in the Community Programs Division, with limited exceptions: Peter Aldins, Leslie Amper, Anton Belov, Laura Bossert, Paul Brust, Phoebe Carrai, Olivia Cheever, Jonathan Cohler, Anne Elvins, Eric Entwistle, Douglas Freundlich, Randall Hodgkinson, Robert Honeysucker, Teryy King, Ginny Latts, Dana. Maiben, Takaaki Masuka, Laurie Monahan, Vanessa Mulvey, David Patterson, Ken Pierce, Eric Rosenblith, Ben Schwendener, Julie Scolnik, Jayne West, and Noriko Yasuda.

iv) The following employees were told their positions would no longer include work performed as Chair/Coordinators in the Community Programs Division: Spencer Aston, Clay Hoener, Lisa Lederer, Eleanor Perrone, and Marta Zurad.

(b) The subjects set forth above in subparagraph 15(a) 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. On about June 1, 2010, Respondent implemented the changes described above in paragraph 15.

17. (a) On about March 5, 2010, Respondent announced it would remove the work of the Community Programs Chair/Coordinators from the bargaining unit and assign it to management positions.

(b) On about July 1, 2010, Respondent removed the work of the Community Programs Chair/Coordinators from the bargaining unit and assigned it to management positions.

(c) The subjects set forth above in subparagraphs 17(a) and (b) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

18. (a) On about June 1, 2010, Respondent, by letter from Kalen Ratzlaff, informed Unit employees that their health insurance carrier, premiums, and certain benefits had been changed, effective July 1, 2010.

(b) On about July 1, 2010, Respondent changed the health insurance carrier, premiums, and certain benefits for Unit employees.

(c) In about early July, 2010, the specific date not yet known to the Acting General Counsel, Respondent changed the amount it contributed to the health care insurance premiums of Unit employees Clayton Hoener and Lisa Lederer and the way it deducted their employee contributions from their paychecks.

(d) The subjects set forth above in subparagraphs 18(a), (b), and (c) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

19. (a) On about March 5, 2010, Respondent, by Karen Zorn, at a full-faculty meeting, bypassed the Union and dealt directly with its employees in the Unit by announcing changes in terms and conditions of employment as a *fait accompli.*

(b) On about March 11, 2010 and March 12, 2010, by individual letters to each employee, Respondent, by Karen Zorn, Wayman Chin and Miriam Eckelhoefer, bypassed the Union and dealt directly with its employees in the Unit by telling employees their terms and conditions of employment had been unilaterally changed, and offering to discuss concerns directly with employees.

(c) The terms and conditions of employment referred to above in subparagraphs 19(a) and (b) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

20. Respondent engaged in the conduct described above in paragraphs 11 through 19 without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct.

21. By the conduct described above in paragraph 7, 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)(l) of the Act.

22. By the conduct described above in paragraphs 11 through 20, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(5) and (1) of the Act.

23. 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 remedy for Respondent's unfair labor practices alleged above in paragraphs 7 through 22, the Acting General Counsel seeks an Order requiring Respondent to bargain in good faith with the Union, on request, for the period required by *Mar-Jac Poultry*, as the recognized bargaining representative in the appropriate Unit.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above, the Acting General Counsel seeks an Order requiring Respondent to pay quarterly compound interest on any monetary remedy.

The Acting General Counsel seeks such other relief as may be appropriate to remedy the unfair labor practices alleged.

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 amended complaint. The answer must be received by this office on or before **October 28, 2010**, or postmarked on or before October 27, 2010. 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.nlrb.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 amended complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **December 13, 2010,** at 11:00 a.m., and on consecutive days thereafter until concluded, at the Thomas P. O'Neill Jr. Federal Building, 10 Causeway Street, 6th Floor, Boston, Massachusetts 02222, 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 amended 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.

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

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FORM NLRB-4668
(4-05)

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.

(OVER)

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.