

legislative bulletin

Massachusetts Association of School Committees, Inc. One McKinley Square, Boston MA 02109
(617) 523-8454 (800) 392-6023 fax: (617) 742-4125 www.masc.org

To: All School Committee Members and Superintendents

From: Stephen J. Finnegan, Esq.

Date: October 22, 2014

RE: SELECTION OF ARBITRATORS

SCHOOL COMMITTEE SELECTION OF ARBITRATORS

School committees, generally through its legal counsel, select arbitrators in collective bargaining grievances that are not otherwise able to be resolved at the local level. The grievant in such a dispute files for arbitration of any unresolved grievance usually with the American Arbitration Association (AAA), pursuant to the collective bargaining agreement, and AAA generates a list of arbitrators to be selected by the parties. The Massachusetts Teachers Association (MTA)/ Massachusetts Federation of Teachers (MFT) make the arbitration selection for their respective members, and 350 school committees individually make the selection for their school committee. Both parties also receive the written decision of the arbitrator. The decision is generally not available unless both parties agree to its publication. This system was designed to give each of the parties' equal rights to the selection of an arbitrator and receipt of the decision. However, the MFT and the MTA select and receive the decision for their respective members, due to their longstanding policies concerning the selection of an arbitrator. Thereby, they amass substantial libraries of arbitrations from which they make informed arbitration selections. School committees are disadvantaged by the selection process because each school committee only receives the number of arbitration decisions generated by its employees and not the vast numbers of arbitrations generated statewide by their respective members as does the MFT/MTA.

The Massachusetts Association of School Committees (MASC) is offering its members an opportunity to remedy this problem by designating MASC as one of its representatives for the particular purpose of selecting an

arbitrator and receiving arbitration opinions. If each committee votes to adopt a motion (see below) so designating MASC as one of its representatives, we will level the playing field in the selection of arbitrators, and amass a significant library of arbitration decisions to inform our selection of arbitrators. MASC will make the arbitrator selection in consultation with each school committee's legal counsel. We recognize that local counsel will be trying the case and MASC intends to be respectful of their opinion, and to defer to it whenever possible. We note that the Counsel of School Attorneys Executive Board has endorsed the service offered by MASC.

MASC has approached this matter from different angles over the years; however, AAA has raised objections to these proposals. Ultimately, AAA recommended that we take this statutory approach, G. L. c. 150E, S. 1 states in relevant part as follows: "In the case of school employees, the municipal employer shall be represented by the school committee or its designated representative or representatives." We ask that each school committee adopt a motion as follows:

Motion of (maker)_____ to designate the Massachusetts Association of School Committees, Inc. (MASC) as one of (name of school committee)_____ representatives pursuant to G. L. c. 150E, S. 1, for the particular purpose of selecting an arbitrator and receiving arbitration decisions.

The school district will continue to receive the arbitration decisions, through its legal counsel.

In order for this service to work and to ease AAA's processing concerns, MASC needs significant participation by its members. We urge you to adopt this service after consultation with your legal counsel, and send to MASC at the above address a certified copy of said vote, as soon as possible.

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MASC/MASS Joint Conference 2014
November 5-8
Resort and Conference Center, Hyannis MA

Legal (and related) Sessions You Won't Want to Miss!

Student Discipline Law: Legal Update

Wednesday, November 5
1:50-3:00pm

School Nutrition: Legislation, Regulations and Opportunities

Wednesday, November 5
1:50-3:00pm

How to Blog/How to Tweet (how to stay out of trouble)

Thursday, November 6
8:45-10:00am

Legal Issues and Unfunded Mandates

Thursday, November 6
8:45-10:00am

Special Education: The Challenges of Turning 22

Thursday, November 6
8:45-10:00am

Labor Relations: Collaboration, Communication and Commitment

Thursday, November 6
2:30-3:45pm

School Law 101

Thursday, November 6
2:30-3:45pm

New Regulations on Student Discipline

Thursday, November 6
2:30-3:45pm

Interest Based Bargaining

Thursday, November 6
4:00-5:15pm

School Law: Review of Key Rulings and Cases

Friday, November 7
9:00-10:15am

Social Media: How to Manage it without it Managing You

Friday, November 7
2:30-3:45pm

Collective Bargaining for Student Achievement

Saturday, November 8
9:00-10:15am

MASC Staff

Glenn Koocher
Executive Director

Michael Gilbert
Field Director

Sam Cheesman
Operations and Marketing

Jenifer Handy
Communications Director

Dorothy Presser
Field Director

Nanette Olsen
Member Services Coordinator

Carol Grazio
Director of Operations

Patricia Correia
Field Director

Stephen Finnegan
General Counsel

James Hardy
Field Director

Kari MacCormack
Graphic Designer