

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS  
BEFORE THE COMMONWEALTH EMPLOYMENT RELATIONS BOARD

In the Matter of

BROOKLINE EDUCATORS UNION

and

JESSICA WENDER-SHUBOW, in her capacity  
as President of the Brookline Educators Union,

and

BROOKLINE SCHOOL COMMITTEE

Case No. S.I.-22-9294

Date issued:  
May 12, 2022

CERB Members Participating

Marjorie F. Wittner, Esq., Chair  
Joan Ackerstein, Esq., CERB Member  
Kelly Strong, Esq., CERB Member

Appearances:

Elizabeth Valerio, Esq. - Representing the Brookline  
Robert Hillman, Esq. School Committee  
Jennifer F. King, Esq.

Jennifer L. McDougall, Esq. - Representing the  
Brookline Educators Union  
and the individually named  
respondents

1 RULING ON STRIKE PETITION AND INTERIM ORDER

2 Summary and Statement of Case

3 On May 11, 2022, the Brookline School Committee (School Committee or  
4 Employer) filed a petition with the Department of Labor Relations (DLR) for a strike

1 investigation (Petition) pursuant to Section 9A(b) of M.G.L. c. 150E (the Law). The  
2 Petition alleged that a strike within the meaning of M.G.L c. 150E, §9A(a) was about to  
3 occur and that this strike has been induced, encouraged and condoned by the Brookline  
4 Educators Union (BEU or Union), and Jessica Wender-Shubow (Wender-Shubow),  
5 individually and in her capacity as President of the BEU, and Robert Miller (Miller),  
6 individually and in his capacity as Vice President of the BEU.

7 On May 11, 2022, the DLR issued a Notice of Strike Investigation, which the  
8 School Committee caused to be served by hand on each of the named respondents. On  
9 May 12, 2022, Marjorie F. Wittner, Chair of the Commonwealth Employment Relations  
10 Board (CERB), conducted a strike investigation pursuant to Section 11 of the Law and  
11 Rule 16.03 of the DLR's Rules, 456 CMR 16.03.<sup>1</sup> The School Committee and the Union  
12 had an opportunity to be heard, to examine witnesses and to introduce evidence.<sup>2</sup> The  
13 record was closed on May 12, 2022.

14 As explained below, the CERB concludes that the BEU and its membership are  
15 about to engage in a strike in violation of Section 9A(a) of the Law and that the Union,  
16 acting through its President Jessica Wender-Shubow, induced, encouraged and  
17 condoned the strike.

18  
19 Stipulations of Fact  
20

21 1. The Town of Brookline (Town) is a public employer within the meaning of Section  
22 1 of the Law.

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<sup>1</sup> The investigation was conducted remotely.

<sup>2</sup> The Union did not call any witnesses. The CERB allowed the parties to have oral argument in lieu of submitting post-hearing briefs. The Union made its oral argument at the close of the School Committee's case.

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2. The School Committee is the collective bargaining representative of the Town for the purpose of dealing with school employees.
  3. Dr. Linus Guillory (Guillory) is the Superintendent of the Public Schools of Brookline (District) and an agent of the School Committee.
  4. Samuel Rippin (Rippin) is the Deputy Superintendent of Administration and Finance for the District.
  5. Suzanne Federspiel is the Chair of the School Committee.
  6. The Brookline Educators Union (BEU or Union) is an employee organization within the meaning of Section 1 of the Law.
  7. The BEU is an affiliate of the Massachusetts Teachers Association (MTA). The MTA supplies field representatives and legal counsel to advise and represent the BEU in certain labor relations matters, including contract administration.
  8. The BEU represents three bargaining units:
    - “Unit A,” has approximately 896 bargaining unit members. It is comprised of all full-time and regular part-time professional employees as described in Article 1 of the parties’ 2019-2020 collective bargaining agreement (JX-1).
    - “Unit B” has approximately 42 bargaining unit members. It is comprised of the positions described in Article 1 of the parties’ 2019-2020 collective bargaining agreement (JX-2).
    - “Paraprofessionals Unit” has approximately 300 bargaining unit members. It is comprised of the positions described in Article 1 of the parties’ 2020-2023 collective bargaining agreement. (JX-3).
  9. All of the bargaining unit members described in the preceding paragraph work in nine public school buildings and other works sites throughout the District.
  10. The District has approximately 7,000 students.
  11. Respondent Jessica Wender-Shubow (Wender-Shubow) is employed by the School Committee as an educator on full-time Union leave and is the President of the Union.
  12. Respondent Robert Miller (Miller) is employed by the School Committee as an educator and is Vice President of the Union.
  13. On November 23, 2021, the School Committee filed a petition for mediation and fact-finding with the Department of Labor Relations (DLR) with respect to Unit A. The DLR docketed the petition as PS-21-8947. The Union opposed the petition.

1 DLR assigned a mediator to the petition on January 26, 2022. The parties' most  
2 recent mediation session was on May 9, 2022.

3  
4 14. On November 23, 2021, the School Committee filed a petition for mediation and  
5 fact-finding with the DLR with respect to Unit B. The DLR docketed the petition as  
6 PS-21-8948. The Union opposed the petition. The DLR assigned a mediator to  
7 the petition on January 26, 2022. The parties' most recent mediation session was  
8 on May 9, 2022.

9  
10 15. May 13, 2022, May 16, 2022, and May 17, 2022 are regularly-scheduled workdays  
11 for the above-described bargaining unit members.

12  
13 Supplemental Findings of Fact

14  
15 On May 9, 2022,<sup>3</sup> Samuel Rippin (Rippin), the District's Deputy Superintendent  
16 for Administration and Finance<sup>4</sup> attended a senior staff meeting during which  
17 Superintendent Guillory reported that he had heard "rumor and chatter" from bargaining  
18 unit members that the BEU was planning a strike. After the meeting, Guillory directed  
19 Rippin to execute a search of the District's server for emails created within the past thirty  
20 days that contained the terms "strike" and "BEU." Rippin thereafter directed the District's  
21 Chief Information Officer to perform such a search. On May 11, Rippin received an email  
22 with forty attachments, which he then forwarded to Guillory and the School Committee's  
23 counsel. The School Committee relies on four of these emails to support its petition.<sup>5</sup>  
24 When read as a whole, these emails reflect that since at least May 4, 2022, the Union,  
25 and Wender-Shubow, in her capacity as Union president, were contemplating a strike

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<sup>3</sup> All dates are in 2022.

<sup>4</sup> Rippin was the School Committee's only witness.

<sup>5</sup> The School Committee offered these four emails into evidence and they were admitted without objection from the Union. In addition, one of the e-mails linked to a FAQ regarding strikes, which the School Committee offered into evidence and admitted without objection from the Union.

1 and since May 5, 2022 were planning to hold a strike vote on Thursday, May 12, at the  
2 Union's general meeting.

3 Specifically, on May 4, 2022, Matt Durant (Durant)<sup>6</sup> sent an email to Wender-  
4 Shubow's personal email address<sup>7</sup> asking the following two questions:

5 VP<sup>8</sup> role – expectations during action. What if they need to support kids in  
6 the bldg?" "We have a few long-term subs – can/should they join the union?"  
7

8 Ms. Wender-Shubow responded with the following:<sup>9</sup>

9 VPs should strike. Period. If they won't they need to hear that it undermines  
10 the union. If the SC comes to a fair agreement immediately, no children or  
11 families will be inconvenienced. Maybe they should tell families that.  
12 Unfortunately, long-term subs cannot be unionized under current terms. But  
13 they can engage in solidarity.  
14

15 The bottom of the email had a signature block indicating that it came from Wender-  
16 Shubow as President of the BEU. The next line stated, "Executive Committee, Region D,  
17 Massachusetts Teachers Association" and the address of the BEU office at Brookline  
18 High School.

19 Also on May 4, Wender-Shubow sent an email to approximately 225 recipients  
20 from her personal email address with the subject "**Strike School!! Wednesday**"  
21 (boldface in original). The email stated:

22 Hi BEU activists:

23 You should have received the announcement below.

24 **Reps:** *please copy and paste into a message to your email lists in case*  
25 *some members can't access the copy from Mail Chimp.*  
26

27 Keep up the good work everybody!

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<sup>6</sup> Durant was not identified

<sup>7</sup> District email addresses have the suffix "@psbma.org."

<sup>8</sup> Ripplin testified that the abbreviation "VP" referred to Vice Principals, who are part of Unit B.

<sup>9</sup> Union Vice President Robert Miller was cc'd on the email using his District email address.

1 In solidarity,  
2 Jess<sup>10</sup>  
3  
4

5 The email then stated the purpose, time and place of the referenced "Strike School" as  
6 follows:  
7

8 Strike School  
9 Wednesday, May 11,  
10 7:00 pm  
11 [Zoom link]  
12

13 Lots of people are talking about strikes these days! You might be asking what's  
14 involved when colleagues unite, make themselves 'strike ready' and carry out a  
15 strike.  
16

17 At this zoom meeting you will learn about the nut and bolts of strikes.  
18 Organizers and an MTA attorney will attend.  
19

20 Following an hour of Q & A, members are welcome to stay for a deeper dive  
21 into 2 examples. Union leaders from Dedham and Tewksbury will discuss with  
22 BEU members how they effectively used the indispensable tool of the strike.  
23

24 Then . . . Don't miss the all-important BEU  
25 GENERAL MEETING  
26 Thursday, May 12, 7:00 pm  
27 [Zoom link]<sup>11</sup>

28 The email contained a postscript that stated:  
29

30 "P.S. [Here](#) is the rolling FAQ doc for those who haven't seen it. It is meant  
31 for those who are talking to members not for mass distribution.  
32

33 By clicking on the word "Here," recipients could access a document that set out "General  
34 Information and Common Concerns regarding [Right to Strike Legislation](#)." The top of  
35 the document was highlighted and stated in caps, "DOCUMENT FOR UNION  
36 MEMBERS ONLY, NOT TO BE POSTED." The remainder of the document consisted

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<sup>10</sup> This email also contained Wender-Shubow's BEU signature block.

<sup>11</sup> The email included two live Zoom links to the Strike School and the General Meeting, which we have omitted.

1 of two columns “Commonly Asked Questions Under the Current Public Sector MA Strike  
2 Prohibition” and “Response.” A sampling of questions included whether strikers would  
3 be arrested, if they lost pay, what do strikers say to parent/families, “will the union ‘have  
4 our back’?,” “what are the worst consequences of having a strike,” when do unions  
5 typically vote on the action, when do strikes typically start, and what happens on strike  
6 days.

7 A full copy of this document is attached as Appendix 1 to this ruling. Of particular  
8 note, however, are the following responses - that the MTA has a strike fund that will  
9 reimburse up to one-half of the net pay to a maximum of \$5000 that is available for  
10 application; that strikers should say to parents and families that the BEU was “taking this  
11 step because we want the schools to offer the very best to the students, but with  
12 conditions and pay that the district is currently proposing they would continue to lose  
13 qualified and experienced educators; that the worst consequence was that the district  
14 would file an injunction in the courts to halt the strike, the courts would levy a fine to the  
15 union against the union (and possibly other parties) in order to apply pressure to the  
16 union to end the strike; and in terms of the timing of the strike vote:

17 Strong unions have an ongoing internal communication structure that  
18 enable them to find out if a super majority supports going out on strike  
19 *before* they call any vote. If that readiness of the membership has been  
20 tallied in a decentralized way, an open vote (non-secret) is then held very  
21 close to the time of the strike. Otherwise the district will have time to use  
22 anti-worker law to gain an injunction. (Emphasis in original).  
23

24 On May 5, Wender-Shubow sent an email from her personal email address with  
25 the subject “**BEU Organizers: still MORE is happening! Save the time too!**”  
26 (Emphasis in original). The email was again addressed to approximately 225 recipients,  
27 including some at their District email addresses. The email stated:

1 Dear BEU organizers,

2  
3 Where our responses are trending -- thanks to your ongoing hard work and  
4 commitment -- can rightfully be called historic.

5  
6 We are therefore scheduling a  
7 Logistics Planning meeting for Tuesday, May 10 at 7:00pm  
8 [Zoom link]

9  
10 All of those who are interested in rolling up your sleeves and helping to plan  
11 are invited, but please be willing to take on a coordinating responsibility if  
12 you do. (David--you agreed to take on the issue of coordinating access to  
13 restrooms from picket lines, right??)

14  
15 The meeting will focus on the nuts and bolts of being ready for organized  
16 collective action if a group were to decide to commit itself to launching such  
17 action early on Friday morning, May 13.

18  
19 There will be a statewide union solidarity rally on Saturday, May 14, 11 am.  
20 If there is a tentative agreement for our contracts by then, it will be solidarity  
21 with those union locals who don't have a contract; if there is not one in  
22 Brookline, we will all unite in solidarity.

23  
24 To review!  
25 -- Thursday, 5/5 (today), 7:00pm: CAT meeting  
26 -- Monday 5/9, 6:00pm: Mediation (BEU negotiators and silent reps meet  
27 5:30)  
28 -- Tuesday 5/10, 7:00pm: Logistics Meeting described in this email  
29 -- Wednesday, 5/11, 7:00pm: Strike School Q&A  
30 -- Thursday, 5/12, 7:00pm General Meeting with vote  
31 -- Friday, 5/13, collective action if needed.  
32 -- Saturday, 5/14, 11:00am Solidarity Rally

33  
34 Thanks, in solidarity, Jess

35  
36 This email was the most recent in a thread that included the May 4 email  
37 described above, which contained the Strike School notice, the Strike FAQ's and  
38 notice of the "all important BEU General Meeting" on May 12. Wender-Shubow's  
39 BEU signature block was at the bottom of the thread.



1 On May 5, 2022, the BEU, using its Hotmail address (beu-mta@hotmail.com) sent  
2 the Strike School Flyer to a school employee at his District email address. The subject  
3 line of this email was “**Ever wonder how strikes work? Q&A May 11, 7 PM**).

4 On the morning of May 12, Guillory alerted Rippin to a May 11 article in The  
5 Sagamore, Brookline High School’s student newspaper. The headline of the article was  
6 “BEU extends deadline for written agreement from BSC and postpones potential strike.”  
7 The article begins by stating that on May 11, Superintendent Guillory wrote a “community  
8 message regarding a potential [BEU] strike on Friday, May 13 amidst ongoing tension in  
9 contract negotiations. The article then stated:

10 Guillory’s message specifically follows conflicting statements from both the  
11 BEU and the Brookline School Committee regarding a recent mediation  
12 session. BEU's statement asks the BSC to sign a written agreement by  
13 Thursday May 12th at 5:00 PM in response to the BEU’s counteroffer. . .  
14 However, BEU president [Wender-Shubow] said the BEU now intends to  
15 give the BSC additional time to allow them to meet.  
16

17 The article then quoted Wender-Shubow as follows: “We are allowing them the  
18 time they asked for to hold their meeting Saturday night, but we will not accept the  
19 manufacturing of further unnecessary delays.” Wender-Shubow was further quoted as  
20 stating, “We expect a tentative agreement in writing.” The article then stated, without  
21 providing a direct quote, that the BEU’s vote on Thursday, May 12 to authorize the  
22 Negotiations team to move to a strike on Sunday night if there is no tentative agreement  
23 between the BSC and the BEU.

24 Ruling<sup>12</sup>

25 Motion to Dismiss Wender-Shubow in her individual capacity  
26

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<sup>12</sup> The CERB’s jurisdiction is not contested.

1           At the outset of the hearing, the Union moved to dismiss Miller, the Vice-President  
2 of the Union, in both his individual and capacity as Union vice president. The Union  
3 argued that none of the exhibits that the School Committee referenced in its Strike Petition  
4 demonstrate Miller's participation. The School Committee stipulated to Miller's dismissal.  
5 The Union also moved to dismiss the petition as to Wender-Shubow in her individual  
6 capacity. It argued that while Wender-Shubow may have sent emails from her personal  
7 email address, it was not uncommon for BEU officers to do so. Further, there was no  
8 evidence that any of Wender-Shubow's emails or actions were taken in anything other  
9 than her official capacity as Union president. The School Committee opposed this motion,  
10 arguing that the relevant sections of the Law draw no distinction between an individual  
11 employee acting in a union or private capacity; the distinction the Union draws should not  
12 be a shield.

13           We dismiss the petition as to Wender-Shubow in her individual capacity. In  
14 Brookline Educators Union, 47 MLC 79, SI-20-8787 (November 3, 2020), we entertained  
15 the identical motion from the Union regarding Wender-Shubow in the context of a 2020  
16 strike petition that named her both in her individual and Union capacity. We allowed the  
17 motion to dismiss the petition as to Wender-Shubow individually on grounds that there  
18 was no evidence that she had communicated with the School Committee Chair in  
19 anything other than her capacity as Union president, or that she had participated in what  
20 the CERB found to be an unlawful strike. See also Hanover School Committee, 15 MLC  
21 1182, SI-217 (September 27, 1988); Northeast Metropolitan Regional Vocational School  
22 Committee, 13 MLC 1213, SI-190 (October 17, 1986) (finding individual liability for union  
23 officers who participated in strike or picketing. In this case, while we do not find that a

1 strike has occurred, we find that all of Wender-Shubow's communications were in her  
2 official capacity. We will not fault her for using her private email address to conduct Union  
3 business. Absent other evidence that Wender-Shubow acted in her individual capacity,  
4 we allow the motion.

#### 5 Merits

6 Section 1 of the Law defines a strike as:

7  
8 A public employee's refusal, in concerted action with others, to report for  
9 duty, or his [or her] willful absence from his [or her] position, or his [or her]  
10 stoppage of work, or his [or her] abstinence in whole or in part from the  
11 performance of the duties of employment as established by an existing  
12 collective bargaining agreement or in a collective bargaining agreement  
13 immediately preceding the alleged strike . . .; provided that nothing herein  
14 shall limit or impair the right of any public employee to express or  
15 communicate a complaint or opinion on any matter relating to conditions of  
16 employment.

17  
18 Section 9A(a) of the Law states:

19 No public employee or employee organization shall engage in a strike, and no  
20 public employee or employee organization shall induce, encourage or condone  
21 any strike, work stoppage, slowdown or withholding of services by such public  
22 employees.

23  
24 Referencing Boston Teachers Union, Local 66 et. al, 33 MLC 133, SI-07-272  
25 (January 18, 2007) *aff'd sub nom. Commonwealth Employment Relations Board et. al.*  
26 *v. Boston Local 66*, 74 Mass. App. Ct. 500 (2009) *further appellate rev. den'd*, 455 Mass.  
27 1102 (2009), *pet for cert. den'd* 599 U.S. 992 (2010), and the CERB's 2019 Dedham  
28 decision, 46 MLC 76, SI-19-7658 (October 24, 2019) the School Committee argues that  
29 the facts set out above support a finding that an illegal strike within the meaning of Section  
30 9A of the Law is about to occur and that the strike has been and is being induced,  
31 encouraged and condoned by the BEU and the Union president. The Union, having put  
32 on no evidence or witnesses, does not rebut any of the evidence that the School

1 Committee provided in support of its petition but reiterates its concerns about CERB  
2 orders occurring before a strike vote implicating First Amendment concerns. It also  
3 suggests that the School Committee's means of obtaining the emails is unlawful  
4 surveillance.

5 In Boston Teachers Union, Local 66, et.al, the CERB held that an affirmative strike  
6 vote is not a per se prerequisite to a finding that a strike in violation of Section 9A(a) has  
7 occurred or is about to occur. 33 MLC at 137. In its initial strike ruling, the CERB  
8 construed the phrase "about to occur" appearing in Section 9A(b) to include "situations  
9 where actions by employee organizations, their officials or members demonstrate that an  
10 actual threat of strike work stoppage, or slowdown exists so that public officials could  
11 reasonably engage in contingency planning, to prevent the interruption of important public  
12 services." Id. The circumstances that led the CERB to conclude in BTU that a strike was  
13 about to occur, and that the Union, its officers and board members were inducing,  
14 encouraging and condoning such action in violation of Section 9A(a) of the Law, included  
15 the BTU Executive Board's act of voting to place a strike vote before the general  
16 membership, sending membership messages to induce or encourage a work stoppage  
17 and the scheduling of a strike vote for 5 pm on the day before the scheduled strike. Based  
18 on the closeness in time between the strike vote and the planned strike, the CERB held  
19 that the BTU had effectively denied the School Committee time to present a strike petition  
20 to the CERB, or for the CERB to deliberate and then to proceed to court to obtain  
21 enforcement of the CERB's order. On appeal of the various enforcement and contempt  
22 proceedings in Superior Court, and an order of a Single Justice of the Appeals Court, the  
23 Appeals Court held that the "purpose of the [Law], set forth in clear and unequivocal

1 language, is to allow the [CERB] to intervene in a labor dispute at a point where the  
2 [CERB] may set the requirements necessary to prevent an illegal strike that is about to  
3 occur.” 74 Mass. App. at 505 (citing Utility Workers of America, Local 466 v. Labor  
4 Relations Commission, 389 Mass. 500, 505-505 (1983) for the proposition that “strikes  
5 by public employees ‘may create exigent and unpredictable situations,’ therefore a public  
6 employer may act in good faith ‘to prevent public services from being disrupted.’”). The  
7 Appeals Court also agreed, based on the BTU’s emails, bulletins and articles in the BTU  
8 newspaper, that a “reasonable inference that the union was involved in encouraging a  
9 strike was warranted, if not compelled, by all of the evidence.”

10 More recently, in Dedham, the CERB found that a strike was about to occur and  
11 that the Union and Union president were inducing, encouraging and condoning such  
12 action in violation of Section 9A(a) of the Law by scheduling a strike vote at 5 p.m. on the  
13 day before the strike was scheduled to take place, authoring a Strike Flyer, which asked  
14 other unions to support the union in support of the scheduled strike, the fact that the  
15 Superintendent had enough information about the strike to put contingency plans in place,  
16 and evidence that the parties were at a standstill in their negotiations. 46 MLC at 80.

17 In this case, there is ample evidence that the Union, acting through Wender-  
18 Shubow, is inducing, encouraging and condoning a strike. The FAQ’s and Strike School  
19 Flyer in particular demonstrate the Union’s efforts to persuade its membership to  
20 participate in the strike, despite knowing that it is prohibited under the Law. These  
21 documents referred to the strike as an “indispensable tool,” indicated that the worst thing  
22 that could happen to strikers was that fines could be levied, and informed membership  
23 that a strike fund existed to compensate them for lost pay. These were clearly efforts that

1 condoned strikes and encourage its members to participate. The additional logistics  
2 meeting that was scheduled for May 10, which asked members to “roll up their sleeves”  
3 and to be prepared to take on “coordinating responsibilities,” also demonstrates the  
4 Union’s continued efforts not only to induce, encourage and condone a strike by asking  
5 members to “roll up their sleeves” and take on “coordinating responsibility” but to ensure  
6 that its membership was well-prepared should it take place.

7 Evidence that a strike is about to occur is evident first from the FAQs, which  
8 demonstrate the Union’s strategy to hold a strike vote as close in time in possible to the  
9 time of the strike. The Union’s intent to employ this strategy is evident from the timeline  
10 set forth in Wender-Shubow’s May 4<sup>th</sup> email, which set a vote at a General Meeting on  
11 Thursday, 5/12 at 7:00 pm with “collective action if needed” taking place the very next  
12 day. The fact that the newspaper article reflects that the strike is schedule to occur on  
13 May 15 instead of May 12 does not demonstrate a change in strategy, given that May 15  
14 is only two days after the original scheduled strike date. That article, which again, the  
15 Union did not refute, provides additional evidence that the Union is planning to take a  
16 strike vote and to strike if no agreement is reached and that Wender-Shubow, as  
17 President, is directly involved in this planning.

18 As to the Union’s First Amendment concerns, we addressed the same argument  
19 in Dedham, stating that:

20 The Appeals Court’s decision in BTU addressed the same argument, finding  
21 that the CERB’s application of Section 9A to find that a strike was about to  
22 occur before a strike vote took place was not unconstitutional, “as there is  
23 no constitutional right of employees to strike.” 74 Mass. App. Ct. at 506.  
24 The Appeals Court further held that to the extent that the conduct regulated  
25 by Section 9A “includes both ‘speech’ and ‘nonspeech’ elements, the  
26 purpose of the statute is entirely unrelated to the suppression of free  
27 expression.” Id. (quoting Zora v. State Ethics Commission, 415 Mass. 640,



1 9A(a) and (b) of the Law and the contents of this Order, including the obligation to  
2 not participate in any form of strike or work stoppage. Such notification shall be  
3 completed immediately upon receipt of this order and shall entail all of its usual  
4 means of communicating with its bargaining unit members.

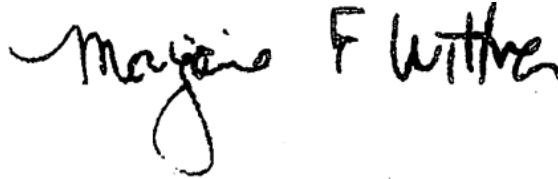
5  
6 6. The BEU and the School Committee shall bargain in good faith by, among  
7 other things, participating fully and in good faith in the in the matters mediations  
8 docketed as PS-21-8947 and PS-21-8948 including appearing at and participating  
9 in good faith in all upcoming scheduled mediations.

10  
11 7. The BEU and the School Committee shall appear as required either  
12 virtually or at the DLR's offices at Lafayette City Center, 2 Ave. de Lafayette,  
13 Boston, Massachusetts, for a proceeding to determine compliance with this Order.

14  
15 8. The DLR shall retain jurisdiction of this matter to set further requirements  
16 as may be appropriate.

17  
18 **SO ORDERED**

COMMONWEALTH OF MASSACHUSETTS  
COMMONWEALTH EMPLOYMENT RELATIONS BOARD



\_\_\_\_\_  
MARJORIE F. WITTNER, CHAIR



\_\_\_\_\_  
JOAN ACKERSTEIN, CERB MEMBER



\_\_\_\_\_  
KELLY STRONG, CERB MEMBER



Appendix 1

**DOCUMENT FOR UNION MEMBERS ONLY, NOT TO BE POSTED**

General Information and Common Concerns regarding [Right to Strike Legislation](#)

For inspiration: <https://rethinkingschools.org/articles/no-more-normal/>

Commonly Asked Questions Under Current Public Sector MA Strike Prohibition	Response
Are strikers arrested?	No, Massachusetts learned a long time ago that arresting educators was not a good public relations look. The penalty for strikes is typically a monetary one leveled against the union, not individual educators.
Do they lose pay?	<p>If your pay were docked, for full members who help with organizing, the MTA has a strike fund that will reimburse up to one-half of the net pay to a maximum of \$5000 that is available per application. (“Net pay” is the paycheck amount after federal and state taxes and other contributions have been deducted.)</p> <p>Negotiations over loss of pay (or not) are also part of the process. <i>Not penalizing participants can be made a condition of coming back to work.</i></p> <p><b>IMPORTANT:</b> you need to be a dues-paying union member who contributed to organizing activity to get funds from the strike fund.</p> <p>This is not like a paycheck.</p> <p>The Fund request for financial assistance can only be made for “permanent loss” in wages, after the eligible member has exhausted all formal and legal remedies available to them to recover lost wages.</p>

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What do strikers say to parents/families?	We, the members of the union, understand that this will place a pressure on parents and students, but we're taking this step because we want the schools to offer the very best to the students. With the conditions and pay that the district is currently proposing, we will continue to lose qualified and experienced
	educators.
Do strikers have to make up the lost days at the end of the year?	Possibly - this would be negotiated
Does a striker risk their job?	There is power, and protection, in the unity of large numbers of people. In the last three years (Andover, Sharon, Dedham), not one person lost their job, and it's all subject to negotiation. We all come back to work, or we all don't.
What if a teacher doesn't have professional status?	Any return to work would include a negotiated non-retaliation clause. If the district is threatening anyone's job, we won't end the strike. An injury to one is an injury to all.
Would an educator enter an absence in their school system or notify our school in any way?	No.
Will the union "have our back"?	Yes. The members and the officers and the statewide union unite, and other district unions support one another too.
What are the worst consequences of having a strike?	The district would file an injunction in the courts to halt the strike, the courts (in order to enforce the injunction) would levy a fine against the union (and possibly other parties) in order to apply pressure to the union to end the strike. Short answer: fines levied against the union.
How are communities communicated with?	Through the press, union social media, and on the streets.

What is expected of staff to do during a strike?	Strikers support the union and the action full time by walking picket lines, and supporting the strike in other ways (communications, planning, and any creative activity members might come up with.)
What will we do to support families who are needing support or who need child care?	We cannot assume responsibility for children. However, in the past, unions have worked with community members to organize services for members, and many community members are willing and able to staff childcare, people's schools, etc.
What would it cost for a para to join now?	\$35 per pay period (the dues will be taken out of the last 3 paychecks)

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Will a striker lose their teaching license?	In 100 years of unlawful educator strikes in Mass it has never happened (including nurses and related service providers)
In the past, when do unions typically vote on the action?	Strong unions have an ongoing internal communication structure that enables them to find out if a super majority supports going out on strike <i>before</i> they call any vote. If that readiness of the membership has been tallied in a decentralized way, an open vote (nonsecret) is then held <u>very close to the time</u> of the the strike. Otherwise, the district will have time to use anti-worker law to get an injunction.
In the past, when do strikes typically start?	Dedham voted on a Thursday night went out on Friday morning. That left the weekend available for negotiations. A deal was reached before another strike day was needed. Unions have to be prepared to stay out in an

<p>What are the consequences for people who cross a picket line?</p>	<p>There are only moral consequences affecting one's conscience. As in any nonviolent direct action, there is dialogue between picketers and people who approach the line (figuratively or literally). Picketers invite people to join and explain the ethos of "all for one and one for all" and that unity will bring about the swiftest resolution and the achievement of secure and long lasting improvements for students and educators alike.</p>
<p>How would missed days affect retirement?</p>	<p>If someone went out on strike and suffered loss of pay due to it, i.e. days were not made up, then, yes, it would affect their three year average</p>
<p>How would engaging in a strike affect health coverage?</p>	<p>Health insurance is paid at least a month in advance (and over the course of the year to cover the entire summer). Our bargaining rights around health care benefits are governed by a law called Section 19 which covers all employees in town, not just the schools. The School Committee cannot interfere with the benefits of any active employee. The contract on health insurance is negotiated by all of the town and school unions via a Public Employee Committee.</p>
<p>What happens on strike day(s)?</p>	<p>Before strikes happen, unions have every hour scheduled for member participation. Members participate together as if it were a contractual workday. Together, they are consistent and visibly unified in their values, message, project, and determination not to give up.</p>
<p>Is there some sort of negative consequence to participating in a strike for a para who is currently applying for teaching positions?</p>	
<p>During a strike, what things are in place to support those children who rely on school for safety and necessities like food?</p>	

How does a striking union communicate with families who have few resources in meeting childcare needs, and cannot afford to miss work?	
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