

MEDFORD SCHOOL COMMITTEE AND MEDFORD TEACHERS ASSOCIATION/MTA, AND DANIEL J. BUCKLEY, ET AL., SI-206 (10/6/87). INTERIM ORDER.

92.31 notice
107. Picketing
108. Strikes

Commissioners Participating:

Paul T. Edgar, Chairman
Maria C. Walsh, Commissioner
Elizabeth K. Boyer, Commissioner

Appearances by:

Howard L. Greenspan, Esq.	- Representing the Medford School Committee
Charles M. Healey III, Esq.	- Representing the Medford Teachers Association, and its officers in their representational capacity; specially appearing for Daniel J. Buckley, Frederick C. Knox, David Delano and Dale Ciavati in their individual capacities.
Lee Weissinger, Esq.	- Representing the Massachusetts Teachers Association

INTERIM ORDER

On October 5, 1987, the Medford School Committee (School Committee) filed a petition with the Labor Relations Commission (Commission) pursuant to Section 9A(b) of G.L. c.150E (the Law). The School Committee alleged that the Medford Teachers Association (Association) and its members had engaged in a strike on October 5, 1987, and that, in essence, the strike had been condoned and encouraged by the Association's affiliate, the Massachusetts Teachers Association (MTA). The School Committee also alleged that Daniel J. Buckley, Frederick C. Knox, David Delano, and Dale Ciavati had engaged in a strike.

The Commission scheduled an investigation to commence at 10:00 a.m. on October 6, 1987 and issued a Notice of Investigation to the parties.¹

¹With one exception, we find that the School Committee properly served the Notice and petition on all parties. We find that the MTA was served and that the MTA was represented at the investigation. With respect to Frederick Knox, we find that service was defective and that, as an individual, he did not receive proper notice of the scheduled investigation.



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On October 6, 1987, beginning at approximately 10:30 a.m., an investigation of the School Committee's allegations was conducted by the Commission. On the basis of the investigation, we hereby make the following findings of fact.

FACTS

The Association represents a bargaining unit of 460 teachers employed by the School Committee. The Association's statewide affiliate is the MTA.

The most recent collective bargaining agreement between the School Committee and the Association expired on June 30, 1987. The parties began bargaining for a successor agreement during the 1986-87 school year. In September 1987 the parties held four negotiation sessions. The last session was held on October 4 at 7:00 p.m. and ended on October 5 at 3:00 a.m. No agreement was reached.

On September 28, 1987² the School Committee held a regularly scheduled evening meeting at the Medford City Hall. At the time of the meeting, teachers were observed picketing outside of City Hall. Daniel J. Buckley, the Association's President, Frederick C. Knox, the Association's Vice-President, and Everett Lahey, an MTA representative, were among those picketing. Some of the picket signs observed were: "October 5th" and "20-40."³ At the School Committee meeting Buckley and Knox made statements regarding their discouragement at the lack of progress being made at the contract negotiations.

There are sixteen schools in Medford: a high school, a vocational school, three junior high schools, and eleven elementary schools. The reporting hour for teachers at the elementary school is 8:30 a.m.; at the high school and vocational schools it is 7:45 a.m.; and at the junior high schools it is 7:55 a.m.

On October 5 teachers were observed picketing the high school, the vocational school, the Kennedy-Lincoln School, the Gleason School, the Roberts School, and the Franklin School from approximately 7:00 a.m. until 9:30 a.m. Picket signs read: "Teachers on Strike," "20-40," and "Let Teachers Teach." Of the 460 teachers due to report to school on October 5, only about a dozen reported. There were no excused absences.

On October 6 teachers were observed picketing at several schools, from 8:00 a.m. until 9:30 a.m., carrying signs saying "Teachers on Strike." At the high school, Knox and Delano, Association officers, were observed on the picket line carrying a sign "Teachers on Strike." Of the 460 teachers scheduled to report to school on October 6, only ten reported. There were no excused absences.

²Unless otherwise indicated, all dates refer to 1987.

³"20-40" refers to the Association's negotiation demand for a \$20,000 minimum salary and a \$40,000 maximum salary for teachers.



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Buckley, Knox, David Delano, Treasurer of the Association and Dale Ciavati, Secretary of the Association, did not report to school on October 5 and 6 and did not have excused absences.

No MTA representative was observed on any of the picket lines on October 5 or 6.

DISCUSSION

Based upon the facts above, we conclude that the teachers represented by the Association engaged in a strike on October 5 and 6, 1987.

The Commission can infer the existence of a strike from, inter alia, the absence of nearly 100% of the teachers regularly scheduled to report to classes without excuse or authorization in the context of a dispute over the terms of a successor collective bargaining agreement. Tewksbury School Committee, 12 MLC 1353, 1359 (1985). Moreover, there is un rebutted evidence that teachers were observed on picket lines holding signs reading "Teachers on Strike" during school hours. Furthermore, the Association officers Knox and Delano were observed on the picket line on October 6 during school hours holding signs which read "Teachers on Strike."

We further note that among the approximately 450 teachers who did not report for work on October 5 and 6 without excuse were all of the officers of the Association. Taken together, we find these facts are sufficient to conclude that the Association induced, encouraged and condoned the strike in violation of the Law.

We further conclude that there is insufficient evidence to warrant a conclusion that the affiliate MTA induced, encouraged or condoned the strike. There was no evidence of any MTA representative participating in picketing on October 5 or 6.⁴

We find, however, that Daniel Buckley, David Delano, and Dale Ciavati engaged in a strike on October 5 and 6, 1987. Buckley, Delano and Ciavati were properly served with the petition and the Notice of Investigation. None of them either appeared at the investigation or contacted the Commission to supply information or to explain their absence. Moreover, the evidence demonstrates that Buckley, Delano, and Ciavati did not report to school on October 5 and 6 and did not have excused absences. Furthermore, Delano was observed on the picket line on October 6 carrying a sign which read "Teachers on Strike." We dismiss the petition with respect to Frederick Knox, as an individual, however, since he did not receive proper service of the petition and Notice of Investigation.

WHEREFORE, on the basis of the facts set forth above, we conclude that the Medford Teachers Association, and the employees whom it represents, have engaged in

⁴ Although Everett Lahey, an MTA representative, picketed outside the Medford City Hall during the September 28 School Committee meeting, we cannot conclude without more that the MTA was condoning or encouraging the strike.



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a strike, work stoppage, slowdown or withholding of services in violation of Section 9A(a) of G.L. c.150E. We further find that the Medford Teachers Association through its officers has incited, encouraged and condoned the strike. In addition, we find that in their individual capacities, Daniel Buckley, David Delano and Dale Ciavati have engaged in a strike, work stoppage, slowdown or withholding of services in violation of Section 9A(a) of G.L. c.150E.

Accordingly, by virtue of the power vested in the Commission by Section 9A(b) of the Law, we hereby issue the following ORDER:

1. The Medford Teachers Association and the employees whom it represents shall immediately cease and desist from engaging in any strike, work stoppage, slowdown or other withholding of services.
2. The Medford Teachers Association, its officers, agents and members, shall immediately cease and desist from encouraging, condoning or inducing any strike, work stoppage, slowdown or other withholding of services. The Medford Teachers Association shall not permit its officers or agents to encourage, condone or induce any strike, work stoppage, slowdown or other withholding of services.
3. The Medford Teachers Association and its officers shall take necessary action before the start of the next regularly scheduled school day to inform its members of the provisions of Section 9A(a) of the Law and of the contents of this Interim Order.
4. Daniel Buckley, David Delano and Dale Ciavati shall immediately cease and desist from engaging in any strike, work stoppage, slowdown or other withholding of services.
5. The School Committee and the Medford Teachers Association shall continue to bargain in good faith and further, shall participate in mediation as may be directed by the Board of Conciliation and Arbitration.
6. The Medford Teachers Association, the School Committee, Daniel Buckley, David Delano and Dale Ciavati shall notify the Commission at 9:30 a.m. on October 7, 1987, of the steps taken to comply with this Interim Order.
7. The Commission retains jurisdiction of this matter to set further requirements as may be appropriate.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

PAUL T. EDGAR, CHAIRMAN
MARIA C. WALSH, COMMISSIONER
ELIZABETH K. BOYER, COMMISSIONER

