

STRIKE FORCE MANUAL FOR SUPERINTENDENTS

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STRIKE TASK FORCE REPORT

This manual is the third edition of one first published in 1978, and revised in 1988.

While the Massachusetts Association of School Superintendents urges every possible action to avoid a strike, we must be prepared to deal with a strike if it unfortunately does occur.

The role of the Superintendent in a strike situation is difficult, tension filled and extremely demanding. The purpose of this manual is to make suggestions for the best possible management of this difficult situation and to ensure the Superintendent's ability to continue effective instructional leadership when the strike ends.

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TABLE OF CONTENTS

INTRODUCTION

I.	LEGAL ISSUES	p.
II.	ADMINISTRATIVE OPERATION	p.
III	PUBLIC RELATIONS COMMUNICATIONS	P.
IV.	PERSONNEL RELATIONSHIPS	p.
	CONCLUSION	p.
	APPENDIX	

INTRODUCTION

This manual was assembled for the purpose of assisting Superintendents of Schools when an illegal work stoppage by their instructional or other staff is imminent or ongoing. The School Committee will have many options in developing policies prior to, during, and after a strike. The Superintendent, as the system manager and chief administrator for the School Committee, must be prepared to implement those policies.

The more thoroughly a Superintendent is prepared to deal with a strike situation, the better his/her chances are of lessening the trauma and intentional chaos which such situations inevitably create in the educational process, as well as in the lives of all the people of a community.

In preparing this manual, four topics are considered. These areas include Legal Issues, Administrative/Operation, Public Relations/Communications, and Personnel Relationships in a strike.

The Massachusetts Association of School Superintendents is available for assistance to local superintendents during times of labor strife. Please contact our office as soon as you determine that a strike is imminent. We will arrange a meeting for the superintendent with other superintendents and individuals who have experienced a strike and we will be available for help before, during and after the strike.

I. LEGAL ISSUES

A. Before the Strike

Before opening negotiations, Superintendents should acquire information through formal and informal channels relative to the issues deemed important by teachers and their unions. Management should identify all persons participating in the negotiations process on behalf of teachers and determine the relationship to local or statewide employee organizations which a negotiator may have. In the event an alleged strike does occur, such evidence of participation by parent organizations may be helpful in attributing some responsibility for the illegal action to the parent union.

The integrity of the collective bargaining process must be maintained from beginning to end. Negotiations should be conducted by authorized personnel only; they are the individuals in whom the respective parties have vested authority to conduct negotiations and are the parties on whom the responsibility rests for the success or failure of the negotiations. The credibility of the Committee bargaining team must not be compromised under any circumstances, as the perception created will be that a "better deal" may be made elsewhere. Public employers risk unfair labor practices and the creation of unjustifiably heightened employee expectations when the traditional collective bargaining and negotiations process is undermined by individuals, committee members, or proxies lacking official authorization to engage in discussions. Be aware that the unions will actively cultivate relationships with individual committee members or influence politicians as part of a divide and conquer approach.

B. Outline of the Law

Massachusetts General Laws Chapter 150E, Section 9(a), prohibits strikes by public employees.

The law states:

No public employee or employee organization shall engage in a strike, and no public employee or public employee organization shall induce, encourage or condone any strike, work stoppage, slow down or withholding of services by such public employees.

Section 15 of c. 150E was amended in 1983 such that the prohibition against strikes does not accompanied by automatic economic sanctions. Employees will have strike days re-scheduled and must be paid for those days unless DESE authorizes a shorter school year. Section 15 of Chapter 150E states:

No compensation shall be paid by an employer to an employee with respect to any day or part thereof when such employee is engaged in a strike against said employer. No such employee shall be eligible for such compensation at a later date in the event that such employee is required to work additional days to fulfill the provision of a collective bargaining agreement except in the instance when a regional or local school district does not receive authorization for a shortened school year from the Department of Education, in which case such employee shall be eligible for compensation at his regular rate for such additional days' work.

Any employee who engages in a strike shall be subject to discipline and discharge proceedings by the employer.

Chapter 150E, Section 15.

DESE is not in the habit of granting waivers in strike situations, so the “exception” in the last line of the statute is of little utility.

Section 15 does not bar the employer from instituting disciplinary measures it deems appropriate, including letters of reprimand and suspension. Reference to your collective bargaining agreement, terms of which continue in effect pending execution of a new agreement, may reveal some of your disciplinary options. Employers should develop their position on "self-help." sanctions well before a strike occurs to eliminate any confusion as to disciplinary measures and procedures. If the employer is considering discipline, the SJC has indicated that employers may impose discipline before seeking a back to work, or other order from DLR. See, Lenox, 393 Mass. 276, 284-286 (1984), and Utility Workers, Local 466 v. Labor Relations Commission, 389 Mass. 500, 503-504 (1983).

- a. Process if Strike is Active or Imminent

If an illegal withholding of services is alleged to have occurred or is alleged to be imminent, an employer may petition the Division of Labor Relations for an investigation to determine whether illegal activity has or is about to occur. Facts may support a finding of an imminent work stoppage before an actual strike vote. See, e.g. CERB v. BTU, Local 66, 74 Mass. App. Ct. 506 1998. More recently, see Dedham Educators Association and Dedham School Committee, S1-19-7654. The Commission can infer the existence of a strike based on excessive absenteeism and the participation of union leaders in picketing. See, generally, Tewksbury, 21 MLC 138, Leominster, 21 Mass. App. Ct. 245 (1985) (sick-out). Revere School Committee, 14 M.L.C. 1177 (1987) and Norton School Committee, 14 M.L.C. 1201 (1987). In the event the Administrative order is not heeded the Commission has the authority to expedite review of the circumstances and issue cease and desist orders which may be enforced through the Courts by way of injunctions and contempt hearings.

b. Should You Use Self-Help or Petition the DLR?

A few cases have clarified employers' options when faced with illegal job actions. As noted, Management need not petition the Division of Labor Relations Commission for a strike investigation prior to instituting disciplinary measures. See Lenox Education Association v. The Labor Relations Commission, 393 Mass. 276 (1984) and Utility Workers, Local 466 v. Labor Relations Commission, 389 Mass. 500 (1983). The employer's right to utilize self-help is recognized in light of the threat to continued provision of essential public services caused by public employee strikes. The Courts have responded to the broad public policy statement barring strikes by supporting employers at least with respect to certain essential public services such as education. See Boston Housing Authority v. Labor Relations Commission, 398 Mass. 715 (1986), and cases cited above. In the event an employer elects self-help, the School Committee must avoid committing a prohibited practice under Section 10(a) of the law. The better practice suggests that, if an employer wishes to invoke self-help, such action should be accompanied *by* a petition to the Division of Labor Relations Commission thereby ensuring that subsequent administrative and judicial rulings control the conduct of the parties.

Back-to-work orders issued by DLR and injunctions sought to enforce DLR orders usually precede a hearing on the imposition of fines at a contempt hearing. Superintendents and School Committees should be prepared to tabulate the financial cost of a strike for the purposes of a contempt proceeding. Civil contempt may lie where individual employees, local and state affiliates and their representatives have clearly and undoubtedly disobeyed an unequivocal judicial command. See Allen v. The School Committee of Boston, 400 Mass. 193 (1987). (Contempt finding against employer for failing to present description of service to special education students during bus driver strike.)

Courts consider several factors in determining the size of a fine following contempt proceedings. School Superintendents ought to be prepared to offer testimony relevant to compensatory fines, i.e. fines tending to compensate the School Committee for actual costs associated with the illegal action, and Courts may wish to consider evidence with respect to coercive fines to ensure future compliance with judicial orders. Under the latter circumstance Courts consider the nature and scope of the potential harm resulting from non-compliance, the likely effect of proposed sanctions, a defendant's financial resources and the weight imposed on a defendant by such sanctions. See Labor Relations Commission v. Fall River Educators Association, 382 Mass. 465 (1981).

C. Pre-negotiation Procedures

As negotiations proceed the Superintendent should carefully monitor the conduct of the union. All public pronouncements, including web based social media, press releases and statements from union leaders should be retained in a file for future reference if necessary. The occurrence of informational picketing also should be documented with photographs and names and addresses of all participants. Special attention should be paid to determine whether individuals from parent organizations are present and assisting local unions. You may attempt to identify faces by reference to the MTA website or "MTA Today" backcopies which frequently feature stories and pictures of field representatives. Care should be taken however, not to conduct "surveillance" which may be grounds for an unfair practice charge. The law distinguishes between conduct which cannot help but be observed and those observations which are clandestine in nature. Attempt to obtain the identities of all parties staffing strike headquarters.

Police and Building Administrators should be reminded that teachers are entitled by law to picket and that no strike can occur until such time as the normal hour of schools opening for passes. The observance of union officials picketing during the school may mean there is a strike. See, e.g. Hanover, 15 MLC 1182. The Building Principals should be prepared to testify or file a affidavit swearing that a school was officially opened and that specific teachers refused to report to work after having been told to do so.

If it appears negotiations will break down, the Superintendent should have a previously developed communications and operational plan ready to implement in the event a strike vote is scheduled. School Building Administrators should have up-to-date staff lists with current addresses for all staff members. Efforts should be made to secure at least one telephone line, and retain email/texting capability at all times, to ensure continued communication from each school building to the central office.,

Prior communication with your police department is essential. While ranks and file police officers may or may not necessarily empathize with teachers, a better practice would be to request police details composed primarily of officers with crowd control experience or superior officers.

Building Principals should have available the attendance records of all staff members in each building, with sick leave records, for subsequent inspection by the Superintendent, counsel for the School Committee, and the Division of Labor Relations, if necessary, to assist in documenting an unusual pattern of absences. See, e.g. School Committee of Leominster v. Labor Relations

Commission, 21 Mass. App. Ct. 245 (1985) (Sick-out). Arrangements should be made for a professional photographer to photograph striking teachers to allow for identification of individuals in photographs who refused to report to work once school opened.

c. Should you Hire Temporary Replacements or Schedule PD/In-service Days?

Historically, some school districts planned for the widespread use of substitute teachers in the event of strikes. While this management reaction was more common (but not successfully implemented) in the 1970's and 1980's, and many administrators and lawyers want to keep schools open, the more modern view is that temporary replacements are not a viable option. If you think you want to try to remain open for students, each building administrator and the central office should prepare a list of available and interested substitutes in the event there is little or no notice of a strike vote. Some thought should be given to operational options regarding after school programs, school sponsored athletics, day care and related activities that help families with two working parents.

In the event a determination has been made to forego the regular educational program during a strike, the Superintendent should have obtained a vote of the School Committee (in an executive session called for the purpose of discussing collective bargaining) such that the Superintendent may, in his or her discretion, utilize PD, in-service, or curriculum days at which staff, but not pupils, are to be present. The latter device may help to avoid the presence of large numbers of unsupervised students in school buildings and on school grounds if the message can be delivered quickly enough. In the event a strike is imminent, an individual from the School Department should be prepared to communicate with families with a web based or all-cell message home or deliver a statement to radio/TV personnel to be broadcast regarding student attendance.

Whichever option is selected by a School Committee, pains should be taken to keep school open (not necessarily requiring the presence of students) at least one day. While DLR may order prospective relief under Chapter 150E, management's case will be strengthened by relating facts which unequivocally indicate an

illegal withholding of services occurred. By keeping school open, the employer also avoids having created a lockout which, for the purposes of this discussion, may simply be characterized as an employer's refusal to allow employees to work in order to coerce employees' acceptance of negotiating terms more favorable to the employer.

D. During the Strike

Project calm and stay in touch with your lawyer. Various appearances at DLR , the local Superior Court, and possibly the Appeals Court will be necessary to obtain the administrative and judicial relief necessary to bring the strike to an end.

Building Principals should have a clear understanding of short term tactics adopted by the Union and School Committee and, since they are the individuals most likely to have direct evidence of individual employee participation in the strike Principals should be prepared to testify at administrative and judicial proceedings. Contents of affidavits should be reviewed so administrators are aware of what kind of information will be requested. Reluctant witnesses and witnesses who will have to work in close proximity with strikers should be subpoenaed to appear before all administrative and judicial bodies to ensure their provision of testimony.

Key School Committee members and members of the School Committee Bargaining Team should be available at all times for further negotiations and for discussion of proposed terms. At this time, the Superintendent, the School Committee and the School Committee's attorney should again discuss whether and what sanctions will be sought after settlement. You should have a firm idea of the amount of financial reimbursements, if any, that are to be part of your memorandum of understanding which resolves the strike.

The issue of building security poses problems during a strike. Fire codes and safety standards should be strictly maintained regarding entrances and exits. If students are present on the building site they, as well as teachers, should be advised as to which entry or exit is to be used in all cases. See the discussion below about conducting security with custodians/facilities staff.

It is at this point that previous efforts to identify and accurately locate participating teachers and union officials will become important. Management may have the practical problem of trying to establish the role of the parent or statewide union in the local labor dispute at the time the DLR is first involved. The DLR has been historically reluctant to join the parent organization as a "defendant," suspending common sense and ignoring occasionally demonstrable facts. Service of summons and contempt citations must be quickly and accurately effected. Proper addresses are essential to obtaining service and giving opposing parties proper notice of all proceedings and orders.

E. Settlement of the Strike

In addition to finalizing contract terms, the parties must have a written agreement or memorandum of understanding stating the means by which the strike is to be concluded. The agreement should indicate that signatories are authorized to enter into an agreement and bind their respective parties. The agreement should state the date and time on which teachers or other employees will report back to work and the manner in which absences, tardiness, or incidents of insubordination will be addressed.

The School Committee should not agree to waive fines or compensation for expenses including, but not limited to: costs of police details, substitute teachers, transportation, counsel fees, extra administrative fees, loss of food/cafeteria supplies, and expenses associated with staffing. The expected per diem per pupil cost may be computed to arrive at a "cost" per day of the strike. Wages of other employees who reported to work, but will be required to work additional days as a result of the strike, should be included in the "cost" estimate. Additional costs may be incurred through court filings, constable services fees (many teachers will be served individually and in their official capacities as officers or agents of a local or parent organization), photographers' fees, stenographic fees, and any other costs directly attributable to the strike, such as additional transportation, safety/safety/security costs.

The School Committee is not required by law to bargain away its right to impose discipline on members participating in the illegal activity. To our knowledge, however, every strike

settlement agreement since the 1970's has included an amnesty clause. So, there is little likelihood of successfully imposing discipline for being on strike.

F. The Aftermath

Many Superintendents who have experienced a strike refer to the increased camaraderie among faculty members after the strike has been resolved. While it may be next to impossible for the Superintendent to counterbalance that sentiment, it is important to get back to normal as quickly as possible. As much as the School Committee, the Superintendent, and the Administrators are watching the manner in which teachers behave after a strike, teachers are watching you looking for evidence of grudge-holding and anti-union animus. Superintendents should carefully avoid creating the impression that certain individuals have been disciplined or otherwise singled out for treatment solely as a result of their status as strikers or union leaders. The School Committee and Superintendent cannot discriminate against any individual as a result of that individual's activities or function as a union officer. Regarding the issue of anti-union animus, see generally, Southern Worcester County Regional Vocational School District v. The Labor Relations Commission, 377 Mass. 897 (1979).

In the Appendix is a sample affidavit for school Administrators, particularly Building Principals, which may be helpful in establishing the number of teachers absent on a given day in the event a strike is suspected. The affidavit may be modified to fit particular circumstances, and should not be considered definitive or sanctioned as to its form or content by the Division of Labor Relations Commission or any of the Courts of the Commonwealth.

II. ADMINISTRATIVE/OPERATION

General Remarks:

Before, during, and after a strike the Superintendent of Schools must see that the schools in his/her district are secure as the safety of children and non-striking staff should be the primary concern in a building during the strike itself. Also, the Superintendent will inevitably be drawn into the negotiation process in some capacity. Successfully dealing with the effects of a strike depends, in large part, on careful planning beforehand.

The administrative operations involved in a strike situation require attention to detail. The following check list outlines the various areas of administrative responsibilities and duties which must be considered and performed by the various members of the administrative "team".

A - School Committee Responsibilities: Well Before the Strike:

1. Define clearly the lines of administrative authority; meet with administrators in advance to discuss activity in their building. Normalize labor activity as an administrative matter. This idea is to make administrators comfortable with the decision making process and their role in the matter.
2. Maintain list of telephone numbers and emails of all Administrators.
3. Open up lines of communication with other town depts., such as police , fire., etc. as to consequences of a strike.
4. Insure contracts with bus company, milk vendors, etc. – give to the District the option to continue or cease service during work stoppage.
5. Begin documenting strike activities of the union.
6. Draw up defense of the Committee's position. Publicize the Committee’s position on issues.
7. Determine Committee position on timing of filing Strike Investigation Petition with DLR. – Should the District file immediately, or wait a few days?

When Strike is Imminent:

1. Determine the operational status of the schools for students and employees.
2. Maintain standby clerical and secretarial assistance.
3. Consult school attorney.
4. Stand united.
5. Retain or apply for appointment of a mediator from DLR/BCA.
6. Inform teachers of the illegality of a strike.
7. Maintain extensive interaction with Superintendent.
8. Be available on short notice.
9. Identify position of middle management i.e., directors and principals in event of a strike.

During a Strike:

1. Establish strike headquarters and a daily meeting time for administrative team. Use video conferencing in lieu of physical meeting. Review emergency meeting procedures/OML issues.
2. Stand united - have one spokesperson and review public communication.
3. Maintain rights of non-striking employees.
4. Keep careful daily notes in each building and system wide of all developments pertaining to strike.
5. Consider/monitor DLR or court intervention .
6. Keep members informed of court or legal information.
7. Request the Division of Labor Relations (DLR) to go to court for an injunction if the cease and desist order is ignored.

B - Superintendent/Central Office Responsibilities - Administrative/Operation

The responsibility for administering a school system rests in the Superintendent's office. In a strike situation, he/she is accountable for planning, organizing, and implementing the policies of the School Committee. He/she must delegate the emergency duties which his/her staff may assume in a strike situation. Some of the items in this section concern the School Committee, as well as the General Office staff.

Well Before the Strike:

1. Build flexible Curriculum or PD Days into the School Calendar.
2. Notify community of Student Dismissal Policy by - publicizing when and how students can be sent home during an emergency situation.

(Know where key is, neighbor's home as alternate, etc.)
3. Be aware of and access support systems – identify resources from M.A.S.S. and area administrators.
4. Research and study labor laws/educational precedents/educator School Committee.
5. Keep accurate, up-to-date list of teachers' addresses, telephone numbers and email addresses organized by school or town.
6. Develop an administrative organization/operation plan for strike situations. (Who is responsible for what? Central Office, Administrators, Principals, Department Heads – must be aware of and prepare to implement their roles – inform them of their involvement and responsibilities. Be aware of where their sympathies lie.)

Be sure to include Facilities Managers in Administrative meetings.

When Strike is Imminent: Administrative/Operation

12.

1. Determine with the School Committee the operational status of the schools, as it pertains to students and employees during any strike.
2. Make plans for the documentation of all expenses incurred. Plan a system of daily logs for expenses and activities.
3. Maintain close contact with School Department Attorney.
4. Maintain on-going interaction with the Chairperson and the entire School Committee. Be sure that you have up-to-date phone numbers and email addresses where Committee members can be reached during the day.
5. Contact M.A.S.S. to arrange for support, as well as information and discussions with other superintendents who have had experience in strike situations.
6. Determine the role of state teacher association involvement in the strike situation. It is illegal for state association to assist in preparation for or implementation of a strike.
7. Hire private investigator/professional photographer (preferably non-local) to take pictures and record data on each photograph; preserve electronic data footprint, if and when the strike occurs, so that identification may be possible at a later date.

During the Strike: First Day(s) Administrative/Operation

When sufficient warning of a strike is provided, when it is imminent, or commencing, the Superintendent should call a meeting to brief administrative staff on the events which have occurred and the current status of developments.

The Superintendent will notify the building principals to put their emergency plans (see section on responsibilities of principals) into operation immediately.

A number of things have to be done:

1. Communicate with the School Committee.
2. Notify the principals to implement their emergency plans.
3. Notify the Central Office staff. Organize on-going operation of schools - delegate administrative organization and responsibilities.

4. Alert the School Attorney, Police and Fire Departments.
5. Implement a previously developed plan for a public informative campaign.
6. Alert the Superintendent's designee. She/he will, in turn, alert the bus drivers, directing them to remain at the bus garage on a stand-by basis, following their early runs.
7. Consult with Attorney and School Committee Chairperson concerning a petition to DLR for an investigation (hearing) to determine existence of strike. (Cease and Desist order issued - mandate to teachers' leadership to stop striking or stop threatening to strike.)
8. Review communication with the Police and Fire Departments (Fire Department to be on alert for Fire Drills and/or Bomb Scares). They must be prepared to handle traffic, ensure deliveries, and supervise orderly picketing.
9. Designate someone capable to act as Director of Information. Some districts retain a media consultant or spokesperson for regular communication with the community. He/she must be prepared to serve as liaison between the public, news media, and the school district.
10. The Superintendent should alert the Director of Buildings and Grounds, who must determine the status of the custodial force. Also, he/she must plan for coverage of the buildings, the boiler rooms and the security of the buildings.
11. Seek assistance from M.A.S.S.
12. Have the Superintendent's designee prepare to assign Central Office clerical help to buildings, if the building clerical staff becomes involved.
13. Have the Central Office Administrator determine if cafeterias can be open and functioning for those students who may have no option but to come to school. Does an outside vendor provide food services? Are they unionized? (Will food service workers (outside or in-house cross the picket lines?)

14.

During the Strike: On-Going - Administrative/Operation

1. Schedule and hold daily meetings with administrative staff.
2. School Committee Chairperson/Spokesperson continues to point out that strike is illegal and that students and families are impacted.
3. Discuss with Attorney and School Committee Chairperson a push for an injunction if the cease and desist order is ignored.
4. Serve injunction - sheriff, constable, "special process server".
5. Keep publicizing fact that schools are open, if that is the case, - website, email/all call blasts, telegrams, telephone calls, ads.
6. Be aware of (state) union's "consultant" role.
7. Discuss with Attorney and School Committee Chairperson whether to file a petition for contempt, if the injunction is ignored. An affidavit by DLR is required for this.
8. Prepare administrative staff (especially Principals) for testimony at Contempt Proceedings.
9. Have staff attendance records (average number of sick days, attendance since the beginning of strike) at hand.
10. Maintain on-going interaction with attorneys and School Committee.
11. Sleep and eat whenever possible.

After the Strike: Administrative/Operation

1. Detail in "Memo of Agreement" how and when teachers will report back to work.
2. Healing programs to get people together again.
3. Notify non-striking employees to continue to report or return to work and develop a schedule for "make up" days.
4. Resist union tactics to try to have fines delayed, fines or cut by Chapter 70 reimbursement.
5. Issue a joint press release on contract agreement.

6. Document the: student and teacher attendance number and qualifications of substitutes
 Verification of program effectiveness
 Determination of educational loss (out-of-district consultant).
7. Determine expenses - fines, damages (need legal help on options) substitutes, personnel, vendors (vouchers), extra secretarial help, police details, legal fees and costs, food waste costs, transportation, etc., research attendance (teacher) records a few months after compared to before strike (or other strike districts) - could charge these absences to strike expenses.
8. Attempt to negotiate (union—school committee) settlement of expenses out of court (money into Town account or school account?).

C. Principal's Responsibilities - Administrative/Operation Before the Strike:

Neither regular nor substitute teachers should be polled prior to an actual strike as to whether or not they will strike or honor a picket line, unless so requested by the Superintendent. The Superintendent should provide statement to Principals for use with staff. In coordination with the Superintendent, a principal has every right to inform staff members and faculty about their respective responsibilities, and the possible penalties connected with not meeting these responsibilities, while at the same time avoiding any semblance of coercion or harassment. Be careful of being drawn into a substantive discussion of issues at the negotiation table. A casual comment or observation may be construed as an official management “position” on an issue. No freelancing permitted.

During a Strike:

In the rare case where no advance notice of a stoppage is given, those people not going about their regular duties should be directed to do so at once. If they refuse, be clear about the impingement on “work time” and try to get them to explain *why* they are not performing their appointed tasks.

The Principal must keep a log of the events as they occur in the building must be kept. This log must contain specific entries, listing names, dates, times, remarks, and events as they occur.

Every effort must be made to keep as accurate an attendance list of staff members as possible. The principal will be asked to sign affidavits for each day's attendance. These records become the basis for DLR and court action required of counsel and the Superintendent.

Avoid the press.

The responsibility of dealing with the press is the Director's of Information and the Superintendent's. Principals are part of the management team and can help ensure consistency of messages by deferring comments to the committee or central office. Members of the press should not be allowed in the buildings unless they present a pass from the Superintendent.

Picketing

Generally, picketing by employees is legal before and after work time. If the building is picketed, the School Committee should make a determination whether they want to allow picketers on school grounds or re-direct picketers to sidewalks adjacent to school property. Such information should be passed on to police and on to the Association leadership. (Police officials are responsible for traffic control and orderly picketing.) Principals should monitor access to the building, identify who is present in the building and why. Add this information to the daily log.

Building Security

Advise custodians to maintain normal building security rules. Keep all doors locked except for those where a designated person can control who comes in and out of the building. Maintain a log of access.

If there has been advance notice of a strike, the Principal needs to be at the building early. Make all contacts with the central office through the liaison officer assigned for that building. (See Central Office Responsibilities.)

If the clerical staff is involved in the stoppage, call the Superintendent designee, and a member of the central office clerical staff will be sent to the building.

The following is a checklist concerned with the safe and, as far as possible, smooth operation of the schools during the strike.

1. Utilize normal building security procedures; open buildings at a prescribed time and lock them at the end of the school day. Designate one door to be used by teachers or other employees. Have the message for staff prepared in advance for email distribution.
2. Secure desk and all other keys for the rooms until situation is under control. All keys should be turned into the office at the end of the school day.
3. Maintain a log and a recording, if possible, of all incidents that occur.
4. Be aware of fire drill and bomb threat procedures.
5. Although not anticipated, report all property damage and any acts of violence to central office.
6. Request Police Department to make periodic security checks during the day and night and report to central office, immediately.
7. Request police be present well before the beginning and end of school day as well as during lunch period. Also, keep the SRO in the loop by including officer in daily administrative meetings.
8. Place custodians on call.
9. Place any equipment that is left outdoors inside if possible during non-school hours.

SUPERVISOR OF BUILDINGS AND GROUNDS RESPONSIBILITIES

The head of maintenance or a Superintendent's designee must:

1. Take appropriate measures to ensure maximum security for all buildings and installations including twenty-four (24) hour video/in-person surveillance. Supervisory personnel may be assigned shifts. Keep track of overtime expenditures.
2. Change locks where appropriate and if necessary.
3. Secure the police to provide protection for all non-striking employees in such matters as crossing the picket lines.
4. Instruct building Principals on shutting down their buildings and systems, such as HVAC, electrical and computer.
5. Instruct building principals on maintaining operation of or how to shut down their buildings.

POLICE RESPONSIBILITIES/GENERAL REMARKS

1. Local police chief should be contacted by the Superintendent well before there is any indication that a strike may occur. Administrators will be instructed to note when violations occur and must be very specific about who was involved, in what place, and at what times the violations occurred. Unless physical or property damage is imminent, we do not recommend that administrators directly engage in a confrontational manner.
2. Local police should be encouraged to engage in general supervision of the area, particularly at the beginning and closing of the school day if the schools remain open. Their presence is a deterrent to the many types of unprofessional conduct that may take place on the picket line.
3. Incidents such as blocking of entranceways, hitting on fenders, putting tacks behind tires, and harassing of people who cross the picket lines should be reported to the police.
4. When picket lines are set up, do not use physical force to enter the grounds or buildings. Request police assistance if entrance to the building is blocked.
5. Picketing a home or business (of a Committee member) is lawful activity. Consider police maintaining surveillance on School Committee and Administrators' homes, or business/work locations. Some administrators may not live in the community where the strike is occurring. In such case, those administrators' hometown police should be notified to protect them from any illegal harassment.

D. Criteria for Operation of Schools

1. If the schools are to be open for the students, whether to assist working parents or for other reasons, the principal must be on duty as early as needed.
2. Buses will run on the schedule determined by the school system IN ADVANCE.

Drivers should be on standby for any changes in that schedule.

3. Make a Determination whether to serve hot lunches. Keep in mind that for many students, a school lunch may be the main meal of the day. If no hot lunches are served, bag lunches could be brought to school. The Superintendent will recommend to the School Committee a course of action.
4. Principals will call in to the Central Office in on each day at the prescribed time and give the following information:
 - a. Approximate percent of pupil attendance.
 - b. Number of staff available.
 - c. Description of conditions.
 - d. His recommendation relative to operation.
5. The Superintendent's designee will maintain contact with the bus operators and inform them of any changes in bus operations.
6. Each Principal should have Professional Development plans to operate for a significant portion of each day.

7. For students who must attend the Principal should:

- a. Plan group activities/academics/art.*
 - b. Show films.*
 - c. Utilize parent volunteers to maintain order.*
 - d. Operate as usual – if directed to do so by the Committee/C.O..*
7. At the end of the day, regardless of dismissal time, inform parents and students of the hours that school will be in operation. Remind them to check for updates on the district website and listen for further announcements over TV and radio stations.
 8. Sometimes teachers without PTS report for work during a strike. Teachers who report for duty will be paid as per contract, and will be required to remain on the job during their regularly assigned hours. Each Principal will develop an assignment and task list so that teachers will be engaged in productive activity during the work day.

9. After each day, each Principal will evaluate the existing conditions and identify his/her needs relative to operating the next day, and forward such information to the Superintendent of Schools.
10. If it is determined that substitutes are necessary, especially for special needs students, new or substitute staff will be asked to report at least one hour prior to the opening of school for the purpose of orientation and assignment. Provisions will be made if needed to transport personnel to and from school.
11. Each Principal will keep a brief log of significant occurrences during the work stoppage period.
12. Secretaries, clerical people, custodians, aides and other non-certificated staff must be briefed by their Principals relative to the operation of schools during a work stoppage. Their duties and responsibilities must be made clear to them.

III. PUBLIC RELATIONS/COMMUNICATIONS

General Remarks

Strikes are the product of emotion, fueled by deliberate manipulation of facts. One key to managing a strike situation is communication. All actions in communicating should be done with the Committee's bargaining position in mind. The Union will attempt to dispute your communications internally and externally. There will always be "alternative facts" and scapegoating or ridicule of management is an organizational device. Remember: the most carefully constructed Committee position can be shattered by one untimely or careless public statement. Maintaining a "united front" is crucial and difficult, given the political pressures brought to bear on Committee members. The increase in pressure is deliberate and intended to make people uncomfortable.

An official spokesperson should be selected to answer all questions, presenting a united management front and preventing contradictory statements or loose threads which could be used against the district. This person could be a press pro with previous strike situation experience. He/she should be thoroughly familiar with social media, traditional media, deadlines, procedures, forms, local media personnel, wire services, TV, radio and newspaper audiences. If the services of such an individual are unavailable, a member of the school committee (preferably the chairman) should perform this function.

Throughout the strike situation, analyze what needs to be communicated, to whom, when (timing), and in which mode for effectiveness.

In general, effective public relations/communications must be established and maintained with three main groups throughout a strike situation. These groups are: parents and students, all school employees, and the public. Always keep in mind what a particular group wants/needs to know during a strike.

A. When a Strike is Imminent: PR/Communications

The Committee must get its side of the dispute to the public well before the strike starts to generate understanding of the issues. This pre-strike media campaign must (1) emphasize the specific bargaining position of the Committee and the Union, and (2) provide appropriate advance notice to the public as to what will be the impact on families in the event of a strike. The amount of traction the Committee can demonstrate is directly proportional to the extent of a party's support in the community at large.

This can happen through the use of public service announcements on the District's website, email to supervisors, social media, in newspapers, radio or TV (especially local cable TV stations), a telephone "hot line" recorded message, a telephone chain, or prepared mailing labels for letters. If the services of a "press pro"/spokesperson are available, he/she should assemble press kits, give daily social media and press releases, utilize influencers, hold background sessions, and stay connected to key reporters. The mode picked for communication depends on what, how, when and to whom one wishes to communicate.

Parents and students must be told how they can get daily, official information. In communicating with them, stress: the Committee and administration are trying to avoid a strike, the Committee's negotiating position, the teachers' demands, cost and program or staffing implications, and the fact that the strike is illegal.

If a strike is imminent, be sure that an accurate "strike-proof" means exists such as all-call, website announcements, social media conversations or emails to relaying information regarding concerns such as transportation arrangements, the supervision of students of working parents, lunch services to be available, and any changes in school activities. If advance notice of a strike is made, disseminate that information.

An effort must be made to provide all school employees access to exact, up-to-date details of the Committee's offers and agreements. Information concerning applicable strike laws, the implications of an illegal action by an employee, and the effect of a strike on district finances, should be made known to them. Also, if advance notice of a strike is made, announce the decision of the School Committee regarding operation of the schools during a strike. If the decision is to keep the schools open, direct the school employees to stay on the job and work to resolve the situation. Encourage them to report physical abuse or harassment to their supervisors.

The general public must be kept informed of the Committee's bargaining position vis-avis the unions' negotiating positions, and the policy and financial impacts of each on the community. Clear and open lines of communication between community leaders and the local protection agencies must be established and strengthened.

B. During the Strike: PR/Communications

Parents, students, employees, and the media must be kept accurately and continuously informed as to the status of the strike, the district's operations and the issues in negotiations. A media area should be set aside next to the district's command post. This area becomes a source of vital action. It must also be the center of rumor control by dispensing factual information. The service of this center must be well-publicized.

Three main groups with whom the PR/Communications effort will be most concerned during a strike will continue to have their own particular informational needs/wants. Those groups are:

Parents and students - Questions such as, Are conditions safe? Under what circumstances will the schools be opened and/or closed? What are the transportation arrangements? Is classroom instruction happening or progressing? Will lunch be served? What is the status of extra curriculars, after school or evening programs/events? Are qualified personnel working with students who come to school? An informational spot on the District website is suggested. Also, meetings with parents or the employment of community volunteers as staff may be desirable. If so, such information must be disseminated through the most suitable mode.

All school employees - Information regarding reporting times and places, the release of payrolls, and the status of negotiations must be given in daily releases to each building. Keep leaders of non-striking union informed - made to feel a part of the team. Daily meetings with the school principals to keep them up-to-date should be held. Also, try to protect the school employees who are working from confrontations, harassment, or abuse by documenting and exposing incidents of abuse. Express your appreciation to those who continue working; internal morale is important and bolstering from the pressures a strike situation generates.

The public - Reports on the status of negotiations and district operations (pupil attendance, vandalism, numbers of employees working, etc.) must be made available. Regular and irregular activity geared to the overall negotiations strategy should be coordinated when feasible with the deadlines of the press, TV and radio to obtain the best daily media coverage possible. Cooperate with the media as much as you can. Try to counter without overreacting to the teachers' propaganda.

Remember, any statement made by any school official can have an impact and bearing on the course of a strike.

There should be one spokesperson (and only one!) for the school committee, either a temporarily hired professional or the chairperson of the school committee. All other members of the school committee and administration should refrain from public comment and refer questions to the spokesperson. A schedule for daily release of information and media sessions with the spokesperson should be established.

IV. PERSONNEL RELATIONSHIPS

A. The Role of the Superintendent: General Comments

A Superintendent should make every effort to preserve peace, before during and after a strike. Sometimes, unavoidably, his/her efforts and the efforts of other advisors will fail to bring the labor organization and the School Committee together. Sometimes, as a well known organizational tactic, the union will attempt to scapegoat the Superintendent (or the Committee Chair, or Counsel) as a villain. This is standard operating procedure and must be seen as such. Keep in mind, also that THE THREAT OF A STRIKE CAUSES THE

GREATEST APPREHENSION. ONCE THE LABOR STOPPAGE BEGINS, THE TASK IS TO MANAGE IT AS WELL AS POSSIBLE AND HELP BRING IT TO AN END THROUGH THE NEGOTIATION PROCESS.

The personality of the Superintendent is vitally important in such a situation. Though no Superintendent is likely to be charismatic enough to stop a strike singlehandedly, an outgoing Superintendent has a better chance of maintaining sound personnel and personnel relationships. An accessible Superintendent, for example, might meet with all non-striking groups to express concerns for their well being and understanding at their predicament as people caught between two groups. In a small school system, he/she might be required to meet with many types of groups. However, a Superintendent should make every effort to limit confrontational or argumentative public appearances during a work stoppage. A CALM, PROFESSIONAL DEMEANOR WILL HELP THE SUPERINTENDENT TO RESUME A PRODUCTIVE RELATIONSHIP WITH THE STAFF LATER. Many community or parental groups that might meet with the Superintendent will contain persons sympathetic to the strikers. Planted questions and embarrassing incidents are to be expected as part of a provocative plan. Such events must be avoided or deflected, if possible.

During a strike, the Superintendent may be in an adverse relationship to people with whom he/she has worked for many years. Many of these people may be personal friends or acquaintances of long standing. (A particular problem is presented by a Superintendent who has spent all or most of his/her career in one school system.) In a strike he/she will be perceived as leading the opposition against personal friends and people for whom he/she has great respect. The smaller the school system is, the larger this problem will be. Often, the Superintendent must overcome legitimate questions of conscience to do the job.

The Superintendent must continue to function as the executive officer of the school system, as well as being the main representative of management during a strike. Also, he/she must attempt to maintain credibility among teachers, other staff, and the public. This becomes a virtual "no win" situation, which Superintendents must contemplate and prepare for very early. While pure neutrality is impossible, absolute objectivity is essential.

A strike is very physically and emotionally taxing. The Superintendent should make certain that he/she and the school committee members get proper rest and nutrition during the work stoppage. The most important decisions are frequently made when you are most tired and least able to think clearly. Oftentimes, the most difficult decisions must be made late in the evening or after an all night bargaining session.

Above all, the Superintendent must remember that the strike will end. His/Her function then will be to try to heal the rifts caused by the strike and to resume normal operation of the school system as quickly as possible. Recall that for many strikers, the comradery and unity generated during the strike will be an emotional touchstone for many years. Even while acting as the leading representative of management, the Superintendent must avoid actions that would create unnecessary residual bitterness. For example, the Superintendent will be expected to testify in court, administrative procedures at DLR or arbitration and the truth may be damaging to striking personnel or their union. While this must be done, it should be done objectively, without endeavoring to adopt an attitude which pits the Superintendent against striking personnel. Again, be aware that standard organizational tactics will result in efforts to drive wedges between you and the staff. (The Superintendent is doing his/her job - not acting as a partisan in an adversary situation.

More than likely, no Superintendent can come out of a strike with the same set of relationships with workers in the school system that he/she had before the strike started. A Superintendent who has a united School Committee, excellent legal advice, and an impartial manner of doing his/her job can command the respect of all participants. Most Superintendents will make some errors in the course of a complex strike, but the basic image of a person doing an extremely difficult job in a fair and proper fashion will gain respect from the School Committee, from the public and, when the "heat" is over, from the strikers. This is perhaps the most any Superintendent can expect to gain from a work stoppage.

B. School Committee/Superintendent Interaction

The Superintendent works for the School Committee and carries out its directives (as well as administering the system) during any labor stoppage. For this reason, he/she must have solid support from the Committee before, during, and after he/she acts for them. The School Committee must provide the Superintendent with access to excellent legal advice from counsel before, during, and after an illegal stoppage occurs.

The Superintendent and other advisors should make absolutely clear to the School Committee that getting through a strike requires Committee unity and a clear understanding of the financial and programmatic consequences of decisions made at the table. A strike cannot be dealt with unless the Committee is united and resolute in purpose. A School Committee lacking those qualities going into a work stoppage has little chance of successfully dealing with the situation. A united and resolute School Committee should minimize friction with the Superintendent. If possible, a single spokesperson for the Committee should be selected AND THIS PERSON GENERALLY SHOULD NOT BE THE SUPERINTENDENT.

THE SUPERINTENDENT AND SCHOOL COMMITTEE MEMBERS SHOULD RECEIVE TRAINING IN HANDLING THE PRESS. Unless the number is recognized, consider letting texts and calls go to voicemail. That will provide time to think before responding to a reporter, parent or community member. The media will try to interview individual members of the School Committee and get a variety of responses on the situation. Committee members may well form individual conclusions that might help or hinder a settlement. Attempt at all times to have School Committee comments made only by the spokesperson.

At times the union will single out a particular School Committee member for harassment or flattery in an attempt to divide the Committee. For example, individual members may be invited to “coffee” or picketed at their homes or places of work. Before the strike begins, the School Committee must have an understanding of the problems they are likely to face in the course of events. Often, during a work stoppage, School Committee members and the Superintendent are subject to personal verbal attacks. No matter how great the temptation may be, a Committee member or Superintendent must avoid making

personal comments about strikers or strike leaders. Such comments lessen the dignity of the School Committee's position during the strike, increase the risk of confrontation and could prove to be extremely harmful after the strike.

Prior to a strike, the Superintendent and the School Committee should have a basic statement prepared for the press, detailing their position as clearly as possible. This statement should be released by the designated spokesperson. **PREPARE STATEMENTS TO BE RELEASED PERIODICALLY THROUGHOUT THE STRIKE AND AFTER AGREEMENT IS REACHED.** Experienced counsel can be helpful in this area, as he/she should know likely questions and answers.

C. Superintendent/Striking Employee Interaction

The Superintendent's dual position of chief administrator of the system and main representative of management's position during a strike creates the potential friction with personnel who are on strike. Friction will occur. When it does, the Superintendent should strive to maintain a cool "in-control" demeanor. Being aware of the circumstances from which difficulties can arise can help a Superintendent to understand and move to alleviate such problems. At the least, he/she can be cognizant of what to expect.

Problems can arise from:

- 1) A discussion or decision that the schools should be operating during a strike. Such an event is a direct threat to the people on strike in that their jobs could be performed by others.
- 2) The Superintendent being required to appear in court during a strike. His/Her testimony may be a decisive factor in persuading a judge to take action harmful to personnel on strike.
- 3) The Superintendent must maintain relationships with teachers and members of any bargaining unit on strike. Negotiations will continue and experience indicates that many informal meetings with members of the striking group will occur. Each of these is a potential source of friction or an opportunity for closing the "gap".

D. Superintendent Interaction with Non-Striking Employees and Others

Whether the schools run normally during a work stoppage, the Superintendent will be responsible for the day-by-day operative details of the school system. He/She will deal with people at all levels, many of whom may not be on strike because they are not members of the striking unions or associations are not striking. The

Superintendent must represent the position of the School Committee to all these people through word and example. In doing so, he/she should keep certain things in mind:

- 1) The Superintendent must maintain a relationship with middle management. Principals are often very sympathetic to striking teachers. In dealing with them as the representative of the School Committee, the Superintendent may face significant opposition to Committee positions.
- 2) A proper relationship with non-striking employees is necessary. If these people are not management, they should continue to do their own jobs and should not be expected to replace striking workers.
- 3) BE AWARE OF HOW THE STRIKE WILL AFFECT STUDENT ACTIVITIES, BOTH ACADEMIC AND ATHLETIC. Students should not be involved in activities which assist or are against the strike under any circumstances.
- 4) Good relationships with the police (chief) and other supportive agencies must be maintained. A Superintendent must work as closely as possible with local leaders, avoiding going to the state level (as with police).
- 5) Other employees (custodians, bus drivers, cafeteria workers, delivery services, office personnel, etc.) may or may not honor the strike. Options should be investigated in dealing with these groups.

In general, the Superintendent must walk the very fine line of chief administrator and agent of the School Committee and the educational leader of a school system who must retain the respect of his striking staff and the ability to work with them again, when the strike ends.

CONCLUSION

This manual details a general guideline or outline of the various steps which may be taken in dealing with a teachers' strike. Every strike will have unique characteristics. Local school districts must determine for themselves the courses of action they wish to take during a strike situation.

No local district has to stand alone during a strike. M.A.S.S. and M.A.S.C. is willing to lend whatever assistance they can to the afflicted community. Superintendents should contact the M.A.S.S. office whenever a strike is imminent. M.A.S.S. staff and fellow superintendents stand ready to help.

SAMPLE DAILY STRIKE REPORT School Person Reporting Date

GENERAL INSTRUCTIONS FOR SCHOOL SITE ADMINISTRATORS:

A. Time schedule for completion and transmission of reports to Central Office.

1. Information contained in Part I must be telephoned, texted or emailed to the Central Office Control Center by 9:00 a.m. each day until otherwise notified.
2. All of the following information must be completed in writing on this form and delivered by email to Central Office Control Center by 11:00 a.m. daily.

Part I. (phone/email in by 9:00 a.m. to the Central Office Control Center)

A. Teachers:

(Regular Classroom)

No. Present _____ No. Absent _____ No. of Subs. _

No. Declared ill _____ No. Absent for other reasons _

Total Teachers Absent _____

B. Students:

No. Present _____

No. Absent _____

C. Pickets Present:

Yes _____ No _____ Approx. No. _____

Location _____

D. Please list on the back those unusual things that are happening in your school which are disruptive in nature and that are impediments for the normal functioning of your school.

Part II (Complete the following information)

A. Operating as usual:

Yes _____ No _____ No. Classes Not Covered _____

B. Secretaries:

No. Present _____ No. Absent _____

C. Paraprofessionals:

No. Present _____ No. Absent _____

D. Custodians:

No. Present _____ No. Absent _____

E. Administrators:

No. Present _____ No. Absent _____

F. Cafeteria:

No. Present _____ No. Absent _____

G. Harassments:

Yes _____ No _____

(Explain under "J" who was

involved: students, parents, teachers, citizens).

H. Busing:

No Problems _____

Problems _____

Describe: _____

I. What are your needs:

(List in order of priority).

- 1.
- 2.
- 3.

4.

J. Explanation of problems:

(Give names of employees where possible).

Please make report in duplicate and keep one copy for your files.

SAMPLE AFFIDAVIT

_____, on oath do depose and say:

- 1. I am the _____ at the _____ School in _____ County, Massachusetts.
- 2. On October _____, I reported to work at the _____ School.
- 3. Teachers are scheduled to report to work at the _____ School at _____ a.m.
- 4. At approximately _____ a.m., there were pickets stationed at the main entrance of the _____ School. At approximately _____ a.m., pickets were stationed at another entrance to the _____ School. Pickets who are teachers were holding various signs such as " "; and " _____

- 5. At _____ a.m., the time teachers are scheduled to be on duty in the building, no teachers reported to their assignments. There are _____ (number) teachers at the _____ School. _____ (number) teachers called in ill; all others did not report to work.

- 6. Support staff assigned to my building _____ reported as scheduled.
- 7. I informed the Superintendent of Schools that no teachers reported to work. I was asked by the Superintendent if, in my opinion, I could safely open the school, and I informed him that, for safety reasons _____ . The Superintendent then directed me to _____

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS _____ DAY OF OCTOBER,

Signed:
