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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss #2481CV00148
SUPERIOR COURT

COMMONWEALTH EMPLOYMENT
RELATIONS BOARD
Plaintiff

and

NEWTON SCHOOL COMMITTEE
Plaintiff-Intervenor

v.

NEWTON TEACHERS ASSOCIATION and
MICHAEL J. ZILLES in his official capacity,
Defendants

FILED
IN THE OFFICE OF THE
CLERK OF COURTS

JAN 29 2024

FOR MIDDLESEX COUNTY
CLERK

EMERGENCY MOTION TO INTERVENE pro se

PARTIES SEEKING INTERVENTION ARE STUDENTS
OF NEWTON PUBLIC SCHOOLS AND THEIR PARENT

I, Lital Asher-Dotan, residing at 53 Cloverdale Rd, Newton Highlands, MA 02461, have three kids in the Newton Public Schools: Ron Dotan, 15 Years Old, 10th Grade, Newton South High School; Leia Dotan, 15 years old, 10th Grade, Newton South High School; and Omri (Omry) Dotan, 14 years old, 8th Grade, Oak Hill Middle School.

FACTUAL BACKGROUND AND ARGUMENT

As students, this parent's three children should be allowed to intervene because they have a legal interest relating to the subject of the lawsuit, which is that the teachers' strike, commenced on January 19, 2024 and

continuing through this date, is interfering with and interrupting their state constitutional right to a public education.

Moreover, as a deeply concerned parent residing in Newton, Massachusetts, this parent should be allowed to intervene because she has the right to her children receiving that public education, without interference and interruption of that state constitutional right to such public education.

Pursuant to Mass. Const. Part II, c. 5, § 2, the proposed intervenor students have a constitutional right to an adequate education in the public schools in their communities. See McDuffy v. Sec'y of Exec. Office of Educ., 415 Mass. 545, 548 (1993).

G.L. c. 12, §§ 11H, 11I prohibit “interference by threats, intimidation or coercion . . . with the exercise or enjoyment by any other person or persons . . . of rights secured by the constitution or laws of the commonwealth.”

Economic coercion, such as the breach of a collective employment agreement or the denial of educational opportunities, is sufficient to violate G.L. c. 12, §§ 11H, 11I. See Nolan v. CN8, 656 F.3d 71, 77 (1st Cir. 2011); Acciavatti v. Prof'l Servs. Grp., Inc., 982 F. Supp. 69, 78-79 & n.7 (D. Mass. 1997); Alpha Phi Int'l Fraternity, Inc. v. President & Fellows of Harvard Coll., 36 Mass. L. Rep. 201 (2020).

By conditioning the continued provision of adequate education in the Newton Public Schools on the satisfaction of Defendants' economic demands, Defendants have interfered with the proposed intervenor students' rights under Mass. Const. Part II, c. 5, § 2, in violation of G.L. c. 12, §§ 11H, 11I.

Importantly, “[t]he issue to be determined in deciding a motion to intervene is simply whether the prospective intervenor has alleged plausible facts that claim an interest, not whether she would ultimately prevail in the underlying action.” Beacon Residential Management L.P. v. R.P., 477 Mass. 749 (2017), at 755.

As the parent of twin Sophomores at Newton South High School and an Eighth Grader at Oak Hill Middle School, this proposed parent intervenor is

witnessing firsthand the severely detrimental effects of this strike on her children's education, extracurricular activities, and overall well-being.

So far, the strike already has led to a significant interruption of these student intervenors' education, particularly impacting the two 10th Grade student intervenors' crucial stage where academic subjects are increasingly complex and independent. The lack of structured learning and continuity severely hamper their progress, as regular practice is vital for retaining and understanding new concepts

Proposed sophomore student intervenor, who requires Individualized Education Program (IEP) support, is facing setbacks in her critical high school year. Missing regular assistance in reading, writing, and math could jeopardize her chances of college acceptance. The prolonged strike exacerbates these issues, especially for students with special needs.

The social and emotional toil is significant. One of the proposed sophomore student intervenors, an avid hockey player, has missed valuable parts of the short hockey season, not just his athletic development but his social and emotional well-being. The strike has isolated him from his main social circle, leading to growing depression and detriments to his mental health.

Proposed eighth grade student intervenor has missed opportunities with the ski team club at Oak Hill Middle School, a key activity for socializing and physical activity. These missed experiences, particularly with the ski season ending soon, are irreplaceable.

As full-time working parents, proposed parent intervenor and her husband are unable during this break adequately to supervise their children, the proposed student intervenors. The increase in screen time, a result of the strike, heightens these parents' concern for the mental well-being of their children, the proposed student intervenors, considering the known risks associated with excessive social media use among youth.

The academic and developmental losses the proposed student intervenors are facing extend far beyond the classroom. Moreover, it is the interruption which is a crucial unrecoverable loss. Merely tacking some school days at the end of the school year does not address that.

The above facts are set forth in this parent intervenor's letter dated January 28, 2023, to your Honor, attached hereto as part of this motion's exhibit. Beyond that, as a sampling of the harm to numerous others suffering similarly and in the same class insofar as standing for a class action, as these proposed intervenors, there are attached hereto as part of that exhibit approximately 25 additional letters which are all submitted and requested to be considered as part of the facts and circumstances in support of this motion. In that connection, the four proposed intervenors under this motion are aware that numerous similar letters are being provided directly to the Judge in this case.

Finally, the proposed intervenors do not share the identical interests or objectives in this matter as do the existing plaintiffs who have conveyed they would merely tack strike offset "school days" at the end of the school year, failing to address the unrecoverable interruption.

CONCLUSION

For the foregoing reasons, the Court should grant the motion to intervene and compel the defendant Newton Teachers Association immediately to terminate the strike which not only is in violation of Commonwealth of Massachusetts law, but is imposing upon the intervenors an unrecoverable loss as well as loss of their Massachusetts Constitutional rights.

Inasmuch as (1) defendant Newton Teachers Association (NTA) has thus far continued to act in contempt of this Court's repeated orders to terminate the strike, and (2) defendant NTA President Michael J. Zilles has publicly stated that the NTA has financial backing from other union organizations to resist the fines being imposed by the Court, the Court should impose such sanctions to such degree as to overcome whatever financial resources the NTA is receiving to resist the Orders thus far.

ps - my daughter's letter is attached.

Leia Dotan ~~for Asher~~
Student Intervenor
01/29/2024

Respectfully submitted,
Libal Asher-Dotan ~~Libal Asher-Dotan~~
Parent Intervenor

1. com

Docket # 2481CV00148

Date: 1/29/2024

To whom it may concern,

The Defendants will be served with this by the United States Postal Service to their lawyers, As well as hand delivered.