

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

In the Matter of

WESTBOROUGH SCHOOL
COMMITTEE

and

WESTBOROUGH TEACHERS
ASSOCIATION / MTA

Case No. MUP-08-5237

Date Issued: June 29, 2011

Hearing Officer:

Timothy Hatfield, Esq.

Appearances:

Naomi R. Stonberg, Esq. - Representing the Westborough School
Committee

Ira Fader, Esq. - Representing the Westborough Teachers
Association / MTA

HEARING OFFICER'S DECISION AND ORDER

SUMMARY

1 The issue in this case is whether the Westborough School Committee
2 (School Committee) violated Section 10(a)(1) of Massachusetts General Laws,
3 Chapter 150E (the Law) by interfering, restraining, and coercing its employees in
4 the exercise of their rights guaranteed under Section 2 of the Law. I find that the
5 School Committee violated the Law.

6

7

STATEMENT OF THE CASE

1
2 On June 16, 2008, the Westborough Teachers Association / MTA
3 (Association) filed a charge with the Department of Labor Relations (DLR)¹
4 alleging that the School Committee had violated Section 10(a)(1) of the Law.
5 Following an investigation, the DLR² issued a complaint of prohibited practice on
6 May 6, 2009, alleging that the School Committee had violated Section 10(a)(1) of
7 the Law by: (a) issuing a press release on April 10, 2008 concerning negotiations
8 between the parties for a successor collective bargaining agreement; (b)
9 statements / threats that its agent, Superintendent Anne Towle (Superintendent
10 Towle), made to Union President Bonnie Ross (Ross) concerning a Union press
11 release issued April 18, 2008; (c) a threatening email composed by its agent,
12 School Committee member Craig Harris (Harris), sent on May 1, 2008 to teacher
13 Marsha Pelletier (Pelletier) and to certain school committee members,
14 Superintendent Towle, Assistant Superintendent Marianne O'Connor (O'Connor),
15 high school principal John Smith (Smith), and assistant principals Jack Foley
16 (Foley) and Brian Callaghan (Callaghan); and (d) an email composed by its agent
17 Harris, sent to Ross on May 1, 2008 concerning Pelletier in which Harris
18 questioned why Ross would allow "such a renegade to tarnish your organization."

¹ Pursuant to Chapter 3 of the Acts of 2011, the Division of Labor Relations' name is now the Department of Labor Relations.

² Pursuant to Chapter 145 of the Acts of 2007, the Department of Labor Relations (DLR) "shall have all of the legal powers, authorities, responsibilities, duties, rights, and obligations previously conferred on the labor relations commission." The Commonwealth Employment Relations Board (Board) is the body within the Department charged with deciding adjudicatory matters. References in this decision to the Board include the former Labor Relations Commission (former Commission).

1 The School Committee filed its answer on June 23, 2009. I conducted a hearing
2 on July 7, 2009 at which both parties had the opportunity to be heard, to examine
3 witnesses and to introduce evidence. The School Committee and the Association
4 filed post-hearing briefs on or about September 21, 2009. On the entire record,
5 including my observation of witness demeanor, I make the following findings of
6 fact and render the following decision.

7 FINDINGS OF FACT

8 Background

9 The School Committee is the collective bargaining agent of the Town of
10 Westborough (Town) for the purposes of dealing with school employees. The
11 Association is the exclusive collective bargaining representative for teachers. In
12 December 2006, the Association commenced negotiations with the School
13 Committee for a successor collective bargaining agreement due to expire on
14 June 30, 2007. During these negotiations each party had numerous participants
15 on its respective negotiating team. Association President Ross served on both of
16 the Association's negotiating teams, and the School Committee's negotiating
17 team included Chairman Rod Jane (Jane), Committee member Harris, and
18 Superintendent Towle.

19 The parties began negotiating in February 2007, and after a difficult and
20 contentious set of negotiations, reached a tentative agreement in October 2007.
21 The Association held a ratification vote on October 19, 2007 at which time the
22 tentative agreement was rejected by a majority of the Association members who
23 voted.

1 After the failed ratification vote, the Association assembled a new
2 negotiating team³ and in January 2008 submitted a new set of proposals to the
3 School Committee. These proposals were intended by the Association to start
4 the negotiating process over from the beginning, a decision that the School
5 Committee did not favor.⁴

6 On or about April 8, 2008, the parties, having failed to reach a new
7 tentative agreement, engaged the services of a private mediator. The parties
8 met for an extended period of time but were unable to reach an agreement.

9 On or about April 9, 2008, the Association began a series of protected
10 concerted activities, including a work-to-rule campaign, and a picketing campaign
11 outside the High School and at a rotary in Westborough.

12 The School Committee's Press Releases

13 On or about April 10, 2008, the School Committee, through its agent Jane
14 issued a press release,⁵ which was sent to the local press, parents, and
15 teachers. This press release stated:

16 Press Release – April 10, 2008
17

18 Since February, 2007 the Westborough School Committee
19 has been engaged in negotiations with the Westborough Teachers
20 Association (WTA). During that time at least 18 negotiating

³ Ross testified that only she and one other member remained from the first negotiating team.

⁴ The School Committee wished to address the issues which led to the rejection of the tentative agreement. These issues included a change in health insurance benefits, a flex-time provision change, and a change to the super-longevity provision.

⁵ Two press releases were created by Jane. The only difference in the releases was the removal of the word "unreasonable" from the version sent to the local press and parents.

1 sessions have been held. Last October, after eight months of
2 negotiations, both negotiating teams reached a tentative agreement
3 at the bargaining table. This agreement was subsequently rejected
4 by the WTA rank-and-file by a vote of 162 to 155 in October. The
5 terms of the agreement, that the School Committee offered and the
6 WTA rejected, were fair and competitive with those settlements that
7 have been reached by other school districts in the region and
8 throughout the state. The basic terms of the rejected agreement
9 were as follows:

- 10 • Base salary increase: 2.5% in year one, 3% in year two, and
11 3% in year three
- 12 • Steps and lanes (which are received in addition to their base
13 salary increases). Steps automatically increase all teachers'
14 salaries anywhere from 2 to 5% annually up to their 12th year
15 in the system. For example, next school year at current
16 staffing levels, 203 of 342 Westborough teachers will receive
17 step increases at an additional cost of \$421,200 to the town.
18 This will happen automatically with or without a settlement.
19 Lanes automatically increase salary for attainment of
20 advanced educational degrees. On average, steps and
21 lanes together add another 2.5% to the annual base salary
22 increase. Therefore, the bottom line is that the overall
23 average salary increase (including the base increase plus
24 the step and lane increases) for teachers would be 5.0% in
25 year one, 5.5% in year two, and 5.5% in year three. These
26 increases are more than the cost of living inflation index
27 which has averaged close to 3% for many years.
- 28 • Health Insurance: The teachers' employee contribution for
29 the Fallon Plan would have been increased from 10%
30 (current) to 15% in year one, 20% in year two, and 25% in
31 year three. This would bring the teachers to the same level
32 as all other town employees. In return for the increased cost
33 of health insurance, mitigation funds of \$500 would be added
34 to the base salary of all teachers in years one and two.

35
36 As the October Town Meeting approached, the town was
37 prepared to fund the school budget (with the teachers contract
38 settlement included) along with the budgets of all other town
39 departments. However, the WTA rank-and-file rejected the
40 agreement. Because the WTA refused to meet during the summer
41 months as requested by the School Committee, there was no time
42 left to negotiate a new settlement in time for the October Town
43 Meeting. As a result, the budget for the fiscal year 2008 does not
44 include any funding for a settlement of the teachers contract and
45 base salary increases. Since October, the town's projected
46 financial condition has dramatically changed due both to expected

1 and unexpected revenue shortfalls. Some businesses that have
2 been significant sources of tax revenue are either downsizing or
3 leaving the town to consolidate their operations. And, although the
4 town has received increased state funding for education the last
5 couple of years, even the state acknowledges Westborough will
6 continue to be significantly under-funded for the coming budget
7 year in comparison to similar towns in our region. Because of this
8 financial climate, the Town Coordinator has set modest budget
9 increase targets for all town departments and schools for fiscal year
10 2009. These targets would keep the overall town budget slightly
11 below the proposition 2 ½ levy limit. On April 9th, the School
12 Committee voted to approve a 3% budget increase to adhere to the
13 Town Coordinator's request. Therefore, no override will be needed.
14 Because we have no settlement and because no settlements will
15 be reached before the May Town Meeting, the school budget does
16 not include any funds for a teacher settlement and base salary
17 increases.

18
19 Since October, the WTA has appointed a new negotiating
20 team that has begun negotiations with the School Committee. After
21 only two negotiating sessions between the School Committee and
22 the new WTA team, the WTA began picketing activities and
23 recently declared work-to-rule for all teachers. The new WTA team
24 has made multiple proposals to the School Committee that are far
25 more expensive than the tentative agreement that was rejected in
26 October. In fact, their latest proposal would cost the town more
27 than an additional \$2 million over and above the School Committee
28 proposal. The School Committee has rejected these unreasonable
29 proposals. Because no progress was being made, both sides
30 agreed to a mediation session on April 8th. Faced with the current
31 and more difficult financial picture for the town, the School
32 Committee offered the WTA's new negotiating team a one year
33 contract for the current year followed by a three year contract that
34 will commence July 1, 2008 with the following terms:

- 35
- 36 • Base Salary: no base salary increase in year one (first
37 contract – fiscal year 2008), 3% in year two (1st year of the
38 second contract – fiscal year 2009), 3% in year three, 3% in
39 year four
 - 40 • \$1,000 increase added to the base salary of all teachers at
41 the top (12th) step – 137 total teachers – in year one. These
42 teachers at the top step would otherwise have received no
43 increase at all because they are ineligible for step increases.
 - 44 • Steps and lanes which are added to the base salary
45 increase will increase the salaries of teachers by another
46 2.5% on average. Therefore, the average total annual

1 increase for teachers will be 3.3% in year one (first contract),
2 5.5% in year two (first year of second contract), 5.5% in year
3 three, and 5.5% in year four. The average salary increase
4 over the four year period of the two contracts would be 4.9%,
5 which is higher than the cost of living inflation index of
6 approximately 3%.

- 7 • Health Insurance: The teachers' employee contribution for
8 the Fallon Plan will be increased from 10% (current) to 25%
9 in year two (first year of the second contract). This would
10 bring the teachers to the same level as all other town
11 employees. In return for the increased cost of health
12 insurance, mitigation funds of \$1,800 (family plan) or \$600
13 (single plan) will be paid to all Fallon Plan members for each
14 of the three years of the second contract in order to help
15 offset the increased cost of health insurance.

16
17 This proposal was rejected by the WTA negotiating team at
18 the April 8 mediation session. After six hours of mediation where
19 no progress was made, both sides agreed that we are at an
20 impasse. Therefore, the School Committee has decided to request
21 a non-binding fact finding process administered by the
22 Massachusetts Board of Conciliation and Arbitration. This process
23 may ultimately resolve the impasse. The timeline for the fact
24 finding process will realistically take at least 60 to 120 days.
25 Therefore, we will not have a settlement in time for the May Town
26 Meeting. Because we do not yet have a settlement, the budget
27 number for the schools that will be presented at May Town Meeting
28 will not include any funds for proposed teacher pay raises except
29 for the step and lane increases, which we are legally obligated to
30 pay with or without a settlement.

31
32 Clearly, the town can no longer afford the offer that the
33 teachers declined in October, and the School Committee will not
34 even contemplate the most recent unreasonable proposals made
35 by the new WTA negotiating team. The Westborough School
36 Committee deeply appreciates the excellent work of Westborough's
37 teachers. It has demonstrated this support by creating favorable
38 work conditions, including low class sizes, that are among the best
39 in central Massachusetts. It has also demonstrated this support by
40 its most recent fair and competitive contract proposal. Over the
41 years, the residents and taxpayers of Westborough have provided
42 generous and consistent support for the Westborough schools and
43 our teachers. However, the Westborough School Committee does
44 not support a Proposition 2 ½ override as it recognizes the need to
45 keep Westborough's School affordable to all residents. Therefore,

1 it will continue to seek a fair and affordable settlement with the
2 WTA.

3
4 Westborough School Committee.

5
6 The Association's Responses
7

8 On or about April 18, 2008, the Association released two documents
9 intended to respond to the School Committee's press release. The first
10 document was titled an "Open Letter to Westborough Residents," and appeared
11 as a paid advertisement in the local newspaper. This document was reviewed
12 and approved by the Association's Executive Board. The second document was
13 titled "For Immediate Release: Westborough Teachers Respond." This
14 document was created by a group of teachers serving on the Association's "crisis
15 team," and was not reviewed or approved by the Association's Executive Board
16 prior to its release.

17 Superintendent Towle's Conversation with Association President Ross

18 On or about April 18, 2008, Superintendent Towle received a copy of the
19 Association's crisis team document when it was emailed to her by a local
20 newspaper reporter seeking a comment from her in response to the Association's

1 claims. Superintendent Towle was upset about not only some of the statements⁶
2 in the document, but also the fact that she received the document from a reporter
3 instead of the Association. Superintendent Towle felt that the document
4 defamed her, was a distortion of the facts and was an inaccurate portrayal of her
5 relationship with the Westborough teachers. Superintendent Towle also said it
6 was disconcerting that she didn't know who made the statements in question. In
7 response to receiving and reviewing the document, Superintendent Towle left a
8 message for Ross to call her immediately. Ross returned the call just after 3:00
9 P.M., after asking a school secretary to watch her young child while she returned
10 the Superintendent's call.

11 During the conversation a very upset and very concerned Superintendent
12 Towle told Ross that she was upset about the press release, and had contacted

⁶ The Association's crisis team document contained the following references to Superintendent Towle:

1. Distrust

The press release implies that the teachers voted down the contract offer in October because of salary. This is simply not true. It was voted down primarily because of an overwhelming distrust the teachers have with regards to the present superintendent and her ability to twist the language of the contract so that its original intent could be misconstrued. This distrust has been steadily growing for 2 years, and it continues to grow exponentially.

These are the reasons that the contract has not been settled:

- The Westborough School Committee has not negotiated fairly.
- There is an overwhelming distrust in Dr. Towle, Superintendent of Schools, due to her distortion of the facts with regard to contract negotiations and her blatant lack of respect for the teachers in her charge.
- It has been the administration, not the WTA, who has exercised shameful delay tactics throughout the negotiation process. ...

The Westborough Teachers Association

1 all the members of the School Committee who were fully supporting her. She
2 told Ross that she felt that the press release was a defamation of character by
3 the Association and that Ross, as Union President, was responsible for the
4 publication of statements made in the Association's name.⁷ Superintendent
5 Towle told Ross that she had spoken to legal counsel and suggested that she
6 should do the same. Superintendent Towle pressured Ross to have the press
7 release withdrawn, and also demanded to know who wrote the press release.
8 When Ross said that she didn't know who had written the release,
9 Superintendent Towle stated her belief as to whom she believed had written the
10 release, and commented that these individuals were "trying to get rid of me."

11 School Committee Member Harris' Emails

12 On or about April 30, 2008, the School Committee held a regularly
13 scheduled meeting. Ross arranged with Jane to speak on behalf of the
14 Association. More than one hundred of the Association's members attended the
15 meeting to support Ross. Due to room size limitations, the teachers were
16 required to stand in all available space within the room including directly behind
17 the school committee members. The meeting began with a tribute to Jane, the
18 outgoing chair of the School Committee. Pelletier, a member of the Association's
19 crisis team, was standing directly behind School Committee member Karen
20 Henderson (Henderson) during this tribute. At one point during the tribute a

⁷ Superintendent Towle testified that she did not tell Ross that she was holding her personally responsible for the press release. Superintendent Towle also testified that it was an upsetting and difficult day and that she didn't recall all that she said during her conversation with Ross. For this reason I am crediting the testimony of Ross regarding the statement by Superintendent Towle about holding her responsible for the press release.

1 frustrated Pelletier mumbled the phrase "blah, blah, blah." No disruption to the
2 meeting was caused and only one person, Henderson, heard Pelletier's
3 mumblings. After Ross made her presentation, as the teachers were leaving the
4 room, Henderson stopped Pelletier and asked for her name, which Pelletier gave
5 to her.

6 On or about May 1, 2008, Harris, a member of the School Committee and
7 the School Committee's bargaining team, sent an e-mail to Pelletier concerning
8 Pelletier's conduct at the School Committee meeting. The e-mail stated:

9 Marsha,
10 I'm writing to express my displeasure with your behavior last evening at
11 the school committee meeting. During my comments I could hear your
12 disruptive comments being made. I'm concerned that you would allow
13 that same type of childish behavior in you're (sic) classroom. I'm very
14 disappointed given that I've been an advocate over the years for our kids,
15 teachers and schools. Perhaps you should think twice before you make
16 these type (sic) of comments in the future.

17
18 Craig Harris
19 School Committee

20 The e-mail was also sent to all the members of the School Committee,
21 Superintendent Towle, Assistant Superintendent O'Connor, Principal Smith,
22 Assistant Principals Foley and Callaghan, Association President Ross, and
23 members of the Association's bargaining team.

24 On or about May 1, 2008, Harris also sent an e-mail to Ross. The e-mail
25 stated:

26 Bonnie,
27 I'm writing to express my dismay of the behavior of Marsha Pelletier
28 during last night's meeting. During my comments she was heard saying
29 blah, blah, blah. I'm sure she wouldn't allow that type of behavior in her

1 classroom. I'm puzzled as to why you would allow such a renegade to
2 tarnish your organization.

3 Craig Harris

4 The e-mail was also sent to Superintendent Towle, Assistant Superintendent
5 O'Connor, and School Committee members Henderson and Jane.

6 OPINION

7 A public employer violates Section 10(a)(1) of the Law when it engages in
8 conduct that tends to interfere with, restrain or coerce employees in the exercise
9 of their rights under Section 2 of the Law.⁸ Quincy School Committee, 27 MLC
10 at 91; Town of Winchester, 19 MLC 1591, 1595 (1992); Groton-Dunstable
11 Regional School Committee, 15 MLC 1551, 1555 (1989). The focus of a Section
12 10(a)(1) analysis is the effect of the employer's conduct on reasonable
13 employees' exercise of their Section 2 rights. Town of Winchester, 19 MLC at
14 1596. The Board does not analyze either the motivation behind the conduct,
15 Town of Chelmsford, 8 MLC 1913, 1916 (1982), aff'd sub nom., 15 Mass. App.
16 Ct. 1107 (1983), or whether the coercion succeeded or failed. Groton-Dunstable
17 Regional School Committee, 15 MLC at 1555-1556. The Board's inquiry focuses
18 on the objective impact that the employer's conduct would have on a reasonable

⁸ Section 2 of the Law provides:

Employees shall have the right of self-organization and the right to form, join, or assist any employee organization for the purpose of bargaining collectively through representatives of their own choosing on questions of wages, hours, and other terms and conditions of employment, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint or coercion. An employee shall have the right to refrain from any or all such activities, except to the extent of making such payment of service fees to an exclusive representative as provided in Section 12.

1 employee under the circumstances. Quincy School Committee, 27 MLC at 91.
2 The subjective impact of the employer's conduct is not determinative. City of
3 Fitchburg, 22 MLC 1286, 1292 (1995). Even without a direct threat of adverse
4 consequences, the Board has found a violation when an employer makes
5 disparaging remarks about an employee's exercise of protected activities. Athol-
6 Royalston Regional School Committee, 26 MLC 55, 56 (1999).

7 April 10, 2008 Press Release

8 The Association argues that School Committee violated Section 10(a)(1)
9 when Jane sent out a press release that interfered with the rights of Association
10 officers and members by publicly disseminating unfounded criticism of the
11 Association's leadership and its bargaining approach, including calling the
12 Association's proposals made by the second bargaining team "unreasonable."
13 The prohibition against making statements that would tend to interfere with
14 employees in the exercise of their rights under the Law does not impose a broad
15 "gag rule" that prohibits employers from publicly expressing their opinion about
16 matters of public concern. Town of Bolton, 32 MLC 20, 25 (2005); City of Lowell,
17 29 MLC 30, 33 (2002); Town of Winchester, 19 MLC 1590, 1597 (1992). The
18 ultimate test remains whether the employer's statements would chill a reasonable
19 employee's right to engage in activity protected by Section 2 of the Law. Town of
20 Bolton, 32 MLC at 25; Commonwealth of Massachusetts, 28 MLC 250, 253
21 (2002). Although, Jane is critical of the Association's new bargaining position,
22 the Press Release does not demean or ridicule the Union or employees or
23 contain expressions of anger. Town of Winchester, 19 MLC at 1597. Moreover,

1 it does not effectuate the purposes of the Law to subject each phrase in the
2 Press Release to a litmus test of permissibility, rather than considering the
3 context, and tone of the Press Release as a whole. Id. At n.9. Upon review of
4 the context, and tone of the Press Release as a whole, I conclude that a
5 reasonable employee's rights to engage in protected activity were not chilled.

6 Superintendent Towle's Conversation with Association President Ross

7 I now turn to the comments made by Superintendent Towle during her
8 phone conversation with Ross. Superintendent Towle initiated the call to Ross
9 after receiving a call from a local reporter seeking comment in response to a
10 document released by the Association's crisis team that was in part critical of her
11 and her job performance. Ross testified that she was upset and very concerned
12 about not only statements in the document, but also by the fact that she had
13 received the document from a reporter and not from the Association directly.
14 Upon returning the Superintendent's call, Ross was informed by Superintendent
15 Towle that she was unhappy about the release of the document and had already
16 called the School Committee members who were supporting her.
17 Superintendent Towle told Ross that she felt that the document contained
18 slander and was a defamation of character, and that she was holding Ross
19 personally responsible for the document as Association President.
20 Superintendent Towle also told Ross that she had been in contact with legal
21 counsel and suggested that she should also contact a lawyer. Additionally,
22 Superintendent Towle inquired as to whom the authors of the document were,

1 and after discussing whom she felt the authors were announced that she
2 believed that they were "trying to get rid of me."

3 There is no doubt that the authors of the Association's crisis team
4 document were engaged in concerted protected activity when they released the
5 document to the public in response to the Press Release issued by Jane.
6 Additionally, I find nothing in that document that was egregious or offensive
7 enough to remove it from Section 2 protection. See City of Haverhill, 8 MLC
8 1690, 1694 (1981). The subsequent actions of Superintendent Towle, however,
9 during her conversation with Ross are clearly the type of employer conduct that
10 is prohibited by Section 10(a)(1) of the Law.

11 The School Committee argues that the statements made by
12 Superintendent Towle were isolated and had de minimis impact on Ross, and
13 that the statements cannot reasonably be construed as restraining, coercing, or
14 disciplining Ross in the exercise of her rights as Union President. This argument
15 is unpersuasive as it misstates the standard under which Section 10(a)(1)
16 violations are judged. The focus of a Section 10(a)(1) analysis is the effect of the
17 employer's conduct on reasonable employees' exercise of their Section 2 rights.
18 Town of Winchester, 19 MLC at 1596. The brief nature of the conversation does
19 not make it any less threatening or excuse its interference with the employees'
20 rights under Section 2 of the Law. See, Bristol County House of Correction, 6
21 MLC 1582, 1584 (1979) (employer's threats regarding a grievance were
22 inherently coercive and interfered with employees' protected activities, even
23 though employees continued to file grievances after the threat). A threat of

1 reprisal for union activity need not be explicit if the language used can be
2 reasonably construed as threatening. Southern Worcester County Regional
3 Vocational School District v. Labor Relations Commission, 377 Mass. 897, 905
4 (1979). In this case, Superintendent Towle's comments to Ross can be
5 construed as threatening to a reasonable employee and have a chilling effect on
6 employees exercising their statutory rights..

7 Harris E-mails

8 I now turn to the e-mails sent by Harris after the April 30, 2008 School
9 Committee meeting. Again, there is no doubt that that Ross, Pelletier, and the
10 remaining Association members who attended the School Committee meeting
11 were engaged in concerted protected activity. Additionally, I find nothing in the
12 record before me that was egregious or offensive enough to remove it from
13 Section 2 protection. Pelletier's mumbled exasperations during the meeting did
14 not disrupt the meeting and were only overheard by one person, Henderson, who
15 was sitting directly in front of her. Harris' email response the next day, however,
16 is conduct prohibited by Section 10(a)(1) of the Law. Harris' response was not
17 an immediate response made concurrently with a disturbing incident, rather it
18 was a calculated, delayed response sent many hours after the incident occurred
19 and contains the type of language that would chill a reasonable person in the
20 exercise of their protected rights. See, Southern Worcester County Regional
21 Vocational School, 377 Mass. 897 (1979). The expression of anger, criticism or
22 ridicule directed to an employee's protected activity constitutes interference,
23 restraint, and/or coercion of employees. Salem School Committee, 35 MLC 199,

1 217 (2009); Groton-Dunstable Regional School Committee, 15 MLC 1551, 1557
2 (1989). Labeling Pelletier a "renegade" and calling her behavior "childish" clearly
3 reflect Harris' anger and criticism and constitute a violation of the Law. Finally, it
4 is of no consequence that Harris' emails failed to contain a specific threat or that
5 he, personally, lacked the ability to reprimand Pelletier. Even without a direct
6 threat of adverse consequences, the Board has found a violation when an
7 employer makes disparaging remarks about an employee's exercise of protected
8 activities. Athol-Royalston Regional School Committee, 26 MLC 55, 56 (1999).

9 CONCLUSION

10 Based on the record and for the reasons stated above, I conclude that the
11 School Committee violated Section 10(a)(1) by engaging in conduct that would
12 tend to interfere with, restrain and coerce employees in the exercise of rights
13 guaranteed under Section 2 of the law, as described in my analysis of the April
14 18, 2008 phone conversation between Superintendent Towle and Association
15 President Ross, and as described in my analysis of the two May 1, 2008 emails
16 sent by School Committee member Harris. For the reasons stated above, I find
17 that the School Committee's conduct as described in my analysis of the April 10,
18 2008 Press Release, did not reasonably tend to interfere with employees'
19 Section 2 rights in the manner alleged.

20 ORDER

21 Based upon the foregoing, IT IS HEREBY ORDERED that the School Committee
22 shall:

23 1. Cease and desist from:
24

- 1 a) Making statements that would tend to interfere with, restrain,
2 or coerce employees in the exercise of their rights
3 guaranteed under Section 2 of the Law.
4
5 b) In any like or related manner, interfering with, restraining or
6 coercing employees in the exercise of their rights
7 guaranteed under Section 2 of the Law.
8

9 2. Take the following affirmative action that will effectuate the purposes of the
10 Law:

- 11 a) Refrain from making statements that would tend to interfere
12 with, restrain, and coerce employees in the exercise of their
13 rights guaranteed under Section 2 of the Law.
14
15 b) Post in all conspicuous places where members of the
16 Association's bargaining unit usually congregate, or where
17 notices are usually posted, including electronically, if the
18 School Committee customarily communicates with these unit
19 members via intranet or email, and display for a period of
20 thirty (30) days thereafter, signed copies of the attached
21 Notice to Employees.
22
23 c) Notify the Department in writing of the steps taken to comply
24 with this Decision within ten (10) days of receipt of this
25 decision.
26

27 SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS


TIMOTHY HATFIELD, ESQ., HEARING OFFICER

APPEAL RIGHTS

The parties are advised of their right, pursuant to M.G.L. c. 150E, Section 11, 456 CMR 13.02(1)(j), and 456 CMR 13.15, to request a review of this decision by the Commonwealth Employment Relations Board by filing a Notice of Appeal with the Executive Secretary of the Department of Labor Relations not later than ten days after receiving notice of this decision. If a Notice of Appeal is not filed within the ten days, this decision shall become final and binding on the parties.



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

NOTICE TO EMPLOYEES

POSTED BY ORDER OF A HEARING OFFICER OF
THE MASSACHUSETTS DEPARTMENT OF LABOR RELATIONS

AN AGENCY OF THE COMMONWEALTH OF MASSACHUSETTS

A Hearing Officer of the Massachusetts Department of Labor Relations has held that the Westborough School Committee (School Committee) violated Section 10(a)(1) of Massachusetts General Laws, Chapter 150E (the Law) by interfering with, restraining and coercing employees in the exercise of their rights guaranteed by Section 2 of the Law when:

1. Its agent, Superintendent Towle, in an April 18, 2008 phone conversation made threatening comments directed towards employees' in the exercise of their concerted protected activities to Westborough Teacher's Association President Ross.
2. It's agent, School Committee member, Harris, in two May 1, 2008 emails, made disparaging and threatening comments directed towards employees' exercise of their of their concerted protected activities.

The School Committee posts this Notice to Employees in compliance with the Hearing Officer's order.

Section 2 of the Law gives public employees the following rights:

To organize,

To form, join, or assist any union,

To bargain collectively through representatives of their own choice,

To act together for other mutual aid or protection,

To choose not to engage in any of these protected concerted activities.

WE WILL NOT make statements that would tend to interfere with, restrain, or coerce employees in the exercise of their rights guaranteed under Section 2 of the Law.

WE WILL NOT in any like or similar manner, interfere with, restrain, or coerce employees in the exercise of their rights guaranteed under Section 2 of the Law.

WE WILL refrain from making statements that would tend to interfere with, restrain and coerce employees in the exercise of their rights guaranteed under Section 2 of the Law.

[signed]
Westborough School Committee

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED OR REMOVED

This notice must remain posted for 30 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Department of Labor Relations, 19 Staniford Street, 1st Floor, Boston, MA 02114 (Telephone: (617) 626-7132).