

Update: Labor Board Finds the NYC School Bus Strike Is Legal

Written by Michelle Fisher

Friday, 01 February 2013 14:39 - Last Updated Wednesday, 06 February 2013 14:43

The National Labor Relations Board has ruled that the strike by New York City school bus drivers is legal and may continue. In response, union leaders said Friday the roughly 8,000 drivers and aides would remain on strike after city officials rejected their idea for a "cooling off" period as negotiations continue.

By dismissing the charge, the NLRB is putting the ball back into the court of union leaders and city officials who have been in talks all week. The strike arose from a dispute over the loss of job protections in future bus company contracts, which Mayor Michael Bloomberg re-bid for the first time in decades.

After reviewing the charge brought by a group of 20 bus companies, the NLRB Office of General Counsel found the strike does not violate the National Labor Relations Act because the ATU Local 1181-1061 has a primary labor dispute with the employers.

In an [Advice Memorandum](#) released today, NLRB lawyers said the bus companies, which maintained collective bargaining agreements with the union for many years before they expired in December, are primary employers in the labor dispute, along with the Department of Education.

"This primary dispute directly involves the job security and other terms and conditions of employment of the employees," Associate General Counsel Barry J. Kearney stated in the memo. "Significantly, while the Charging Party Employers have not agreed to the Union's proposal that the collective-bargaining agreements incorporate the EPPs, the Charging Party Employers do not deny that they have the ability to do so."

The latter statement runs counter to Mayor Bloomberg's assertion that the New York State Court of Appeals ruled it was illegal to include EPPs (Employee Protection Provisions) in bus contracts.

The city hasn't said that the strike is illegal, according to DOE spokeswoman Marge Feingberg. She echoed that the EPPs the union is seeking to reinstate are illegal per the State Court of Appeals.

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"If the drivers were public employees and the city was actually responsible for this hiring issue, as the union suggests, a strike would be illegal under the Taylor Law," Feinberg told STN.

"This ruling doesn't change the fact that the union is recklessly holding our students and city hostage over issues it must settle directly with the bus companies," said Erin Hughes, DOE press secretary.

Earlier this week, Feinberg said the city brought in 49 new bus drivers and matrons in order to restore routes servicing preschoolers and students with special needs. Approximately one-third of the city's 150,000 school bus riders are special-education students. As of this morning, 2,949 bus routes out of about 7,700 total routes were running, she noted, including 100 percent of pre-K runs, 40 percent of special-education runs and 13 percent of general-education runs.