

In the Matter of SPRINGFIELD SCHOOL COMMITTEE
 and
 PROFESSIONAL AND HEALTH CARE DIVISION, UFCW,
 LOCAL 1459, AFL-CIO
 and
 SPRINGFIELD PUBLIC HEALTH NURSES ASSOCIATION

Case No. MCR-4773

- 82.4 *bargaining orders*
- 92.44 *motions to intervene*
- 93.13 *"blocking charges"*
- 93.3 *petition for certification*
- 93.61 *dismissal of petition*

September 1, 2000

Helen A. Moreschi, Commissioner
 Mark A. Preble, Commissioner

- Brian McCook, Esq. *Representing the Springfield School Committee*
- David B. Rome, Esq. *Representing the Professional and Health Care Division, UFCW, Local 1459, AFL-CIO*
- John D. Connor, Esq. *Representing the Springfield Public Health Nurses Association*

ORDER DISMISSING PETITION

On September 24, 1999, the Professional and Health Care Division, UFCW, Local 1459, AFL-CIO (the Petitioner) filed a petition with the Labor Relations Commission (the Commission) seeking to represent all school nurses employed by the Springfield School Committee (the School Committee). These employees are currently represented by the Springfield Public Health Nurses Association (the Association). On November 4, 1999 and November 10, 1999, respectively, the Association filed a Motion to Intervene and the requisite showing of interest in support of its Motion. On November 15, 1999, the Commission approved the Association's Motion to Intervene.

Also on November 4, 1999, the Association filed a Motion for the Commission to Determine that a Pending Prohibited Practice Charge Blocks the Conduct of an Election in the Present Petition. In its Motion, the Association requested that the prohibited practice charge it filed in Case No. MUP-2521 block further processing of the representation petition filed in Case No. MCR-4773. On February 11, 2000, the Commission allowed the Association's Motion that Case No. MUP-2521 block further processing of the petition.

By decision issued today, the Commission resolved Case No. MUP-2521, *Springfield School Committee* [27 MLC 15], by

concluding that the School Committee had violated Sections 10(a)(2), (5) and, derivatively, Section 10(a)(1) of Massachusetts General Laws, Chapter 150E (the Law) by refusing to meet with the Association on September 30, 1999 to bargain over a successor collective bargaining agreement.¹ The decision includes a remedial order directing the School Committee, upon request, to bargain in good faith with the Association over the terms of a successor collective bargaining agreement. Slip op. at page 19.

The Commission has previously considered the effects of a remedial bargaining order on a pending representation petition where the order requires an employer to bargain with an incumbent labor organization. See, *Commonwealth of Massachusetts*, 17 MLC 1650, 1658 (1991). In *Commonwealth of Massachusetts*, 17 MLC at 1658, the Commission determined that a remedial order or settlement that requires an employer to bargain with an incumbent labor organization necessitates dismissing any pending representation petition involving the bargaining unit represented by the incumbent labor organization. *Id.* at 17 MLC at 1658.

We have previously recognized the need to strike a balance between the right of a certified bargaining representative to a reasonable period of time to conduct good faith negotiations with the employer and the rights of employees to freely choose their representative. See, *Commonwealth of Massachusetts*, 19 MLC 1069, 1098 (1992). In *Commonwealth of Massachusetts*, 19 MLC at 1098, we decided to extend the incumbent labor organization's certification year for a six (6) month period, noting that in balancing the interest of employees in preserving an insulated certification year, we must also ensure that the collective bargaining process does not serve to forever insulate an incumbent from the pressure of outside organizing or decertification drives. *Id.* at 1098. Here, we do not have the option of extending the Association's certification year because the Association was recognized by the School Committee rather than certified by the Commission.² However, in the interest of providing for stable and continuing labor relations, we find it appropriate to provide an insulated six (6) month period to allow the Association and the School Committee an opportunity to bargain in good faith. Accordingly, we dismiss the instant petition and create a six (6) month insulated period from the date of this order during which time we will decline to consider any representation petition filed involving the bargaining unit described in Case No. MCR-4773.

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