

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

In the Matter of

GLOUCESTER SCHOOL COMMITTEE

and

GLOUCESTER TEACHERS ASSOCIATION

and

GLOUCESTER ASSOCIATION OF
EDUCATIONAL PARAPROFESSIONALS

and

RACHEL REX, in her capacity as GTA
President

and

MARYANN AIELLO, in her capacity as GAEP
President

Case No. SI-24-10955

Date Issued: November 7, 2024

CERB Members Participating:

Kelly B. Strong, CERB Member
Victoria B. Caldwell, CERB Member

Appearances:

Gregor Pagnini, Esq.	-	Representing the Gloucester School Committee
Jonathan M. Conti, Esq. Jennifer MacDougall, Esq.	-	Representing Gloucester Teachers Association, Rachel Rex, in her capacity as a GTA President, Gloucester Association of Educational Paraprofessionals, and Maryann Aiello in her capacity as GAEP President

CERB RULING ON STRIKE PETITION AND INTERIM ORDER

1 On November 5, 2024, the Gloucester School Committee (School Committee) filed
2 a petition with the Department of Labor Relations (DLR) for a strike investigation (Petition)
3 pursuant to Section 9A(b) of M.G.L. c. 150E (the Law).¹ The Petition alleges that a strike
4 is about to occur and that the Massachusetts Teachers Association (MTA), the Gloucester
5 Teachers Association (GTA), Gloucester Association of Education Paraprofessional
6 (GAEP), Maryann Aiello (Aiello), both individually and her capacity as GAEP President,
7 Rachel Rex (Rex), both individually and her capacity as GTA President (collectively, the
8 Respondents) were inducing, encouraging or condoning that strike in violation of Section
9 9A(a) of the Law. In particular, the School Committee alleged that it had reason to believe
10 that the Respondents intended to hold a strike vote for the teachers' and paraprofessional
11 bargaining units on Thursday, November 7, 2024, with an open-ended strike scheduled
12 to begin on November 8, 2024.

13 On November 5, 2024, the DLR issued a Notice of Strike Investigation that the
14 School Committee caused to be served on each of the Respondents. On November 7,
15 2024, Meghan Ventrella, Esq., Hearing Officer for the Department of Labor Relations
16 (DLR) conducted a strike investigation on behalf of the Commonwealth Employment
17 Relations Board (CERB) pursuant to Section 9A(b) of the Law, Chapter 23, Section 9P,
18 and DLR Regulations, 456 CMR 16.03.² The School Committee and the Respondents
19 had an opportunity to be heard, to examine and cross-examine witnesses and to

¹ The strike petition was simultaneously served upon the respondents, and there is no dispute that they received notice of the strike petition.

² The investigation was conducted remotely using the WebEx videoconference platform. CERB member Victoria Caldwell also attended the hearing and the CERB issues this decision in the first instance.

1 introduce evidence.³ At the start of the investigation, the School Committee withdrew its
2 petition as to the MTA, and with regard to Aiello and Rex in their individual capacities.
3 Aiello and Rex remained named in their official capacities. During the strike
4 investigation, the attorney for the Respondents made an oral motion to dismiss the
5 petition as to Rex, in her capacity as GTA President, and as to Aiello, in her capacity as
6 GAEP President. The motion was taken under advisement and is addressed in the
7 Ruling, below.

8 After reviewing the entire record, including the recorded testimony and the
9 exhibits introduced, the CERB concludes, as further explained below, that the GTA and
10 the GAEP and the employees they represent are about to engage in a strike in violation
11 of Section 9A(a) of the Law and that the GTA, the GAEP, and Rex, in her official
12 capacity as GTA President, have induced, encourage and condoned the strike. We
13 dismiss the claim that Aiello, in her official capacity as GAEP President, violated
14 Section 9A(a) of the Law.

15 STIPULATIONS OF FACT

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

- 17 1. The City of Gloucester (City) is a public employer within the meaning of Section 1
18 of M.G.L. c. 150E (the Law).
- 19 2. The Gloucester School Committee (School Committee) is the representative of
20 the City for the purpose of dealing with school employees.

³ The School Committee called two witnesses: Superintendent Benjamin Lummis and Dr. Michael Jarvis, Special Education Director. None of the Respondents called witnesses but they did cross-examine the School Committee's witnesses.

1 3. The Gloucester Teachers Association (GTA) is an employee organization within
2 the meaning of Section 1 of the Law.

3 4. The GTA is the exclusive bargaining representative for all teachers employed by
4 the School Committee (Unit A).

5 5. Respondent Rachel Rex is a member of the bargaining unit described in
6 paragraph 4 and at all relevant times the president for the GTA.

7 6. The Gloucester Educational Paraprofessional Association (GAEP) is an
8 employee organization within the meaning of Section 1 of the Law.

9 7. The GAEP is the exclusive bargaining representative for all paraprofessionals
10 employed by the School Committee (Unit C).

11 8. Respondent Maryann Aiello (Aiello) is a member of the bargaining unit described
12 in paragraph 8 and the president of the GAEP.

13 9. The GTA and the GAEP are affiliates of the Massachusetts Teachers Association
14 (MTA).

15 10. The MTA supplies field representatives to advise and represent the GTA and
16 GAEP in certain labor relations matters, including contract administration and
17 negotiations.

18 11. Nicolas DiPardo (DiPardo) is currently both GTA and GAEP's assigned
19 representative from the MTA.

20 12. Benjamin Lummis (Lummis) is the Gloucester Superintendent of Schools and an
21 agent of the School Committee.

22 13. The Gloucester School Committee consists of seven members, Chairperson
23 Kathleen Clancy (Clancy), Vice Chair William Melvin (Melvin), Laura Wiessen

(Wiessan), Keith Mineo (Mineo), Melissa Joy-Teixeira Prince (Prince), Jeremy McKeen (McKeen) and Mayor Greg Verga (Verga).

14. The School Committee and the GAEP were parties to a collective bargaining agreement (CBA) which expired on June 30, 2023.

15. On October 5, 2023, the School Committee filed a Petition for Mediation for paraprofessional unit with the Department of Labor Relations, which docketed the petition as Case No. PS-23-10266.

16. The School Committee and the GTA were parties to a CBA which expired on August 31, 2024.

17. Friday, November 8, 2024, is a regularly-scheduled workday for employees in Unit A and Unit C.

FINDINGS OF FACT

Background

The School Committee employees approximately 311 teachers and approximately 100 paraprofessionals. The Gloucester Public School District is responsible for approximately 2,849 students among seven different school buildings.

Bargaining History

The School Committee and the GAEP were parties to a collective bargaining agreement (CBA) which expired on June 30, 2023. On March 23, 2023, the School Committee and the GAEP began successor contract negotiations. From March 23, 2023, through September 14, 2023, the School Committee and the GAEP participated in nine bargaining sessions. On October 5, 2023, the School Committee filed a Petition for Mediation for the paraprofessional unit with the Department of Labor Relations (DLR).

1 The DLR docketed the School Committee's petition as Case No. PS-23-10266. From
2 October 5, 2023, through October 23, 2024, the School Committee and the GAEP
3 participated in ten bargaining sessions with a DLR Mediator. The Superintendent testified
4 that on October 24, 2024, the day after the parties' last mediation session, the DLR
5 Mediator indicated that he would refer the matter to fact finding.

6 The School Committee and the GTA were parties to a CBA which expired on August
7 31, 2024. On March 11, 2023, the School Committee and the GTA began successor
8 contract negotiations. From March 11, 2023, through October 29, 2024, the School
9 Committee and the GTA participated in eleven bargaining sessions. The School
10 Committee and the GTA's next bargaining session is scheduled for November 12, 2024.
11 As of the date of this investigation, neither the GTA nor the School Committee had filed
12 for mediation with the DLR.

13 At some point during this period, the GTA and the GAEP began referring to
14 themselves collectively as the "Union of Gloucester Educators" and created a Facebook
15 page.

16 *Evidence of a Strike Vote*

17 At approximately 4:00 p.m. on November 5, 2024, the GTA and the GAEP met at
18 Gloucester House, a local restaurant and venue in Gloucester, and voted to strike. Shortly
19 thereafter, the Union of Gloucester Educators Facebook page displayed a post with a
20 graphic indicating that they were on strike with the following statement above it: "Today,
21 over 98% of Gloucester Educators votes to authorize a strike!"⁴

⁴ The Facebook post was entered into evidence by the School Committee and was not opposed by the Respondents.

1 Rex, the President of the GTA, was at the Gloucester House for the strike vote and
2 in the crowd of educators that walked from Gloucester House to Gloucester City Hall
3 where she spoke at a press event and announced that the unions were on strike. At City
4 Hall, Rex indicated that the plan was for teachers and paraprofessionals to show up at
5 their respective schools on November 8, 2024, at 8:30 a.m. to picket and not to report to
6 work.

7 Also, after the strike vote, DiPardo, the MTA Field Representative, emailed the
8 Superintendent to inform him that the GTA and the GAEP were on strike.

9 RULING⁵

10 Section 9A(a) of the Law prohibits public employees and employee organizations
11 from engaging in, inducing, encouraging, or condoning any strike, work stoppage,
12 slowdown, or withholding of services. Section 9A(b) permits a public employer to petition
13 the CERB to investigate alleged violations of Section 9A(a) “whenever a strike occurs *or*
14 *is about to occur*” (emphasis added). M.G.L. c. 150E, § 9A(b). The CERB has applied
15 Section 9A(b) of the Law to situations where the evidence shows that a strike is occurring
16 or is about to occur. Under CERB case law, that point is reached when a strike vote – as
17 has been established here – results in a decision to strike. Boston Teachers Union, Local
18 66, et. al., 33 MLC 133, SI-07-272 (January 18, 2007), aff’d, 74 Mass. App. Ct. 500, 505
19 (2009), further appellate rev. denied, 455 Mass. 1102 (2009), cert. denied, 599 U.S. 992
20 (2010); Boston School Committee, 27 MLC 32, 34, SI-264 (October 10, 2000); City of
21 Worcester, 13 MLC 1627, 1630, SI-198 (April 23, 1987); Boston School Committee, 10
22 MLC 1289, 1290, SI-156 (November 15, 1983).

⁵ The CERB’s jurisdiction is not contested.

1 Here, the uncontested evidence shows that the GTA and GAEP held a strike vote
2 on November 7, 2024, and publicly announced at Gloucester City Hall that they were on
3 strike and would be picketing in the morning rather than reporting to work. As such, the
4 School Committee has met its burden of establishing that the GTA and the GAEP have
5 voted to engage in a strike, and that by their Facebook posting under the Union of
6 Gloucester Educators, that the GTA, GAEP, and their officers are inducing, encouraging,
7 and condoning engaging in a strike, work stoppage, or other unlawful withholding of
8 services in violation of Section 9A of the Law.

9 The School Committee has presented sufficient evidence to establish that GTA
10 President Rex has induced, encouraged, or condoned the strike vote and upcoming strike
11 in her official capacity, by her presence at the strike vote and subsequent announcement
12 of the strike vote at the press conference and thus has violated Section 9A(a) of the Law,
13 however, the same cannot be said with respect to GAEP President Aiello. There is no
14 evidence linking Aiello to the strike vote and as such, we grant Aiello's motion to dismiss
15 the petition to the extent it names her as a respondent. Notwithstanding this decision,
16 however, we recognize that unions can only act through their officers and the order we
17 issue below is directed to the unions and their respective officers, which would include
18 President Aiello.

19 CONCLUSION

20 For the foregoing reasons, we conclude that: (1) the GTA and the GAEP and the
21 employees they represent are about to engage in a strike in violation of Section 9A of
22 the Law; and (2) the Unions, and their officers and Rex, in her official capacity as

1 President of the GTA, are inducing, encouraging, and condoning such action in violation
2 of Section 9A(a) of the Law.

3 **ORDER**

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

- 5 1. The GTA, the GAEP, Rex, in her official capacity as President of the GTA, and
6 their officers, and the employees they represent shall immediately cease and
7 desist from engaging in, or threatening to engage in, a strike, work stoppage,
8 slowdown, or other withholding of services.
- 9 2. The GTA, the GAEP, Rex, in her official capacity as President of the GTA, and
10 their officers shall immediately cease and desist from inducing, encouraging, or
11 condoning any strike, work stoppage, slowdown, or other withholding of services,
12 either directly or through surrogates. The GTA and the GAEP shall not permit its
13 officers to encourage, condone, or induce any strike, work stoppage, slowdown,
14 or other withholding of services.
- 15 3. Immediately upon receipt of this order, the GTA, the GAEP, and Rex, in her
16 official capacity as President of the GTA, and their officers shall notify bargaining
17 unit employees of their obligation to fully perform the duties of their employment
18 on November 8, 2024 (including the obligation to not participate in any form of
19 strike, work stoppage, slowdown, or other withholding of services).
- 20 4. The GTA, the GAEP and their officers shall publicly state that:
 - 21 a. any vote authorizing a strike including, but not limited to, a vote that took
22 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.

b. engaging in, planning, inducing, encouraging, and condoning a strike, work stoppage, slowdown, or other withholding of services, is illegal and must therefore cease.

5. Immediately upon receipt of this order, the GTA and the GAEP and their officers shall notify bargaining unit members of the provisions of Sections 9A(a) and (b) of the Law and the contents of this Order using all of its usual means of communicating with its bargaining unit members including, but not limited to, posting the statements on its website, Facebook page, and/or any other social media it uses to regularly communicate with its membership.
6. The GTA and the GAEP and its officers shall refrain from scheduling any further strike vote in connection with the same bargaining dispute.
7. The GTA, the GAEP, and the School Committee shall immediately resume negotiations and mediation in accordance with the provisions of 456 CMR 21.00 et. seq. before a mediator assigned by the DLR to bargain over the issues that separate them. The parties' continued participation in mediation ordered by the CERB shall not affect their rights under Section 9 of the Law.
8. By no later than November 8, 2024, at 8 a.m., the GTA and the GAEP and their officers shall notify the DLR in writing of the steps they have taken to comply with this Order. Such notification shall include whether or not the BTA is on strike on November 8, 2024.

- 1 9. The GTA , the GAEP, and its officers shall appear as required by the CERB for a
2 proceeding to determine compliance with this Order.
- 3 10. The DLR and the CERB shall retain jurisdiction of this matter to set further
4 requirements as appropriate.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD



KELLY B. STRONG, CERB MEMBER



VICTORIA B. CALDWELL, CERB MEMBER