

STATE OF RHODE ISLAND  
PROVIDENCE, SC

SUPERIOR COURT

BRITTANY DIORIO, STEPHANIE HINES, and  
KERRI THURBER

Plaintiffs

vs.

NATIONAL EDUCATION ASSOCIATION;  
NATIONAL EDUCATION ASSOCIATION  
RHODE ISLAND; AND  
NATIONAL EDUCATION ASSOCIATION  
BARRINGTON

Defendants

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: C.A. No. PC2023-  
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**COMPLAINT**

1. Plaintiff, Brittany DiOrio, is a resident of the Town of Barrington, Rhode Island.
2. Plaintiff, Stephanie Hines is a resident of the City of Cranston, Rhode Island.
3. Plaintiff, Kerri Thurber, is a resident of the Town of Somerset, Massachusetts.
4. Defendant National Education Association, 1201 16th Street, NW, Washington, DC 20036, is a labor organization which exist for the purpose, in whole or in part, of collective bargaining or of dealing with Plaintiffs' employer, the Barrington School Committee concerning grievances, terms or conditions of employment, or of other mutual aid or protection in relation to employment.
5. Defendant National Education Association-Rhode Island, 99 Bald Hill Road, Cranston, RI 02920, is a labor organization which exist for the purpose, in whole or in part, of collective bargaining or of dealing with Plaintiffs' employer, the Barrington School Committee concerning grievances, terms or conditions of employment, or of other mutual aid or protection in relation to employment.
6. Defendant National Education Association-Barrington, Barrington High School, 220 Lincoln Avenue, Barrington, RI 02806, is a labor organization which exist for the purpose, in whole or in part, of collective bargaining or of dealing with Plaintiffs' employer, the Barrington School Committee concerning grievances, terms or conditions of employment, or of other mutual aid or protection in relation to employment.
7. Each of Plaintiffs filed a charge of discrimination against Defendants with the Rhode Island Commission for Human Rights for a violation of the Fair Employment Practices Act, and the United States Equal Employment Opportunity Commission for a violation Title VII of the Civil Rights Act of 1964, as amended.

8. On February 23, 2023, and March 17, 2023, respectively the RICHR and EOCC issued Right to Sue letters to Plaintiffs, which Plaintiffs received on February 24, 2023, and March 18, 2023, respectively.

**FACTS AS TO PLAINTIFF BRITTANY DIORIO:**

9. I am a Rhode Island certified teacher who has been employed by the Committee under annual contracts, including for the 2021-22 school year. At all times relevant to this charge, I have maintained an excellent work history.
10. On or about September 2, 2021, the Barrington School Committee adopted a policy entitled “Amended General and Interim Emergency Policy on COVID-19 Related Issues.” (“policy”) This policy stated that: “All employees must be fully vaccinated by no later than November 1, 2021, subject to certain exemptions to be implemented in accordance with federal and state law.”
11. Upon receiving notice from my employer about the policy, I asked to meet with the Superintendent of Schools, Michael Messore, to discuss obtaining a religious exemption to the policy. I stated I was concerned that I had been told the District would not accept religious exemptions to the policy.
12. In an email to me on September 17, 2021, the Superintendent told me that I was provided “inaccurate information”, and that the policy as agreed to by the Teachers’ Union which represented me provided for an exemption allowing the wearing of a N95 mask, as well as regular testing.
13. Shortly after, I met with the Superintendent in person and again the Superintendent told me not to worry about the policy and that I could apply for a religious exemption.
14. In accordance with the Superintendent’s statement, I submitted a religious exemption request on September 25, 2021.
15. In that request, I pointed to my sincerely held belief as a Bible-believing Christian that my body is a temple, and that the COVID-19 vaccine was against my religious beliefs.
16. At no time did my employer question the sincerity of my religious beliefs.
17. Unknown to me, Superintendent Messore, and the Director of Human Resources, Douglas Fiore, conducted a secret review of my religious exemption request.
18. Upon completion of that review, Superintendent Messore decided to deny the exemption request because it would constitute an undue burden on the District.
19. The undue burden identified by the Superintendent to me was the potential harm to students and other staff members from catching COVID-19, and the potential lost time from work if I got COVID.
20. After meeting secretly with the Committee members and their attorney on October 14, 2021, on October 18, 2021, the Superintendent sent me a letter stating that he was

denying my religious exemption request, and stating he was recommending my suspension from employment on November 1, 2021, and my termination from employment effective January 1, 2022.

21. I attempted to contact my union representative to represent me in defense of the Committee's attempt to terminate me from employment.
22. I was informed by the union that they would not file a grievance under the collective bargaining agreement, or otherwise engage in any actions to represent me in my termination, and that I had no choice but to either get vaccinated or resign from employment.
23. At a pre-termination hearing on October 28, 2021, I again was told by representatives of the union that they would not defend my request for a religious exemption in response to my termination from employment.
24. At the October 28, 2021, hearing, I was suspended from employment effective November 1, 2021, and terminated effective January 1, 2022.
25. Throughout the process of my termination from employment, my union refused to consider my religious exemption as a possible defense to my termination.
26. At no time was I given the opportunity to engage in an interactive process with my union regarding my religious exemption request, as required by Title VII and the RI Fair Employment Practices Act.
27. In fact, my employer has repeatedly told me that my union was in agreement with the Committee that I should be terminated for refusing to take the vaccine.
28. Subsequent to my termination from employment, I learned that the District replaced me with an unqualified substitute teacher for the remainder of the school year 2021-22, which proves that the District was unconcerned about the potential harm to children from my potential absence from employment should I contract COVID.
29. Also, I learned that many vaccinated employees contracted COVID, which necessitated their absence from employment.
30. I also learned, through sworn testimony of the Superintendent and Chair of the Committee, as well as public comments by the District's attorney, that the real reason for the vaccine mandate was the irrational fear of some members of the District staff, as well as the public, that unvaccinated teachers were so dangerous that children could die, as well as immune-compromised family members who would never even come into contact with me.
31. In fact, the Committee and Union had no medical evidence to support their conclusion that I was a danger to students or co-workers, or that I would miss more time out of work than vaccinated employees.

32. These irrational fears constitute “regarded as” disability discrimination, which the union allowed to infect their decision to encourage my employer to fire me, and to otherwise fail to represent me in my termination proceedings.
33. I believe I was discriminated against on the basis of my religion because:
- a. I am a Bible-believing Cristian and have a bona fide belief that prohibits me from taking the COVID-19 vaccine.
  - b. I brought to the attention of my union that a had a religious objection to taking the COVID-19 vaccine.
  - c. My union was aware that my employer refused to engage in an interactive process with me regarding my religious exemption request and otherwise failed to provide me with a reasonable accommodation to my religious belief.
  - d. My union failed to engage in an interactive process with me regarding my religious exemption request and refused to represent me against my employer in the termination process.
  - e. As a result of my union’s actions in failing to represent me, my employer felt empowered to terminate me from unemployment believing that the union would not support me.
34. I also believe I was discriminated against on the basis of being regarded as having a disability as follows:
- a. Because I have not taken the COVID-19 vaccine, my employer and the union both mistakenly believed that I was more likely to cause harm to children or co-workers, or miss more time out of work, than vaccinated employees.
  - b. This mistaken belief resulted in the union failing to represent me in my termination proceedings because they wrongly thought I presented a threat to my co-workers and deserved to be fired if I refused to take the vaccine.
  - c. In fact, I pose no greater danger to my co-workers or anyone else on the basis of being unvaccinated against COVID-19, and therefore am fully qualified to continue to work as a teacher in the District.
  - d. As a result of the union’s actions, my employer felt empowered to terminate me from unemployment believing that the union would not support me.

**FACTS AS TO PLAINTIFF STEPHANIE HINES:**

35. I am a Rhode Island certified teacher who has been employed by the Committee under annual contracts, including for the 2021-22 school year. At all times relevant to this charge, I have maintained an excellent work history.
36. As a certified public school teacher employed by the Committee, at all relevant times to this Charge I was a dues paying member of the union.

37. On or about September 2, 2021, the Barrington School Committee adopted a policy entitled “Amended General and Interim Emergency Policy on COVID-19 Related Issues.” (“policy”) This policy stated that: “All employees must be fully vaccinated by no later than November 1, 2021, subject to certain exemptions to be implemented in accordance with federal and state law.”
38. Upon receiving notice from my employer about the policy, on September 24, 2021, I sent an email to the Director of Human Resources, Douglas Fiore, requesting a religious exemption from the policy.
39. In that request, I pointed to my sincerely held belief as a Bible-believing Christian that my body is a temple, and that the COVID-19 vaccine was against my religious beliefs.
40. At no time did my employer question the sincerity of my religious beliefs.
41. After not hearing any response to my request, Mr. Fiore sent me an email on October 12, 2021, that the Committee would be discussing my exemption request at its meeting of October 14.
42. Unknown to me, Superintendent Messore, and the Director of Human Resources, Douglas Fiore, conducted a secret review of my religious exemption request.
43. Upon completion of that review, Superintendent Messore decided to deny the exemption request because it would constitute an undue burden on the District.
44. The undue burden identified by the Superintendent to me was the potential harm to students and other staff members from catching COVID-19, and the potential lost time from work if I got COVID.
45. After meeting secretly with the Committee members and their attorney on October 14, 2021, the Superintendent decided to send a letter on October 18, 2021, to me stating that he was denying my religious exemption request, and stating he was recommending my suspension from employment on November 1, 2021, and my termination from employment effective January 1, 2022.
46. I attempted to contact my union representative to represent me in defense of the Committee’s attempt to terminate me from employment.
47. I was informed by the union that they would not file a grievance under the collective bargaining agreement, or otherwise engage in any actions to represent me in my termination, and that I had no choice but to either get vaccinated or resign from employment.

48. At a pre-termination hearing on October 28, 2021, I again was told by representatives of the union that they would not defend my request for a religious exemption in response to my termination from employment.
49. At the October 28, 2021, hearing, I was suspended from employment effective November 1, 2021, and terminated effective January 1, 2022.
50. Throughout the process of my termination from employment, my union refused to consider my religious exemption as a possible defense to my termination.
51. At no time was I given the opportunity to engage in an interactive process with my union regarding my religious exemption request, as required by Title VII and the RI Fair Employment Practices Act.
52. In fact, my employer has repeatedly told me that my union was in agreement with the Committee that I should be terminated for refusing to take the vaccine.
53. Subsequent to my termination from employment, I learned that the District replaced me with an unqualified substitute teacher for many weeks, which proves that the District was unconcerned about the potential harm to children from my potential absence from employment should I contract COVID.
54. Also, I learned that many vaccinated employees contracted COVID, which necessitated their absence from employment.
55. I also learned, through sworn testimony of the Superintendent and Chair of the Committee, as well as public comments by the District's attorney, that the real reason for the vaccine mandate was the irrational fear of some members of the District staff, as well as the public, that unvaccinated teachers were so dangerous that children could die, as well as immune-compromised family members who would never even come into contact with me.
56. In fact, the Committee and Union had no medical evidence to support their conclusion that I was a danger to students or co-workers, or that I would miss more time out of work than vaccinated employees.
57. These irrational fears constitute "regarded as" disability discrimination, which the union allowed to infect their decision to encourage my employer to fire me, and to otherwise fail to represent me in my termination proceedings.
58. I believe I was discriminated against on the basis of my religion because:
  - a. I am a Bible-believing Cristian and have a bona fide belief that prohibits me from taking the COVID-19 vaccine.

- b. I brought to the attention of my union that I had a religious objection to taking the COVID-19 vaccine.
  - c. My union was aware that my employer refused to engage in an interactive process with me regarding my religious exemption request and otherwise failed to provide me with a reasonable accommodation to my religious belief.
  - d. My union failed to engage in an interactive process with me regarding my religious exemption request and refused to represent me against my employer in the termination process.
  - e. As a result of my union's actions in failing to represent me, my employer felt empowered to terminate me from unemployment believing that the union would not support me.
59. I also believe I was discriminated against on the basis of being regarded as having a disability as follows:
- a. Because I have not taken the COVID-19 vaccine, my employer and the union both mistakenly believed that I was more likely to cause harm to children or co-workers, or miss more time out of work, than vaccinated employees.
  - b. This mistaken belief resulted in the union failing to represent me in my termination proceedings because they wrongly thought I presented a threat to my co-workers and deserved to be fired if I refused to take the vaccine.
  - c. In fact, I pose no greater danger to my co-workers or anyone else on the basis of being unvaccinated against COVID-19, and therefore am fully qualified to continue to work as a teacher in the District.
  - d. As a result of the union's actions, my employer felt empowered to terminate me from unemployment believing that the union would not support me.

**FACTS AS TO KERRI THURBER:**

60. I am a Rhode Island certified teacher who has been employed by the Committee under annual contracts, including for the 2021-22 school year. I was employed by the Committee for nearly 20 years as a middle school music teacher. At all times relevant to this charge, I have maintained an excellent work history.
61. As a certified public school teacher employed by the Committee, at all relevant times to this Charge I was a dues paying member of the union.
62. On or about September 2, 2021, the Barrington School Committee adopted a policy entitled "Amended General and Interim Emergency Policy on COVID-19 Related Issues." ("policy") This policy stated that: "All employees must be fully vaccinated by no

later than November 1, 2021, subject to certain exemptions to be implemented in accordance with federal and state law.”

63. Upon receiving notice from my employer about the policy, on September 16, 2021, I sent an email to the Superintendent of Schools, Michael Messore, requesting a religious exemption to the policy.
64. In that request, I stated that the requirement for me to that the COVID-19 vaccine was against my sincerely held religious beliefs.
65. At no time did my employer question the sincerity of my religious beliefs.
66. Unknown to me, Superintendent Messore, and the Director of Human Resources, Douglas Fiore, conducted a secret review of my religious exemption request.
67. Upon completion of that review, Superintendent Messore decided to deny the exemption request because it would constitute an undue burden on the District.
68. The undue burden identified by the Superintendent to me was the potential harm to students and other staff members from catching COVID-19, and the potential lost time from work if I got COVID.
69. After meeting secretly with the Committee members and their attorney on October 14, 2021, on October 18, 2021, the Superintendent sent me a letter stating that he was denying my religious exemption request, and stating he was recommending my suspension from employment on November 1, 2021, and my termination from employment effective January 1, 2022.
70. I attempted to contact my union representative to represent me in defense of the Committee’s attempt to terminate me from employment.
71. I was informed by the union that they would not file a grievance under the collective bargaining agreement, or otherwise engage in any actions to represent me in my termination, and that I had no choice but to either get vaccinated or resign from employment.
72. At a pre-termination hearing on October 28, 2021, I again was told by representatives of the union that they would not defend my request for a religious exemption in response to my termination from employment.
73. At the October 28, 2021, hearing, I was suspended from employment effective November 1, 2021, and terminated effective January 1, 2022.
74. Throughout the process of my termination from employment, my union refused to consider my religious exemption as a possible defense to my termination.



75. At no time was I given the opportunity to engage in an interactive process with my union regarding my religious exemption request, as required by Title VII and the RI Fair Employment Practices Act.
76. In fact, my employer has repeatedly told me that my union was in agreement with the Committee that I should be terminated for refusing to take the vaccine.
77. Subsequent to my termination from employment, I learned that the District replaced me with an unqualified substitute teacher for many weeks, which proves that the District was unconcerned about the potential harm to children from my potential absence from employment should I contract COVID.
78. Also, I learned that many vaccinated employees contracted COVID, which necessitated their absence from employment.
79. I also learned, through sworn testimony of the Superintendent and Chair of the Committee, as well as public comments by the District's attorney, that the real reason for the vaccine mandate was the irrational fear of some members of the District staff, as well as the public, that unvaccinated teachers were so dangerous that children could die, as well as immune-compromised family members who would never even come into contact with me.
80. In fact, the Committee and Union had no medical evidence to support their conclusion that I was a danger to students or co-workers, or that I would miss more time out of work than vaccinated employees.
81. These irrational fears constitute "regarded as" disability discrimination, which the union allowed to infect their decision to encourage my employer to fire me, and to otherwise fail to represent me in my termination proceedings.
82. I believe I was discriminated against on the basis of my religion because:
  - a. I am a Bible-believing Cristian and have a bona fide belief that prohibits me from taking the COVID-19 vaccine.
  - b. I brought to the attention of my union that a had a religious objection to taking the COVID-19 vaccine.
  - c. My union was aware that my employer refused to engage in an interactive process with me regarding my religious exemption request and otherwise failed to provide me with a reasonable accommodation to my religious belief.
  - d. My union failed to engage in an interactive process with me regarding my religious exemption request and refused to represent me against my employer in the termination process.

- e. As a result of my union's actions in failing to represent me, my employer felt empowered to terminate me from unemployment believing that the union would not support me.
83. I also believe I was discriminated against on the basis of being regarded as having a disability as follows:
- a. Because I have not taken the COVID-19 vaccine, my employer and the union both mistakenly believed that I was more likely to cause harm to children or co-workers, or miss more time out of work, than vaccinated employees.
  - b. This mistaken belief resulted in the union failing to represent me in my termination proceedings because they wrongly thought I presented a threat to my co-workers and deserved to be fired if I refused to take the vaccine.
  - c. In fact, I pose no greater danger to my co-workers or anyone else on the basis of being unvaccinated against COVID-19, and therefore am fully qualified to continue to work as a teacher in the District.
  - d. As a result of the union's actions, my employer felt empowered to terminate me from unemployment believing that the union would not support me.

**COUNT I**  
**BREACH OF DUTY OF FAIR REPRESENTATION**

84. Plaintiffs repeat and incorporate by reference the allegations contained in this complaint.
85. Defendants owe to Plaintiffs a duty of fair representation, to not act in an arbitrary, discriminatory or bad faith manner against Plaintiffs.
86. Defendants have breached their duty in the following ways:
- a. By encouraging Plaintiffs' employer to terminate their employment if they refused to take the COVID-19 vaccine;
  - b. By refusing to provide Plaintiffs with a defense to the actions of Plaintiffs' employer in first suspending without pay and then terminating Plaintiffs' employment;
  - c. By failing to support Plaintiffs by filing of an unfair labor practice charge against the Plaintiffs' employer;
  - d. By failing to conduct a so-called Belanger hearing where there was a conflict between competing union members, and by failing to investigate the matter and affording Plaintiffs an opportunity to present their case;

WHEREFORE, Plaintiffs demand judgment against the Defendant, for attorneys' fees and costs, and such other damages as this Court may deem meet and just.

**COUNT II**  
**VIOLATION OF TITLE VII**  
**42 U.S.C. § 2000e, et seq.**

87. Plaintiffs repeat and incorporate by reference the allegations contained in this complaint.
88. At all times of their employment with Barrington School District, Plaintiffs maintained an excellent work history.
89. Defendants discriminated against Plaintiffs the basis of their religion because:
- a. Plaintiffs are a Bible-believing Cristian and have a bona fide belief that prohibits them from taking the COVID-19 vaccine.
  - b. Plaintiffs brought to the attention of Defendants that they had a religious objection to taking the COVID-19 vaccine.
  - c. Defendants were aware that Plaintiffs' employer refused to engage in an interactive process with them regarding their religious exemption request and otherwise failed to provide Plaintiffs with a reasonable accommodation to their religious beliefs.
  - d. Defendants failed to engage in an interactive process with Plaintiffs regarding their religious exemption request and refused to represent them against their employer in the termination process.
  - e. As a result of Defendants' actions in failing to represent Plaintiffs, their employer felt empowered to terminate them from unemployment believing that the union would not support them.
90. Defendants also discriminated against Plaintiffs on the basis of being regarded as having a disability because:
- a. Because Plaintiffs have not taken the COVID-19 vaccine, Defendants falsely believed that they were more likely to cause harm to children or co-workers, or miss more time out of work, than vaccinated employees.
  - b. This false belief resulted in the union failing to represent Plaintiffs in their termination proceedings because Defendants wrongly thought Plaintiffs presented a threat to their co-workers and deserved to be fired if they refused to take the vaccine.

- c. In fact, Plaintiffs posed no greater danger to their co-workers or anyone else on the basis of being unvaccinated against COVID-19, and therefore were fully qualified to continue to work as a teacher in the District.
- d. As a result of the Defendants' actions, Plaintiffs' employer felt empowered to terminate them from unemployment believing that the union would not support them.

91. As a result of such unlawful actions, Plaintiffs suffered adverse employment conditions, including lost wages and benefits, as well as emotional distress damages.

WHEREFORE, Plaintiffs demands judgment against Defendants, including compensatory and punitive damages, attorney's fees and costs, and such other relief as this Court deems meet and just.

**COUNT III**  
**VIOLATION OF FAIR EMPLOYMENT PRACTICES ACT**  
**R.I. GEN. LAWS CH. 28-5**

92. Plaintiffs repeat and incorporate by reference the allegations contained in this complaint.
93. At all times of their employment with the Barrington School District, Plaintiffs maintained an excellent work history.
94. Defendants discriminated against Plaintiffs the basis of their religion because:
- a. Plaintiffs are a Bible-believing Cristian and have a bona fide belief that prohibits me from taking the COVID-19 vaccine.
  - b. Plaintiffs brought to the attention of Defendants that they had a religious objection to taking the COVID-19 vaccine.
  - c. Defendants were aware that Plaintiffs' employer refused to engage in an interactive process with them regarding their religious exemption request and otherwise failed to provide Plaintiffs with a reasonable accommodation to their religious beliefs.
  - d. Defendants failed to engage in an interactive process with Plaintiffs regarding their religious exemption request and refused to represent them against their employer in the termination process.
  - e. As a result of Defendants' actions in failing to represent Plaintiffs, their employer felt empowered to terminate them from unemployment believing that the union would not support them.

95. Defendants also discriminated against Plaintiffs on the basis of being regarded as having a disability because:
- a. Because Plaintiffs have not taken the COVID-19 vaccine, Defendants falsely believed that they were more likely to cause harm to children or co-workers, or miss more time out of work, than vaccinated employees.
  - b. This false belief resulted in the union failing to represent Plaintiffs in their termination proceedings because Defendants wrongly thought Plaintiffs presented a threat to their co-workers and deserved to be fired if they refused to take the vaccine.
  - c. In fact, Plaintiffs posed no greater danger to their co-workers or anyone else on the basis of being unvaccinated against COVID-19, and therefore were fully qualified to continue to work as a teacher in the District.
  - d. As a result of the Defendants' actions, Plaintiffs' employer felt empowered to terminate them from unemployment believing that the union would not support them.
96. As a result of such unlawful actions, Plaintiffs suffered adverse employment conditions, including lost wages and benefits, as well as emotional distress damages.

WHEREFORE, Plaintiffs demands judgment against Defendants, including compensatory and punitive damages, attorney's fees and costs, and such other relief as this Court deems meet and just.

**COUNT IV**  
**VIOLATION OF THE RHODE ISLAND CIVIL RIGHTS ACT (RICRA)**  
**RI GEN. LAWS § 42-112-1**

97. Plaintiffs repeat and incorporate by reference the allegations contained in this complaint.
98. Plaintiffs have been discriminated against by the Defendants, based upon their religion and their being regarded as having a disability.

WHEREFORE, the Plaintiffs demands judgment against Defendants for compensatory and exemplary damages, attorneys' fees and costs, as provided for in RI Gen. Laws § 42-112-2.

Plaintiffs,  
By their Attorney,

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