

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

In the Matter of

MARBLEHEAD SCHOOL COMMITTEE

and

MARBLEHEAD EDUCATION
ASSOCIATION

Case No.: SI-24-10959

Date issued: November 8, 2024

CERB Members Participating:

Kelly B. Strong, CERB Member

Victoria B. Caldwell, CERB Member

Appearances:

Robert D. Hillman, Esq. - Representing the Marblehead School Committee
Elizabeth B. Valerio, Esq.
Nicholas Dominello, Esq.

Ashley Walter, Esq. - Representing the Marblehead Education Association

RULING ON STRIKE PETITION AND INTERIM ORDER

1 On November 8, 2024, at approximately 12:07 p.m., the Marblehead School Committee
2 (School Committee) filed a petition with the Department of Labor Relations (DLR) for a strike
3 investigation (Petition) pursuant to Section 9A of M.G.L. c 150E (the Law). The Petition alleges
4 that a strike is about to occur and that the Marblehead Education Association (MEA or Union),
5 and the employees it represents of teachers, nurses, tutors, paraprofessionals, permanent
6 substitutes, custodians and others, were inducing, encouraging or condoning a strike in violation
7 of Section 9A(a) of the Law. In particular, the School Committee alleged that it had reason to

1 believe that the MEA intended to hold a strike vote on November 8, 2024, with an open-ended
2 strike scheduled to begin on or after November 12, 2024.

3 On November 8, 2024, the DLR issued a Notice of Strike Investigation that the School
4 Committee caused to be served on the Union. Later the same day, Margaret Sullivan, Esq.,
5 Hearing Officer for the Department of Labor Relations (DLR) conducted a strike investigation on
6 behalf of the Commonwealth Employment Relations Board (CERB) pursuant to Section 9A(b)
7 of the Law, Chapter 23, Section 9P, and DLR Regulations, 456 CMR 16.03.¹ The School
8 Committee and the Union had an opportunity to be heard, to examine and cross-examine
9 witnesses and to introduce evidence.²

10 After reviewing the entire record, including the recorded testimony and the exhibits
11 introduced, the CERB concludes, as further explained below, that the MEA and the employees
12 it represents are about to engage in a strike in violation of Section 9A(a) of the Law and that the
13 MEA has induced, encouraged and condoned the strike.

14 Stipulations of Fact

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

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

¹ The investigation was conducted remotely using the WebEx videoconference platform. CERB members Victoria Caldwell and Kelly Strong also attended the hearing and the CERB issues this decision in the first instance.

² The School Committee called Sarah Fox and Jennifer Schaeffner as witnesses. The Respondent did not call any witnesses but they did cross-examine the School Committee's witnesses.

3. The Marblehead Education Association (MEA) is an employee organization within the meaning of Section 1 of the Law.

5. The Custodians Unit CBA expired on June 30, 2024. The CBAs for the other four MEA units listed in paragraph 4 expired on August 31, 2024.

7. The School Committee and the MEA have been engaged in collective bargaining for successor agreements for the Units represented by MEA since March 14, 2024.

Findings of Fact

The School Committee employs approximately 450 members of the MEA's five bargaining units with 300 employees in the teachers' bargaining unit (Unit A). The Marblehead Public School District is responsible for between 2,600 and 2,700 students among five different school buildings and other work sites. There are five schools in Marblehead, which consist of two kindergarten through third grade schools, one fourth through sixth grade upper elementary school, one seventh and eighth grade middle school, and one high school.

1 The School Committee and the MEA have been involved in collective bargaining for
2 successor agreements for all five MEA units since March 14, 2024. The Custodians Unit CBA
3 expired on June 30, 2024, and the CBAs for the other four MEA Units expired on August 31,
4 2024. As of the strike investigation, the School Committee and MEA have held multiple
5 bargaining sessions for all five of MEA's Units.

6 Evidence of November 8, 2024 Strike Vote

7 On Friday, November 8, 2024, the Marblehead Education Association posted on its
8 Facebook page that "99% of Marblehead Educators voted yes to authorize a strike effective
9 Tuesday, November 12th. We will remain on strike until Fair Contracts are reached." On
10 November 8, 2024, Sarah Fox (Fox), a member of the School Committee, viewed a live stream
11 video on the MEA's Facebook page that showed Union co-presidents Shevory and Heller
12 announcing and commenting on the strike vote. On November 8, 2024, the Marblehead
13 Education Association Bargaining Team emailed Jennifer Schaeffner (Schaeffner), the Chair of
14 the School Committee. The email stated in part: "As you know, the Marblehead Education
15 Association has voted overwhelmingly to authorize its bargaining team to call for a strike on
16 Tuesday, November 12th if fair contracts have not been settled. This is not a decision any
17 educator has taken likely but 99% of Marblehead educators voted to take this action in order to
18 secure the schools our educators and students deserve."³

³ The email also contained statements that the CERB has determined are not relevant in deciding the issue before it.

Ruling⁴

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

Here, it was uncontested that MEA held a strike vote on Friday, November 8, 2024, and that MEA’s officers publicly announced on Facebook that effective Tuesday, November 12th they will remain on strike until contracts are settled. Based on this evidence, we find that the School Committee has met its burden of showing that MEA and the employees it represents has voted to engage in a strike, and that MEA is inducing, encouraging and condoning the employees it represents to engage in a strike, work stoppage or other unlawful withholding of services in violation of Section 9A of the Law.

Although the School Committee did not name any specific officers as respondents, we recognize that unions can only act through their officers and the order we issue below is directed to the Union and its officers.

⁴ The CERB’s jurisdiction is not contested.

1 CONCLUSION

2 For the foregoing reasons, we conclude that: (1) the MEA and the employees it represents
3 are about to engage in a strike in violation of Section 9A of the Law; and (2) the Union, and its
4 officers are inducing, encouraging, and condoning such action in violation of Section 9A(a) of
5 the Law.

6 **ORDER**

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

- 8
- 9 1. The MEA, its officers, and the employees it represents shall immediately cease and
10 desist from engaging in or threatening to engage in a strike or work stoppage,
11 slowdown or other withholding of services.
12
- 13 2. The MEA and its officers shall immediately cease and desist from inducing,
14 encouraging, or condoning any strike, work stoppage, or other withholding of services,
15 either directly or through surrogates. The MEA shall not permit its officers to
16 encourage, condone, or induce any strike, work stoppage, slowdown, or other
17 withholding of services.
18
- 19 3. The MEA and its officers shall publicly state that:
20
- 21 a. any vote authorizing a strike including, but not limited to, a vote that took
22 place on November 8, 2024 authorizing a strike to begin on November 12,
23 2024, is cancelled and will not be rescheduled. There will be no strike action.
24
- 25 b. engaging in, planning, inducing, encouraging, and condoning a strike, work
26 stoppage, slowdown, or other withholding of services, is illegal and must
27 therefore cease.
28
- 29 4. The MEA and its officers shall immediately notify all of its bargaining unit members of
30 the provisions of Section 9A(a) and (b) of the Law and the above statements upon
31 receipt of this Order, using all of its usual means of communicating with its bargaining
32 unit members including, but not limited to, posting the statements on its website,
33 Facebook page, and/or any other social media it uses to regularly communicate with
34 its membership.
35
- 36 5. The MEA and its officers shall refrain from scheduling any further strike vote in
37 connection with the same bargaining dispute.
38
- 39 6. The MEA and its officers shall take any necessary steps to notify the employees whom
40 it represents of their obligation to fully perform the duties of their employment including

1 the obligation to refrain from any form of a strike or work stoppage. Such notification
2 shall be completed immediately upon receipt of this Order and shall entail all of its
3 usual means of communicating with its bargaining unit members, including but not
4 limited to, posting the statements on its website, Facebook page, and/or any other
5 social media it uses to regularly communicate with its membership.
6

- 7 7. The MEA and its officers shall take any and all necessary steps to inform the
8 employees whom the MEA represents of the provisions of Section 9A(a) and (b) of the
9 Law and the contents of this Order. Such notification shall be completed immediately
10 upon receipt of this Order and shall entail all of its usual means of communicating with
11 its bargaining unit members, including but not limited to, posting the statements on its
12 website, Facebook page, and/or any other social media it uses to regularly
13 communicate with its membership.
14
- 15 8. The MEA and its officers shall notify the DLR in writing of the steps taken to comply
16 with this Order by no later than **Saturday, November 9, 2024 at 10:00 a.m.**
17
- 18 9. The MEA and the School Committee shall immediately resume negotiations and
19 mediation in accordance with the provisions of 456 CMR 21.00 et. seq. before a
20 mediator assigned by the DLR to bargain over the issues that separate them. The
21 parties' continued participation in mediation ordered by the CERB shall not affect their
22 rights under Section 9 of the Law.
23
- 24 10. The MEA and its officers shall appear as required by the CERB for a proceeding to
25 determine compliance with this Order.
26
- 27 11. The DLR and the CERB shall retain jurisdiction of this matter to set further
28 requirements as appropriate.
29

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD



KELLY B. STRONG, CERB MEMBER



VICTORIA B. CALDWELL, CERB MEMBER

