

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 01**

LONGY SCHOOL OF MUSIC OF BARD  
COLLEGE

and

LONGY FACULTY UNION, AMERICAN  
FEDERATION OF TEACHERS MASSACHUSETTS  
LOCAL 6484

CASES 01-CA-086689  
01-CA-096044

**ORDER CONSOLIDATING CASES, CONSOLIDATED  
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board), and to avoid unnecessary costs or delay, IT IS ORDERED THAT the following cases are consolidated: 01-CA-086689 and 01-CA-096044, which are based on charges filed by Longy Faculty Union, American Federation of Teachers Massachusetts Local 6484 (the Union) against Longy School of Music of Bard College (Respondent).

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below:

1. The charges and amended charges in the above cases were filed by the Union, as set forth in the following table, and served by regular mail upon Respondent on the dates indicated:

<i>Case No.</i>	<i>Amendment</i>	<i>Date Filed</i>	<i>Date Served</i>
01-CA-086689		August 6, 2012	August 7, 2012
01-CA-086689	First Amended	August 30, 2012	September 5, 2012
01-CA-086689	Second Amended	September 26, 2012	September 27, 2012
01-CA-086689	Third Amended	November 16, 2012	November 19, 2012
01-CA-096044		January 9, 2013	January 10, 2013

01-CA-096044	First Amended	February 28, 2013	February 28, 2013
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2. At all material times, Respondent has been a private non-profit educational institution with an office and place of business in Cambridge, Massachusetts (the Cambridge facility), where it 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) In conducting its operations during the calendar year ending December 31, 2012, Respondent derived gross revenues available for operating expenses in excess of \$1 million.

(b) During the calendar year ending December 31, 2012, Respondent, in conducting its operations 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(11) of the Act, and agents of Respondent within the meaning of Section 2(13) of the Act:

Karen Zorn -	----	President , Longy School of Music of Bard College; Vice President, Bard College
Kalen Ratzlaff -	----	Chief of Staff; Director of Human Resources
Wayman Chin -	----	Dean, Conservatory
Miriam Eckelhoefer	----	Director, Community Programs
Howard Levy -	----	Chief Financial Officer
Judy Bose -	----	Director, Dalcroze Program

7. (a) About April 9, 2012, Respondent, by email from Judy Bose, prohibited employees from communicating with other employees and third parties about proposed changes to Respondent's Dalcroze Program.

(b) In about April 2012, Respondent, by Miriam Eckelhoef, prohibited employees from communicating with other employees and third parties about proposed changes to the Community Programs curriculum.

8. The following employees of Respondent (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 Board certified the Union 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 1, 2011, Respondent and the Union executed an initial collective-bargaining agreement effective February 1, 2011 to June 30, 2014 (the 2011-2014 contract) which contains the following clause:

3. Labor Management Committee

3.1 There will be a Labor Management Committee (LMC) which will be comprised of six members: up to three members appointed by the Longy Faculty Union Executive Board, and up to three members appointed by the President of Longy. The purpose of the LMC is to discuss and resolve issues of concern to the Faculty and/or management as they may arise. This Committee will not be empowered to bargain unless an issue has been delegated in writing by both sides to the Committee for resolution. The Committee shall meet at least every other month to discuss issues of mutual concern. Faculty committee members shall serve without compensation.

(b) About February 11, 2011, Respondent and the Union, in writing, delegated the issue of reappointment criteria to the Labor Management Committee for bargaining.

12. In about July 2012, Respondent implemented the following changes to Unit employees' terms and conditions of employment:

- (a) a new policy requiring that Community Programs instruction take place after 3:00 p.m.;
- (b) a new policy requiring faculty to request permission to teach on a given day;
- (c) a new attendance records policy; and
- (d) a new master class policy.

13. The subjects set forth above in paragraphs 11 and 12 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. Respondent engaged in the conduct described above in paragraph 12 without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct.

15. Since about November 13, 2012, Respondent has failed and refused to bargain with the Union over reappointment criteria at Labor Management Committee meetings.

16. By the conduct described above in paragraph 15, Respondent has failed to continue in effect all of the terms of the 2011-2014 contract described above in paragraph 11.

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

18. By the conduct described above in paragraphs 12, 14, and 15, 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)(1) and (5) of the Act.

19. By the conduct described above in paragraphs 15 and 16, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

20. 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 the unfair labor practices alleged above, the Acting General Counsel seeks an order requiring the amounts equal to the difference in taxes owed upon receipt of a lump sum payment and taxes that would have been owed had there been no discrimination.

The Acting General Counsel further seeks, as part of the remedy for the unfair labor practices alleged above, an order requiring that 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 consolidated complaint. **The answer must be received by this office on or before July 12, 2013 or postmarked on or before July 11, 2013.** Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

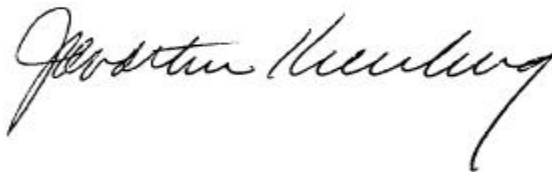
An answer may also be filed electronically by using the E-Filing system on the Agency's/Website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on the **E-Gov tab**, select **E-Filing**, and then follow the detailed instructions. The responsibility 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 consolidated complaint are true.

#### **NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on **October 2, 2013**, at **10:00 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 consolidated 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: June 28, 2013



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Jonathan B. Kreisberg, Regional Director  
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