

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

In the Matter of

BEVERLY TEACHERS ASSOCIATION

and

JULIA BROTHERTON, in her capacity as  
Co-President of the BTA; ANDREA  
SHERMAN, in her capacity as Co-  
President of BTA; SCOTT SUTERA, in  
his capacity as Vice President of BTA;  
DRUSILLA REDMOND, in her capacity  
as Treasurer of BTA; KRISTINE KELLEY,  
in her capacity as Secretary of BTA; and  
JOANNA SEEGER, in her capacity as  
Membership Chair of BTA

and

BEVERLY SCHOOL COMMITTEE

Case No.: SI-24-10951

Date issued: November 7, 2024

CERB Members Participating:

Kelly B. Strong, CERB Member

Victoria B. Caldwell, CERB Member

Appearances:

Robert D. Hillman, Esq.	-	Representing the Beverly School Committee
Eric T. McKenna, Esq.		
Richard Mullane, Esq.	-	Representing the Beverly Teachers
Quesiyah Ali, Esq.		Association and the individually named
		Respondents

**CERB RULING ON STRIKE PETITION AND INTERIM ORDER**

1           On November 4, 2024 at 10:13 p.m., the Beverly School Committee (School Committee)  
2   filed a petition with the Department of Labor Relations (DLR) for a strike investigation (Petition)  
3   pursuant to Section 9A of M.G.L. c 150E (the Law). The Petition alleges that a strike is about to  
4   occur and that the Beverly Teachers Association (BTA or Union) and Julia Brotherton, in her  
5   capacity as Co-President of the BTA; Andrea Sherman, in her capacity as Co-President of the  
6   BTA; Scott Sutera, in his capacity as Vice President of the BTA; Drusilla Redmond, in her  
7   capacity as Treasurer of the BTA; Kristine Kelley, in her capacity as Secretary of the BTA; and  
8   Joanna Seeber, in her capacity as Membership Chair of the BTA (collectively, the Respondents),  
9   were inducing, encouraging or condoning a strike in violation of Section 9A(a) of the Law.  
10   Specifically, the School Committee alleged that it had reason to believe that the Respondents  
11   intended to hold on November 7, 2024, a strike vote for two bargaining units, Unit A, a unit of  
12   teachers, library media specialists, counselors, psychologists, rehabilitation specialists, nurses,  
13   and other employees, and Unit C, a separate unit of paraprofessionals, with a strike scheduled  
14   to begin on November 8, 2024.

15           On November 5, 2024, the DLR issued a Notice of Strike Investigation<sup>1</sup> that the School  
16   Committee caused to be served on each of the Respondents. On November 7, 2024, DLR  
17   Hearing Officer Margaret Sullivan conducted a strike investigation on behalf of the  
18   Commonwealth Employment Relations Board (CERB) pursuant to Section 9A(b) of the Law,

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<sup>1</sup> The Notice of Strike Investigation indicated that the investigation would take place at 4:00 p.m. During a pre-investigation conference on November 6, 2024, the parties mutually agreed that the investigation would commence at 5:00 p.m.

1 Chapter 23, Section 9P, and DLR Regulations 456 CMR 16.03.<sup>2</sup> The School Committee and  
2 the Respondents had an opportunity to be heard, to examine and cross-examine witnesses, and  
3 to introduce evidence.<sup>3</sup>

4 On November 7, 2024, prior to the investigation, the BTA filed a Motion To Dismiss The  
5 Strike Petition As To BTA Officials In Their Official Capacity (Motion). More specifically, the BTA  
6 argues in its Motion that the School Committee's petition and supporting evidence did not state  
7 sufficient facts to sustain a determination that Julia Brotherton, Andrea Sherman, Scott Sutera,  
8 Drusilla Redmond, Kristine Kelley, and Joanna Seeber, in their official capacity as officers of the  
9 BTA, induced, encouraged or condoned a strike, work stoppage, slow-down, or other withholding  
10 of services within the meaning of Section 9A of the Law. The School Committee opposed the  
11 motion as untimely<sup>4</sup> and further argues that specific evidence was presented as to Julia  
12 Brotherton's and Andrea Sherman's unlawful inducing, encouraging and condoning a strike.  
13 Additionally, the School Committee maintains that we should infer the unlawful activity of the  
14 other named Respondents and further that we should take an adverse inference due to the fact  
15 that the officers were not present to provide testimony that they were not engaging in unlawful  
16 activity. The motion was taken under advisement and is addressed in the Ruling, below.

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<sup>2</sup> The investigation was conducted remotely using the WebEx videoconference platform. CERB member Kelly Strong also attended the investigation and the CERB issues this decision in the first instance.

<sup>3</sup> The School Committee called one witness, Beverly School Committee Chair Rachael Abell. The Respondents did not call any witnesses and only their attorneys attended the investigation. The Respondents' counsel cross-examined the School Committee's witness. The parties made oral closing arguments, and the record was closed.

<sup>4</sup> During the Prehearing conference, the Union indicated it would file a Motion around 2:00 p.m. on November 7, 2024. The Union filed the Motion at 3:41 p.m. The School Committee did not cite to any rule or regulation pertaining the timing of a Motion in a strike proceeding.

After reviewing the entire record, including the recorded testimony and the exhibits introduced, the CERB concludes, as further explained below, that the BTA, its officers and the employees it represents are engaged in a strike in violation of Section 9A(a) (and (b) of the Law and that the BTA and Co-President Julia Brotherton induced, encouraged, and condoned the strike. We grant the Motion as to Andrea Sherman, Scott Sutera, Drusilla Redmond, Kristine Kelley, and Joanna Seeber.

#### Stipulations of Fact

At the outset of the investigation, the parties agreed to the following stipulations:

1. The City of Beverly (City) is a public employer within the meaning of Section 1 of M.G.L. c. 150E (the Law).
2. The Beverly School Committee (School Committee) is the representative of the City for the purpose of dealing with school employees.
3. Suzanne Charochak is the Superintendent of the Beverly Public Schools and an agent of the School Committee.
4. Erin Brown is the Executive Director of Operations for the Beverly Public Schools.
5. There are approximately 8 public school buildings and other work sites in the Beverly Public Schools District. Approximately 4,650 students attend those schools.
6. The Beverly Teachers Association (BTA) is an employee organization within the meaning of Section 1 of the Law.
7. The BTA represents three bargaining units within the Beverly Public Schools: Teachers, Library Media Specialists, Counselors, Psychologists, Vocational Teachers, Rehabilitation Specialists, Team Chairpersons, and Nurses, among other employees (Unit A); Paraprofessionals (Unit C), and assistant principals and directors (Unit B).
8. The CBA for bargaining Units A and C expired on August 31, 2024. The CBA for Unit B expired on June 30, 2024.<sup>5</sup>
9. Rachael Abell is the Chair of the School Committee.

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<sup>5</sup> Unit B is not a part of this proceeding.

- 1 10. Respondent Julia Brotherton is a member and a Co-President of BTA. She retired from the  
2 Beverly School District effective June 2024.
- 3
- 4 11. Respondent Andrea Sherman is a member and a Co-President of BTA. She is employed  
5 by the School Committee as a wellness teacher at Beverly Middle School.
- 6
- 7 12. Respondent Scott Sutera is a member and the Vice President of BTA. He is employed by  
8 the School Committee as a math and science teacher at Beverly Middle School.
- 9
- 10 13. Respondent Drusilla Redmond is a member and the Treasurer of BTA. She is employed  
11 by the School Committee as a business and technology teacher at Beverly High School.
- 12
- 13 14. Respondent Kristine Kelley is a member and the Secretary of BTA. She is employed by  
14 the School Committee as a culinary arts teacher at Beverly High School.
- 15
- 16 15. Respondent Joanna Seeber is a member and the Membership Chair of BTA. She is  
17 employed by the School Committee as a culinary arts teacher at Beverly High School.
- 18
- 19 16. Kris Melanson, Christine Carson Mezza, Scott Sutera, Stephanie Andrews, Julia  
20 Brotherton, Alex Crawford, Paul Drake, Heather Litchfield, Judy Martin, Laura Newton,  
21 Joanna Seeber, Ellyn Sudak, and Andrea Sherman are on the BTA negotiating team.
- 22
- 23 17. The BTA is an affiliate of the Massachusetts Teachers Association (MTA). Eric Blanchet  
24 (Blanchet) is BTA's assigned representative from the MTA.
- 25
- 26 18. The School Committee and the BTA have been involved in collective bargaining for  
27 successor agreements for Unit A and Unit C since February 5, 2024
- 28
- 29 19. The School Committee and BTA have held fourteen bargaining sessions for both Unit A  
30 and Unit C. The parties met on February 5, February 29, March 11, April 4, April 25, May  
31 23, June 3, June 17, June 26, August 27, September 12, October 3, October 15 and  
32 October 30, 2024.
- 33
- 34 20. On or about October 4, 2024, BTA began a work to rule action.
- 35
- 36 21. On October 18, 2024, the Committee filed Petitions for Mediation for both Unit A and Unit  
37 C with the Department of Labor Relations (DLR), which docketed the petitions as Case No.  
38 PS-24-10920.
- 39
- 40 22. On October 28, 2024, Blanchet objected to the School Committee's mediation petition.
- 41
- 42 23. On October 30, 2024, at the close of collective bargaining negotiation session, the BTA  
43 informed the School Committee that the Union agrees that the parties are at an impasse  
44 and that it intends to withdraw its objection and the BTA would welcome a mediator at the  
45 parties' next scheduled negotiation session on November 21, 2024. On October 31, 2024,

1 the BTA represented to the DLR that the BTA withdrew its objections to the School  
2 Committee's impasse filing.

3  
4 24. Friday, November 8, 2024, is a regularly scheduled workday for Unit A and Unit C  
5 employees.

6  
7 FINDINGS OF FACT

8 Bargaining History

9 The School Committee and the BTA have been involved in collective bargaining for  
10 successor agreements for Unit A and Unit C since February 5, 2024. As of the strike  
11 investigation, the School Committee and BTA have held fourteen bargaining sessions for both  
12 Unit A and Unit C.

13 On October 18, 2024, the School Committee filed with the DLR Petitions for Mediation for  
14 both Unit A and Unit C. The DLR docketed the petitions as PS-24-10920. On October 28, 2024,  
15 Eric Blanchet (Blanchet), the BTA's assigned representative from the Massachusetts Teachers  
16 Association (MTA), indicated that the Union planned to submit an objection letter to the School  
17 Committee's mediation petition. However, at the close of the collective bargaining negotiation  
18 session on October 30, 2024, the BTA informed the School Committee that it agreed that the  
19 parties are at an impasse and that it intended to withdraw its objection. The BTA indicated it  
20 would welcome a mediator at the parties' next scheduled negotiation session on November 21,  
21 2024.

22 On October 31, 2024, Blanchet informed the DLR that the BTA no longer objected to the  
23 School Committee's mediation request and provided the date and location of the parties' next  
24 scheduled bargaining session.

25 Evidence of November 7, 2024 Strike Vote

1 Rachael Abell (Abell) has served on the School Committee since 2016. She is currently  
2 in her third term as the School Committee Chairman. As the School Committee Chairman, Abell  
3 has participated in negotiations with BTA, including the current successor agreement  
4 negotiations.

5 Rachael Abell learned that BTA was scheduled to meet at the Larcom Theater during the  
6 afternoon on November 7, 2024. She was in the area of the Larcom Theater around 3:15 p.m.  
7 and saw Julia Brotherton (Brotherton), among others, greeting BTA members at the theater and  
8 issuing them all two cards, one was green, and one was red.

9 A little later, around 4:30 p.m., Abell looked at the BTA's Instagram account and saw a  
10 photo that she recognized was taken at the Larcom Theater. The photo shows three women,  
11 including Brotherton,<sup>6</sup> standing on a stage with their backs to the camera, holding up green cards  
12 and facing the audience, most of whom are also holding up green cards. The following words  
13 were placed over the photo: "[t]his evening the Beverly Teachers Association voted to authorize  
14 a strike. 99% of the membership voted in favor of the action. The BTA will remain on strike until  
15 the Beverly School Committee bargains in good faith and settles fair contracts for Units A and  
16 C." The caption of the photo posted on Instagram read "[w]e do not make this decision lightly.  
17 No teacher entered this profession intending to withhold their services. However, this is  
18 necessary to ensure our educators have the contracts they need and our students have the

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<sup>6</sup> Abell testified that she was certain that the woman in the middle of the picture was Brotherton even though her face is not shown. Abell explained that she could recognize Brotherton because of her familiarity with Brotherton, both due to their respective positions with the School Committee and the Union, and because Brotherton taught one of Abell's daughters. Additionally, Abell had seen Brotherton just an hour or so earlier in front of the theater wearing the same outfit and hair style.

1 schools they deserve.”<sup>7</sup> The caption included a number of hashtags, including  
2 “beverlyeducatorsonstrike.”

3 On November 7, 2024, at 6:08 p.m., Blanchet, who is the lead negotiator for BTA in the  
4 ongoing successor agreement negotiations, emailed Abell, Brotherton, Andrea Sherman and  
5 others with the subject line “Strike notification and bargaining request.”<sup>8</sup> Blanchet wrote, in  
6 relevant part, “I have been directed to inform you that the Beverly Teachers Association has  
7 authorized a strike to commence immediately by a vote of 99%. The bargaining team is ready  
8 and willing to negotiate with you and your team at any point with 90 minutes notice.”

### 9 Ruling

10 Section 9A(a) of the Law prohibits public employees and employee organizations from  
11 engaging in, inducing, encouraging, or condoning any strike, work stoppage, slowdown, or  
12 withholding of services. Section 9A(b) permits a public employer to petition the CERB to  
13 investigate alleged violations of Section 9A(a) “whenever a strike occurs *or is about to occur*”  
14 (emphasis added). The CERB has applied Section 9A(b) of the Law to situations where the  
15 evidence shows that a strike is occurring or is about to occur. Boston Teachers Union, Local  
16 66, et. al., 33 MLC 133, SI-07-272 (January 18, 2007) aff’d. 74 Mass. App. Ct. 500, 505 (2009)  
17 further appellate rev. den’d., 455 Mass. 1102 (2009), pet. for cert. den’d 599 U.S. 992 (2010);  
18 Boston School Committee, 27 MLC 32, 34, SI-264 (October 10, 2000); City of Worcester, 13  
19 MLC 1627, 1630, SI-198 (April 23, 1987); Boston School Committee, 10 MLC 1289, 1290, SI-  
20 156 (November 15, 1983).

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<sup>7</sup> The School Committee moved to enter a screenshot of the Instagram photo as an exhibit and the Union did not oppose. As such it was entered as Petitioner’s Exhibit 1.

<sup>8</sup> The School Committee moved to enter the email as an exhibit and the Union did not oppose. As such it was entered as Petitioner’s Exhibit 2.



1           Here, it was uncontested that BTA's Instagram on November 7, 2024, included a  
2 photograph and caption confirming that BTA held a strike vote and authorized an open-ended  
3 strike. It was also uncontested that Blanchet informed Abell and others that the BTA had  
4 authorized a strike to commence immediately, without any end date. Based on this evidence,  
5 we find that the School Committee has met its burden of showing that BTA has voted to engage  
6 in a strike effective immediately, and that BTA is inducing, encouraging and condoning engaging  
7 in a strike, work stoppage or other unlawful withholding of services in violations of Section 9A of  
8 the Law.

9           The School Committee has also met its burden of showing that Brotherton, in her official  
10 capacity as BTA Co-President, is inducing, encouraging, condoning, and engaging in a strike,  
11 work stoppage or other unlawful withholding of services in violations of Section 9A of the Law.  
12 We base this decision on Abell's uncontradicted testimony that she saw Brotherton greeting BTA  
13 members as they arrived at the theater where the strike vote was conducted and her  
14 identification of Brotherton in the photograph holding up a green card. Although the photo only  
15 shows her back, Abell credibly explained that she was confident in her identification due to both  
16 her general familiarity with Brotherton and her specific knowledge of what Brotherton was  
17 wearing an hour or so before the photograph appeared on Instagram.

18           The School Committee has provided no specific evidence that Scott Sutera, Drusilla  
19 Redmond, Kristine Kelley, and Joanna Seeber, have induced, encouraged, or condoned the  
20 strike vote or upcoming strike in their official capacity prior to the vote taking place. The only  
21 evidence provided during the investigation linking Andrea Sherman to the strike vote is the fact  
22 that Blanchet included her in the email announcing that the BTA had authorized an immediate  
23 strike. The mere receipt of an email announcing the authorization of a strike does not

demonstrate that she acted unlawfully. Based on this lack of evidence that Andrea Sherman, Scott Sutura, Drusilla Redmond, Kristine Kelley, and Joanna Seeber, induced, encouraged or condoned the strike, and because we do not find the School Committee's procedural or substantive arguments against the Motion to be persuasive, we grant the Union's Motion and dismiss the petition to the extent that it names them as Respondents.<sup>9</sup>

### Conclusion

For the foregoing reasons, we conclude that the BTA, its officers, and the employees it represents are engaging in a strike in violation of Section 9A of the Law; and the BTA, and Julia Brotherton, are inducing, encouraging, and condoning such action in violation of Section 9A(a) of the Law.

Accordingly, pursuant to Section 9A(a) and (b) of the Law, we order that:

1. The BTA and its officers and the employees it represents shall immediately cease and desist from engaging in or threatening to engage in a strike or work stoppage, slowdown or other withholding of services.
2. The BTA and its officers, including Julia Brotherton, in her official capacity, shall immediately cease and desist from inducing, encouraging, or condoning any strike, work stoppage, or other withholding of services, either directly or through surrogates. The BTA shall not permit its officers to encourage, condone, or induce any strike, work stoppage, slowdown, or other withholding of services.
3. The BTA and its officers, including Julia Brotherton in her official capacity, shall publicly state that:
  - a. any vote authorizing a strike including, but not limited to, a vote that took place on November 7, 2024 authorizing a strike to begin on November 8, 2024, is cancelled and will not be rescheduled. There will be no strike action.

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<sup>9</sup> We nevertheless recognize that a union can only act through its officers. Therefore, the order we issue below is directed to the BTA *and* its officers, and the CERB fully expects and requires that evidence of compliance with the Order will come through a BTA officer.

- 1                   b. engaging in, planning, inducing, encouraging, and condoning a strike,  
2                   work stoppage, slowdown, or other withholding of services, is illegal and  
3                   must therefore cease.  
4
- 5           4. The BTA and its officers shall immediately notify all of its bargaining unit members of  
6           the above statements upon receipt of this Order, using all of its usual means of  
7           communicating with its bargaining unit members including, but not limited to, posting  
8           the statements on its website, Facebook page, and/or any other social media it uses  
9           to regularly communicate with its membership.  
10
- 11          5. The BTA and its officers shall refrain from scheduling any further strike vote in  
12          connection with the same bargaining dispute.  
13
- 14          6. The BTA and its officers shall take any necessary steps to notify the employees whom  
15          it represents of their obligation to fully perform the duties of their employment including  
16          the obligation to refrain from any form of a strike or work stoppage. Such notification  
17          shall be completed immediately upon receipt of this Order and shall entail all of its  
18          usual means of communicating with its bargaining unit members, including but not  
19          limited to, posting the statements on its website, Facebook page, and/or any other  
20          social media it uses to regularly communicate with its membership.  
21
- 22          7. The BTA and its officers shall take any and all necessary steps to inform the  
23          employees whom the BTA represents of the provisions of Section 9A(a) and (b) of the  
24          Law and the contents of this Order. Such notification shall be completed immediately  
25          upon receipt of this Order and shall entail all of its usual means of communicating with  
26          its bargaining unit members, including but not limited to, posting the statements on its  
27          website, Facebook page, and/or any other social media it uses to regularly  
28          communicate with its membership.  
29
- 30          8. The BTA and its officers shall notify the DLR in writing of the steps taken to comply  
31          with this Order by no later than **Friday, November 8, 2024 at 8:00 a.m.** Such  
32          notification shall include whether or not the BTA is on strike on November 8, 2024.  
33
- 34          9. The BTA and the School Committee shall immediately resume negotiations and  
35          mediation in accordance with the provisions of 456 CMR 21.00 et. seq before a  
36          mediator assigned by the DLR to bargain over the issues that separate them. The  
37          parties' continued participation in mediation ordered by the CERB shall not affect their  
38          rights under Section 9 of the Law.  
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- 40          10. The BTA and its officers shall appear as required for a proceeding to determine  
41          compliance with this Order.  
42
- 43          11. The DLR and the CERB shall retain jurisdiction of this matter to set further  
              requirements as appropriate.

**SO ORDERED.**

COMMONWEALTH OF MASSACHUSETTS  
COMMONWEALTH EMPLOYMENT RELATIONS BOARD



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KELLY B. STRONG, CERB MEMBER



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VICTORIA B. CALDWELL, CERB MEMBER