

Reactionary Massachusetts ruling paves way for Andover public schools to open in-person

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Public schools in Andover, Massachusetts, a city of 33,000 north of Boston, open today, September 16, for both in-person and remote learning. The reopening follows a reactionary ruling September 8 by the Massachusetts Department of Labor Relations Commonwealth Employment Relations Board (CERB) against teachers who refused to enter school buildings on the first day of professional training and school preparations on August 31.

Many Andover teachers, concerned over the lack of safety against COVID-19 in schools, refused to enter the buildings, sitting outside them with laptops doing their required professional learning and assessment work and attending staff meetings while social distancing. School officials argued that by refusing to enter classrooms teachers were unable to carry out tasks such as tagging furniture and testing WIFI connections.

The Andover Education Association (AEA), which is affiliated with the Massachusetts Teachers Association (MTA), described it as a “workplace safety action” due to the school district’s “lack of good-faith bargaining” over how to keep students and staff safe when school reopens.

A spokeswoman for Andover Public Schools (APS) denounced the action as an “illegal work stoppage.” District officials on the Andover School Committee met later the same day and voted to authorize their counsel to file an “instant strike petition” with the state Department of Labor Relations.

A petition for a strike investigation was filed September 1, alleging that a strike had occurred and is about to occur “and that this strike has been induced, encouraged and condoned by the Andover Education Association (AEA or Union).” It named six AEA officers, including AEA President Matthew Bach and Second Vice-President Julian DiGloria, both individually and in their capacity as union officials.

The petition was requested under Section 9A of the Massachusetts General Law (M. L. G c 150E), which states: “(a) No public employee or employee organization shall engage in a strike, and no public employee or employee organization shall induce, encourage or condone any strike, work stoppage, slowdown or withholding of services by such public employees.”

In its September 8 ruling, the employment relations board declared: “In support of this Strike Petition, the School Committee argues that it is not up to the Union or teachers to decide when, where or how to perform their duties and that the Union’s condonation and participation in a so-called work action in which they refused to enter school buildings despite clear instructions to

do so constitutes a strike within the meaning of Section 1 and Section 9A of the Law. We agree.”

CERB further ruled that “although certain federal and state regulations may grant employees the right to refuse work in situations where they harbor a good faith reasonable belief that performing their duties could result in imminent serious injury or death, *the Union has not defended its conduct here on such grounds, nor has it presented evidence that such circumstances exist at any of the APS schools on August 31, 2020.* We therefore need not and do not reach this issue.” [emphasis added].

The ruling ordered that the AEA, and union officials Bach and DiGloria personally “immediately cease and desist from engaging any strike, work stoppage or other withholding of services” and “desist from encouraging or condoning or inducing work stoppage, slowdown, or other withholding of services.” The AEA immediately complied with these demands.

In contrast to its own findings, a footnote to this section of the CERB ruling cites the Labor Management Relations Act, which states: “nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions of work at the place of employment of such employee or employees be deemed a strike under this act.”

It also cites Occupational Safety and Health Administration (OSHA) Regulation 29, which states: “However, occasions might arise when an employee is confronted with a choice between not performing assigned tasks from a hazardous condition at the workplace. If the employee, with no reasonable alternative, refuses in good faith to expose himself to the dangerous condition, he would be protected against subsequent discrimination.”

It is clear that teachers’ return to school buildings poses “imminent serious injury or death,” “abnormally dangerous” and “hazardous” conditions. Nevertheless, the employment relations board, claiming there was no real danger to teachers (although it has no scientific grounds to prove that) backed the school district’s claim that workers were involved in an illegal strike.

This situation has revealed a great deal about what teachers and other school employees confront as they seek to fight the spread of the pandemic and defend their lives and the lives of their students and their communities.

The labor laws both for public employees and private sector workers are thoroughly stacked up against the working class, giving management unilateral power to “direct their workforce” and impose a virtual dictatorship in the workplace. The unions

agree to this reactionary setup in exchange for gaining legal sanction from the state and the ability to collect union dues from workers. The American Federation of Teachers (AFT) and the National Education Association (NEA), the parent organization of the AEA, have spent decades suppressing strikes in exchange for the institutional and financial benefits that the union bureaucracy derives from this employment relations structure.

At the same time, if workers assert their right to refuse to work under unsafe conditions, they will not find any serious protection from OSHA, which has done nothing for workers during the pandemic. Meatpackers, health care, autoworkers and other workers who have reported outbreaks and dangerous conditions have been subjected to arbitrary victimization and even termination. The more than 8,000 COVID-related complaints filed by workers with OSHA, have resulted in less than 10 citations. This includes the first two citations against the meatpacking industry last week after six months during which time 18,000 workers were infected and more than 200 killed by the virus.

Educators have every right to organize and take collective action to defend their lives. But this means creating new forms of organization, which do not bow before “management’s rights,” i.e., the dictatorial powers of management to control the workplace. In Florida, Texas, Detroit and New York City, educators have established rank-and-file safety committees to assert the interests and rights of workers to monitor safety conditions, oppose efforts to conceal the spread of infections, and, if necessary, carry out strikes.

Across the country, authorities of both the Democratic and Republican parties have promoted the homicidal reopening of schools even as cases and deaths have risen. Towns where public schools and university campuses have reopened have become the new epicenters of the coronavirus, with college towns being most affected. At least six teachers have died since schools reopened last month and over half a million children have tested positive for the virus since the pandemic began.

In an effort to back up its ruling against the teachers, CERB also argued:

“The Massachusetts Department of Public Health COVID-19 Dashboard for the week ending August 26, 2020 reflected that within the past 14 days, Andover was rated ‘Green,’” which meant it had an average daily case rate of less than four cases per 100,000 residents.” What it doesn’t mention is that the city of Lawrence, which is less than five miles from Andover, is a COVID-19 hotspot, with 20.5 cases per 100,000 residents and 299 positive tests for the previous 14 days, according to a September 9 report.

Teachers and other school workers do not live exclusively in Andover, a more affluent town, and travel from nearby Lawrence and other working-class communities with higher case rates. The virus does not recognize borders.

The day after the ruling, Republican Governor Charlie Baker welcomed the decision. “I think Andover made the right decision by arguing that a deal’s a deal, that there was an agreement that those 10 days would be spent conducting the training that was necessary,” Baker told a news conference.

“I think the DESE [Department of Elementary and Secondary

Education position], which is basically that it’s okay to teach and to be in a basically empty building, is an appropriate decision. And I think all the data we have, and all the advice we’ve gotten from our colleagues in the public health in the infectious disease and the pediatric community—is that that’s okay,” Baker said.

The unions’ acquiescence to the ruling forcing teachers back into school buildings constitutes an agreement that teachers have no right to defend their health and safety conditions.

Andover educators are particularly apprehensive about the state of HVAC systems in the school. APS posted information to the Return to School webpage showing that the Town of Andover employed HVAC experts whose analysis showed that the schools meet guidance released by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE). Upon the AEA’s request, the district has contracted an outside HVAC contractor to conduct an independent inspection of the ventilation systems in each school building. That work was due to finish September 4, but no report has yet been published.

In Sharon, Massachusetts, a district contractor examined the HVAC systems in each Sharon school and found that none of them met minimum standards, according to the Sharon Teachers Association. “The nurses office, in particular, recirculates air to the administrative offices,” the union said in a statement.

Sharon teachers refused to enter school buildings for three days, but on September 11 the union reached a settlement with the School Committee, after they too filed their own petition for a strike investigation by the state labor relations board. The chair of the Sharon School Committee, Judy Crosby, attributed the agreement to the ruling against Andover teachers. “I do believe that the Andover decision that was released very late on Tuesday night was pretty essential in bringing all parties into the room to reach a settlement,” she told the ABC affiliate WCVB.

With widespread opposition to school reopening’s across the country, the aim of the Andover ruling is to intimidate teachers. The response of the unions shows that if the reopening is to be stopped and the lives of educators, students and their families be protected, it will require independent action by the working class. This is the purpose of the call by the Socialist Equality Party for the formation of rank-and-file safety committees and we urge teachers in Massachusetts to contact the WSWs Educators Newsletter for assistance in establishing these committees across all school districts.



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