

HUDSON EDUCATION ASSOCIATION, MTA/NEA AND WILLIAM J. BISSETT; DAVID P. LAVIOLETTE; HAROLD MARDEROSIAN; WALTER MCGRAIL; GEORGE ROCHA; AND ROBERT S. WEST, MUPL-3106-3111 (8/22/88). DECISION ON APPEAL OF HEARING OFFICER'S DECISION.

- 72.3 agency service fee
- 82.21 posting orders
- 92.51 appeals to full commission

Commissioners participating:

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

Appearances:

- Brian Riley, Esq. - Representing the Hudson Education Association, MTA/NEA
- William J. Bissett - Pro se, and representing David P. Laviolette, Harold Marderosian, Walter McGrail, George Rocha, and Robert S. West

DECISION ON APPEAL OF
 HEARING OFFICER'S DECISION

Statement of the Case

The six charging parties filed unfair labor practice charges with the Labor Relations Commission (Commission) on February 3, 1987 alleging that the Hudson Education Association, MTA/NEA (Association or HEA) had demanded payment of an agency fee for the 1986-87 school year that was invalid within the meaning of G.L. c.150E, Section 12 and therefore a violation of Section 10(b)(1) of G.L. c.150E (the Law). On May 1, 1987, the Commission issued a Complaint alleging that the Association's demand to the charging parties to pay their agency service fee within thirty days after receipt of the January 12, 1987 demand letter, and the Association's threat to request the Hudson School Committee to terminate the charging parties' employment for failure to pay the agency service fee are inconsistent with Article XXXII, Section 4, of the 1984-87 collective bargaining agreement. After the June 16, 1987 hearing, the hearing officer issued her decision on July 1, 1987, finding the Association to be in violation of the Law, and ordering the Association to cease and desist from demanding payment of an agency fee in terms which are not consistent with the agency fee clause of the contract, to withdraw the January 12, 1987 demand letter sent to the charging parties, and to post immediately in conspicuous places and maintain for a period of thirty consecutive days a Notice to Employees.¹

¹The full text of the hearing officer's decision is reported at 14 MLC 1037 (1987).



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On July 7, 1987, the charging parties filed their notice of appeal in which they argued that the posting aspect of the remedial order was ineffective because the posting of the Notice to Employees would occur when school is not in session and therefore the employees would not see it. The charging parties specifically requested that the Commission either order the thirty day posting to commence as of September 1, 1987, when all employees would be back in school, or order the HEA to mail a copy of the notice to every member of the bargaining unit during the summer while school is not in session. No supplementary statement was filed by the charging parties.

By letter dated July 15, 1987, the HEA notified the Commission of its compliance with the hearing officer's Decision and Order. Specifically, the HEA stated that it had posted the Notice in all six school buildings and the Central Administration Building on July 8, 1987. No supplementary statement was filed by the Association.

Opinion

The only issue before the Commission on appeal is whether the hearing officer's remedial order should be modified for the reasons argued by the charging parties.

We regard the remedial requirement that a respondent post a notice to employees "to constitute a means of effectuating the purposes and policies of the Law." Billerica School Committee, 6 MLC 1824, 1826 (1980). The United States Supreme Court has expressly approved the National Labor Relations Board's authority to require "posting of notices (by a respondent employer adjudged to have committed an unfair labor practice) advising employees of the Board's order and announcing the readiness of the employer to obey it." NLRB v. Express Publishing Co., 312 U.S. 426, 8 LRRM 415, 421 (1941).

In formulating remedial orders, the Commission, like the National Labor Relations Board (NLRB), has required wide distribution of notices to employees to ensure adequate publication of the text of the notice. See City of Boston, 14 MLC 1751 (1988); Boston Police Patrolmen's Association, Inc., 8 MLC 1993, 2002 (1982); Commonwealth of Massachusetts, 4 MLC 1869, 1879 (1978); also see J.P. Stevens Co., 157 NLRB 869, 878, 61 LRRM 1437 (1966).

Employment locations like schools at which most employees work only part of the year pose special concerns. A posting that takes place during a time when most employees are not present is ineffective at publicizing to employees their rights. To ensure that publication of the remedial notice is adequate, we recently issued a remedial order in a case involving school employees which specifically required that the posting period occur during the school year "in order to promote the likelihood of ample notice to employees." Malden Education Association, Cases No. MUPL-2671 et al, 15 MLC ____, n. 18 (July 8, 1988).

Similarly, in the instant case, we conclude that a reposting of the Notice to Employees is appropriate because the original posting occurred during July when the majority of employees were not on the premises. Thus, the original



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posting ineffectively publicized the Commission's original decision and order. Consequently, we order a reporting of the Notice to Employees for thirty (30) consecutive days when school is in session.²

CONCLUSION

We modify the remedy of the hearing officer and hereby order that the Association repost the Notice to Employees for thirty (30) consecutive days when school is in session.

ORDER

WHEREFORE, IT IS HEREBY ORDERED that the Hudson Education Association/MTA/NEA shall:

1. Cease and desist from demanding payment of an agency fee in terms which are not consistent with the agency fee clause of the collective bargaining agreement.
2. Take the following affirmative action which will effectuate the policies of the Law:
 - a. Withdraw the January 12, 1987 demand letter sent to William B. Bissett, David P. Laviolette, Harold Marderosian, Walter McGrail, George Rocha and Robert S. West.
 - b. Post in all conspicuous places where employees represented by the Association usually congregate and where notices are usually posted³ and maintain for a period of thirty (30) consecutive days thereafter, the attached Notice to Employees.⁴

²Alternatively the charging parties have requested that the Commission order the Association to mail a copy of the notice to every member of the bargaining unit. At this time, we decline to order this remedy because the posting at the Employer's premises may adequately publicize the agency's decision. However, as our order indicates, if the Association is unable to post, we shall set alternative publication requirements.

³If the Association has no access to bulletin boards on the Employer's premises it shall request permission in writing of the Employer to post the notice on the Employer's bulletin boards. If the Association is unable to secure permission to post the notice on the Employer's premises the Association shall promptly notify the Commission. Upon receipt of such notice, the Commission shall set alternative publication requirements.

⁴The thirty (30) day posting period is to occur during the school year in order to promote the likelihood of ample notice to employees. If the school year ends before the completion of the thirty (30) days posting period, the Association is required to repost the notice for the remainder of the thirty (30) days period at the start of the next school year.



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- c. Notify the Commission in writing within thirty (30) days of receipt of the decision and order of the steps taken to comply herewith.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

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

NOTICE TO EMPLOYEES
POSTED BY ORDER OF
THE MASSACHUSETTS LABOR RELATIONS COMMISSION
AN AGENCY OF THE COMMONWEALTH OF MASSACHUSETTS

The Labor Relations Commission has ruled that the Hudson Education Association/MTA/NEA has violated Section 10(b)(1) of Massachusetts General Laws Chapter 150E. The ruling is based on the Association's demand for payment of an agency service fee from William J. Bissett, David P. Laviolette, Harold Marderosian, Walter McGrail, George Rocha and Robert S. West by letter dated January 12, 1987 which was not in compliance with the provisions of the agency service fee clause of the 1984-87 collective bargaining agreement.

WE WILL NOT demand payment of an agency fee in terms which are not consistent with the agency fee clause of the collective bargaining agreement.

WE WILL withdraw the January 12, 1987 demand letter sent to William J. Bissett, David P. Laviolette, Harold Marderosian, Walter McGrail, George Rocha and Robert S. West.

President
Hudson Educational Association

