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May 23, 2011

Melinda Moz-Knight  
Clerk  
Vermont Labor Relations Board  
13 Baldwin Street  
Montpelier, VT 05633-6101

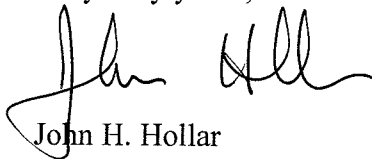
Re: South Burlington Board of School Directors v. South Burlington Educators' Association  
and Vermont-NEA  
Docket No. \_\_\_\_\_

Dear Ms. Moz-Knight:

Enclosed for filing please find the original and four copies of the Vermont School Boards Association's Verified Application to Intervene filed in connection with the above-referenced matter.

Thank you.

Very truly yours,



John H. Hollar

JHH:tsp

Enclosures

Cc: South Burlington Educators' Association (via mail)  
Vermont-NEA (via mail)

VERMONT LABOR RELATIONS BOARD

SOUTH BURLINGTON BOARD OF SCHOOL )  
DIRECTORS )

v. )

SOUTH BURLINGTON EDUCATORS' )  
ASSOCIATION AND VERMONT NEA )

DOCKET NO. \_\_\_\_\_

**THE VERMONT SCHOOL BOARDS ASSOCIATION'S**  
**VERIFIED APPLICATION TO INTERVENE**

NOW COMES the Vermont School Boards Association (“VSBA”), by and through its attorneys, Downs Rachlin Martin PLLC, and submits this verified application to intervene in the above-captioned matter pursuant to Section 32.6 of the Board Rules of Practice. In support, the VSBA states as follows:

**The VSBA**

1. The VSBA is a non-profit membership organization serving local school boards and school board members across the State of Vermont. At present, the VSBA serves 238 member school boards – representing nearly all public school districts in Vermont – and 1,475 individual school board members.

2. The VSBA’s mission is

to improve education for all children in Vermont by supporting school boards so they function effectively, use resources wisely, and develop strategic plans to transcend high turnover and short-term political pressures. The VSBA advocates on the local, state and national levels to create effective policy and legislation that supports high quality and cost-effective education. The Association also promotes communication among educators, community members and policy makers so that consensus is reached on the needs, goals and continuous improvement of education throughout Vermont.

3. The VSBA carries out its mission, in part, by supporting local school boards in the recruitment, training and retention of dedicated and talented volunteer school board members from the local community; by providing support to school boards and school board members in fulfilling their duties; and by providing legislative, administrative and judicial assistance to and advocacy on behalf of local school boards and school board members.

4. The VSBA has a substantial interest in ensuring that talented and experienced members of the community are encouraged to serve as voluntary school board members.

### **The Charge**

5. On or around May 23, 2011, the South Burlington School Board (the “School Board”) filed an Unfair Labor Practice Charge (the “Charge”) against the South Burlington Educators’ Association (the “Association”) and its parent organization, the Vermont-NEA (“VT-NEA”). The Charge alleges that the Association and the VT-NEA violated sections 1726(b)(2) and 1726(b)(4) of the Municipal Employee Relations Act by restraining and coercing the School Board in its selection of representatives for the purpose of collective bargaining and failing to bargain collectively in good faith.

6. Specifically, the Charge alleges that on February 25, 2011, during negotiations between the School Board and the Association over a successor contract, VT-NEA Executive Director Joel Cook – an attorney and the VT-NEA’s former general counsel – sent an unsolicited, *ex parte* email to School Board Chair Richard Cassidy threatening picketing outside of School Board Chair Cassidy’s private law office in an effort to intimidate School Board Chair Cassidy and to create the appearance of a conflict of interest under the School Board’s Code of Conduct.

7. According to the Charge, Executive Director Cook's inappropriate threat had its intended effect: as a result of the email, School Board Chairman Cassidy was forced to withdraw from further participation in the ongoing contract negotiations.

8. Moreover, the Charge makes clear that this is not likely to be an isolated incident. For instance, in a March 1, 2011 News Release, the VT-NEA defends Executive Director Cook's threat as a legitimate bargaining tactic, asserting that "it is not uncommon for board members' businesses to be picketed during a strike," and that Executive Director Cook "merely pointed that out to [School Board Chair] Cassidy."

9. Therefore, the Charge requests, *inter alia*, a determination that the VT-NEA's and/or Association's actions constituted an unfair labor practice and an order requiring the VT-NEA and the Association to cease and desist from such actions in the future.

#### **Argument**

10. Through the actions challenged in the Charge and through its subsequent News Release defending Executive Director Cook's threats to School Board Chair Cassidy, the VT-NEA – a statewide organization – has made clear that it believes it and/or its local affiliate associations may legitimately undermine local school board negotiation teams and gain an advantage during collective-bargaining negotiations by creating perceived conflicts of interest on the part of individual school board members through inappropriate, *ex parte* threats to their private businesses. The NEA's threat undermines the integrity of the collective bargaining process.

11. If allowed by the Board, tactics such as those endorsed by the VT-NEA would substantially impair the ability of local school boards throughout the state to recruit and retain talented, experienced members. Indeed, the individuals most vulnerable to the coercive and

inappropriate tactics at issue in the Charge are the skilled community and business leaders the VSBA and local school boards encourage to serve as school board members. School board members must be allowed to serve without fear of retaliation.

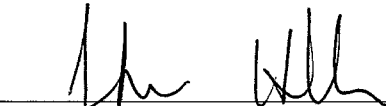
12. As the sole organization representing the collective interests of local school boards and school board members across the state, the VSBA has a unique, direct and compelling interest in ensuring that the broad policy implications of the VT-NEA's and/or Association's unlawful conduct are presented to the Board.

13. Therefore, the VSBA should be permitted to intervene in these proceedings to ensure that the broader interests of local school boards and voluntary school board members from across the state are vigorously represented.

WHEREFORE, the Vermont School Boards Association respectfully requests that the Board permit it to intervene in this matter and grant such other relief as may be reasonable and just.

DOWNNS RACHLIN MARTIN PLLC

By

  
\_\_\_\_\_  
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ATTORNEYS FOR THE VERMONT  
SCHOOL BOARDS ASSOCIATION

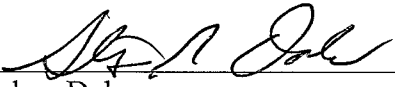
VERIFICATION

STATE OF VERMONT  
COUNTY OF WASHINGTON

Stephen Dale hereby certifies as follows:

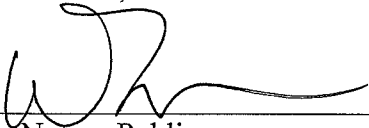
I am the Executive Director of the Vermont School Boards Association. I have read the foregoing Verified Application to Intervene and know the factual contents thereof, and the same is true to the best of my knowledge, information and belief.

5/23/11  
Date

  
Stephen Dale

STATE OF VERMONT  
WASHINGTON COUNTY, SS.

At Montpelier, Vermont this 23 day of May 2011, personally appeared, Stephen Dale, who gave oath to the truth of the facts set forth in the foregoing, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed.

Before me   
Notary Public  
Commission Expires: 2/10/2015