
LEGAL Bulletin

March 10, 2015

To: Massachusetts School Committee Members and Superintendents
From: Stephen Finnegan, MASC General Counsel

On October 22, 2014 MASC offered to its members an opportunity to participate in a new arbitration service. The response of the membership has been very positive and a number of school committees have taken the steps necessary to access the MASC Arbitration Service. Indeed, we have already engaged with local counsel to assist them in the selection of an arbitrator.

Please consider joining this service and compete with the MFT/MTA in the important process of selecting an arbitrator and amassing a statewide library of decisions.

School committees, generally through their 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 the 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 own 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 com-

mittee only receives the number of arbitration decisions generated by their 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 collective bargaining purposes 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 collective bargaining 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 after input from various local school counsels has determined that the management of the AAA list and the ultimate selection of an arbitrator will remain with the school district through its school counsel; however local counsel will consult with MASC as to the arbitrator selection.

MASC has approached this matter in different ways over the years; however, AAA has raised objections to these proposals. Ultimately, AAA suggested that we take the 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.*