
**QUINCY SCHOOL COMMITTEE AND TEAMSTERS, LOCAL 380 AND
QUINCY PUBLIC SCHOOL BUS DRIVERS ASSOCIATION,
MCR-4239 (12/3/93). RULING ON OBJECTIONS TO ELECTION
AND ON CHALLENGED BALLOT.**

43.13	challenged
43.31	challenged ballot
43.321	electioneering
43.325	union misrepresentation
43.327	employer preference for one of competing unions
43.33	continue to bargain
43.8	voter eligibility

Commissioners participating:

William J. Dalton, Acting Chairman
William Hayward, Commissioner
Claudia Centomini, Commissioner

Appearance:

Marge Donovan, Esq.	- Representing the Quincy School Committee
J. Gary Gagne	- Representing Teamsters, Local 380
Ruth Mahoney	- Representing the Quincy Public School Bus Drivers Association

**RULING ON OBJECTIONS TO ELECTION
AND ON CHALLENGED BALLOT**

Statement of the Case

The Labor Relations Commission (Commission) conducted an on-site election on September 23, 1993 for a bargaining unit of school bus drivers employed by the Quincy

**Quincy School Committee and Teamsters, Local 380 and
Quincy Public School Bus Drivers Association, 20 MLC 1306**

School Committee (School Committee). The choices on the ballot were Teamsters, Local 380 (Teamsters), Quincy Public School Bus Drivers Association (Association), and no union. The results of the election were as follows:

Total ballots cast.....	38
Ballots cast for the Association	19
Ballots cast for the Teamsters.....	18
Challenged ballot.....	1

The Teamsters challenged the ballot of Stephen Constantino claiming he was not eligible to vote. For the reasons stated below, we find that Constantino was eligible to vote.

On September 29, 1993, the Teamsters filed Objections to the Election. At the request of the Commission, the School Committee and the Association filed their responses to the Teamsters' Objections on October 15, 1993. For the reasons stated below, we find that the Teamsters' Objections do not warrant a hearing and fail to establish a sufficient legal basis for setting aside the election. Accordingly, we dismiss the Teamsters' Objections to the election.

CHALLENGED BALLOT

The Teamsters claim that Stephen Constantino (Constantino) is not eligible to vote because he worked only 5½ hours in the period which the Commission set to be eligible to vote. The School Committee provided documentary evidence that Constantino has been employed by the School Committee since November 19, 1987 when he was hired as a provisional Civil Service part-time school bus driver. Constantino continues to be employed on a regular part-time basis and generally works from October through April. Since the evidence submitted by the School Committee demonstrates that Constantino continues to be employed by the School Committee on a regular part-time schedule, we find that he is eligible to vote.

**Quincy School Committee and Teamsters, Local 380 and
Quincy Public School Bus Drivers Association, 20 MLC 1306**

OBJECTIONS TO THE ELECTION

A. Donna Blaney

The Teamsters allege that they first learned on September 24, 1993 that Donna Blaney (Blaney) was not on the eligibility list. They claim that the School Committee failed to recall Blaney despite frequent requests by Blaney because they were aware of her support for the Teamsters. Furthermore, the Teamsters assert that Ruth Mahoney (Mahoney), the Association's president, telephoned Blaney in May 1993 inquiring whether Blaney had signed a Teamsters membership card. The School Committee provided evidence that Blaney has not worked as a bus driver since October 23, 1991 when she worked as an intermittent bus driver for one day. Mahoney admits asking Blaney if she had signed a Teamsters card because she was concerned that non-employees may have signed authorization cards.

It is undisputed that Blaney was not a School Committee employee at the time of the election and, therefore, was ineligible to vote. Furthermore, there is insufficient evidence to conclude that the School Committee was aware of Blaney's support for the Teamsters and that they did not rehire her for this reason. Moreover, Mahoney's questioning of Blaney about signing a Teamster authorization card could not have affected the outcome of the election because Blaney was not eligible to vote in the election.

B. The School Committee's Neutrality

On May 5, 1993, the Teamsters filed a representation petition with the Commission. Copies of the petition were sent to Mahoney, the Association's president, and to James A. Sheets, chairman of the School Committee.¹ On May 17, 1993, the Commission sent a notice of hearing and a copy of the Teamsters' petition to Mahoney, Sheets, and the Teamsters representative, J. Gary Gagne. On June 1, 1993, the Teamsters advised the Commission's agent that the School Committee and the Association were continuing to

¹

Sheets is also the City's Mayor.

**Quincy School Committee and Teamsters, Local 380 and
Quincy Public School Bus Drivers Association, 20 MLC 1306**

bargain for a successor agreement. On the same date, the Commission agent notified Marge Donovan, the School Committee's representative, that the Teamsters had filed a petition with the Commission. Immediately thereafter, the School Committee ceased bargaining with the Association.

When an employer is notified that the Commission has determined that a rival union's petition raises a question concerning representation, the employer must maintain a strict neutrality, which includes restraining from bargaining with the incumbent union during the pendency of the representation petition. Town of Wakefield, 10 MLC 1016 (1983); Commonwealth of Massachusetts, 7 MLC 1228 (1980). The Teamsters have not presented any evidence that the School Committee actually received a copy of the petition the Teamsters mailed on May 5, 1993 or the one mailed by the Commission on May 17, 1993. None of the copies mailed to the School Committee were sent by certified mail. Therefore, the evidence demonstrates that the School Committee first received notice of the Teamsters' petition on June 1, 1993 and immediately discontinued bargaining with the Association as the Commission requires.

C. Harassment and Intimidation of Teamster Supporters

On September 15, 1993, the Teamsters brought its organizing tractor-trailer and several Teamster members to the Quincy school bus yard in support of the school bus drivers. Two incidents occurred on this day which the Teamsters consider intimidating: 1) Quincy police officers were notified that the Teamster tractor-trailer was blocking access to the bus yard and 2) Arthur Woodward, director of information services for the Quincy public schools, questioned Teamsters organizer, Gary Gagne, concerning interference with the buses leaving or entering the bus yard.

The Teamsters have provided insufficient evidence to conclude that the School Committee harassed and interfered with Teamster supporters. First, the School Committee submitted evidence from the Quincy police department showing that a school bus driver (Sue Columbus), and not any School Committee representative, complained to the Quincy police concerning the Teamsters tractor-trailer. Second, the Teamsters did not support its allegation by filing affidavits from school bus drivers claiming that they were intimidated because Woodward spoke to Gagne about not interfering with the buses leaving or entering

**Quincy School Committee and Teamsters, Local 380 and
Quincy Public School Bus Drivers Association, 20 MLC 1306**

the bus yard. Therefore, there is insufficient evidence that either of these incidents affected the outcome of the election.

D. Other Acts of Intimidation and Coercion

The memorandum of May 19, 1993. On May 19, 1993, Mahoney sent a memorandum to all school bus drivers that stated: "I hear by (sic) remove my name from the Authorization Card I signed allowing Teamsters Local 380 to hold a representative election for QPS bus drivers." The Teamsters did not provide any evidence that any school bus driver who had signed a Teamster card requested to withdraw his/her card. Furthermore, the Commission did not receive any request from any employee who had signed a Teamster authorization card requesting that the card be withdrawn. Thus, Mahoney's memorandum could not have affected the Teamsters showing of interest, nor the outcome of the election.

Conflict in minutes of the last negotiations session between the School Committee and the Association. It is unclear from the Teamsters' allegation what is objectionable about the conflict in the minutes. Assuming that the Teamsters are claiming that the Association misrepresented certain aspects of the last negotiations session, there is no evidence of how this affected the Teamsters' campaigning, nor is there any evidence of when the minutes were posted and if the Teamsters had an opportunity to respond and clarify its position prior to the election on September 23, 1993. In City of Quincy, MCR-4169 (January 29, 1993), the Commission held that it will not

...overturn an election on the grounds of misrepresentation unless a party has substantially misrepresented a highly material fact the truth of which lies within the special knowledge of the party making the misrepresentation. Even when the Commission so finds, it will not set aside an election if it finds that the voters in general have independent knowledge or intelligence with which to evaluate the misrepresentation or if, in its discretion, it finds that the misrepresentation had no substantial impact on the election.

Furthermore, the Commission will overturn an election because of pre-election misrepresentations only if either the timing or the nature of the statement precludes an effective

**Quincy School Committee and Teamsters, Local 380 and
Quincy Public School Bus Drivers Association, 20 MLC 1306**

response by another party to the election and the statement is likely to have interfered with the outcome of the election. See, e.g., Commonwealth of Massachusetts, 16 MLC 1293, 1303 (1989); Boston Water and Sewer Commission, 13 MLC 1071, 1073-1074 (1986). This allegation does not raise any issues that would warrant setting aside the election.

Letter of Margaret Plante. On September 8, 1993, Plante, a part-time school bus driver, wrote to Gary Gagne, Teamster representative, complaining that she had been intimidated by both the School Committee and the Association because she was a Teamster supporter. Specifically, Plante alleges that: 1) the School Committee harassed and intimidated her when she was called to the office of Arthur Woodward, director of information services for the Quincy public schools, concerning a complaint about her violating traffic rules; 2) Beverly Pilling, the dispatcher, told her that because of the Teamsters' petition, the school bus drivers lost out on a state grant and that part-time bus drivers would lose work because of this; and 3) the Association's president, Ruth Mahoney, phoned her at home to tell her why she should vote for the Association and not the Teamsters.

First, neither Plante nor the Teamsters provide any evidence to conclude that the Association and the School Committee were aware that Plante was a Teamster supporter. Furthermore, neither Plante nor the Teamsters point to any specific words or actions on the part of the Association or the School Committee that would lead us to conclude that they were aware of her Teamster support. Second, Plante does not deny that there was actually a complaint filed against her by a citizen. Moreover, she does not allege that Woodward nor anyone else from the School Committee made any reference to the upcoming election or to her support of the Teamsters during their meeting with her. Third, there is no evidence to show that Barbara Pilling, the dispatcher, was aware of Plante's support of the Teamsters, nor is there any evidence that Pilling supported the Association. Pilling's comments regarding the lost benefits caused by the termination of negotiations between the School Committee and the Association could be interpreted as nothing more than the opinion of a fellow employee. Fourth, Mahoney's call to Plante was part of the election campaign by both employee organizations seeking to compare the benefits of voting for one organization over another. And finally, the Teamsters do not allege that any of the actions by the School Committee and the Association, listed above, inhibited her from supporting the Teamsters and voting on election day.

**Quincy School Committee and Teamsters, Local 380 and
Quincy Public School Bus Drivers Association, 20 MLC 1306**

The Association's distribution of the School Committee's final contract offer. The Association does not deny that it mailed the school bus drivers a copy of the School Committee's final contract offer prior to the cessation of the parties' bargaining due to the filing of the Teamsters petition. However, the Association does deny that it distributed this material on election day. The Teamsters fail to state what it considers objectionable about the distribution of these materials. Even if they were distributed on election day, there is no allegation that the material was distributed in the polling area. See, City of Boston, 2 MLC 1275, 1280 (1976).

The alleged intimidation of Nadine DeSimone. DeSimone claims that she was harassed and intimidated because she was a Teamster supporter. Specifically, she claims that Mahoney refused to do anything about her request to ask the School Committee to keep the bus yard open longer so that the bus drivers could use the public facilities when they returned to the bus yard. Furthermore, DeSimone claims that Mahoney breached confidentiality when she posted Plante's grievance on the bulletin board. In addition, Plante claims that she and others were verbally attacked because they were Teamster supporters.

First, the School Committee and the Association correctly refrained from dealing with the issue of keeping the bus yard open longer because they could not bargain over this issue during the pendency of a representation election. See, Town of Wakefield, supra; Commonwealth of Massachusetts, supra. Second, Mahoney posted Plante's grievance in response to Plante's posting of a letter from the Commonwealth's Department of Personnel Administrations concerning reassignments, the subject of Plante's grievance. There is no evidence that the posting of Plante's grievance affected Plante's support for the Teamsters nor her participation in the election. Moreover, there is no evidence to demonstrate that the School Committee or the Association were aware of Plante's support for the Teamsters and that they acted in a retaliatory manner. Third, other than a general allegation that she and others were verbally attacked, neither Plante nor the Teamsters provide any detailed information, such as the identity of the speakers, and the words that were spoken during the alleged verbal attacks. Commission Rule and Regulation 14.12(3) provides, in relevant part, that:

Within seven (7) days after the tally of the ballots has been furnished, any party may file with the Commission...objections to the conduct of an election. Such filing shall

**Quincy School Committee and Teamsters, Local 380 and
Quincy Public School Bus Drivers Association, 20 MLC 1306**

specify with particularity the conduct alleged to be objectionable (including the identity of the persons involved, and the date, place, time and nature of the conduct).

This latter allegation lacks the necessary specificity to comply with the Commission's rule.

Allegedly intimidating material sent by Association supporters. The Teamsters do not state what they consider intimidating about the campaign materials sent by the Association. Assuming that they are alleging misrepresentations on the part of the Association, there is insufficient evidence for us to conclude that the Association's campaign materials are objectionable and warrant setting aside the election.

Photographs of Association materials claiming Teamster information is untrue concerning requirements for health benefits. Again the Teamsters do not state with specificity what is objectionable about these materials. Assuming that the teamsters are claiming that the Association misrepresented the facts, the Teamsters do not allege that they did not have an opportunity to respond to the Association's statements during the pre-election campaign. Therefore, we cannot conclude that the Association's materials and statements, even if untrue, warrant setting aside the election.

For all of the above reasons, we hereby DISMISS the Teamsters' Objections to the Election. Furthermore, in accordance with Commission Rule and Regulation 14.12, we order that the challenged ballot be opened on Tuesday, December 14, 1993, at 10:00 a.m. at the Commission's Offices, Room 1604, 100 Cambridge Street, Boston, Massachusetts.

**COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION**

WILLIAM J. DALTON, ACTING CHAIRMAN

WILLIAM HAYWARD, COMMISSIONER

CLAUDIA CENTOMINI, COMMISSIONER