

85-025 30

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Akron Education Association,  
Employee Organization,  
and  
Akron Public School,  
Employer.

CASE NUMBER: 84-UC-10-2130

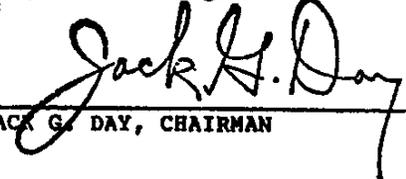
DISMISSAL OF PETITION

Before Chairman Day, Vice Chairman Sheehan, and Board Member Fix; May 22, 1985.

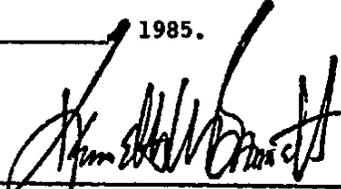
The Employee Organization's petition is dismissed as untimely for the reasons stated in the attached opinion.

It is so ordered.

DAY, Chairman; SHEEHAN, Vice-Chairman; and FIX, Board Member, concur.

  
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JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 14 day of June 1985.

  
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KENNETH W. BARRETT, EXECUTIVE DIRECTOR

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OPINION

Day, Chairman:

This case involves a petition for clarification of a bargaining unit established by agreement of the parties following the expiration of a grandfathered agreement on June 30, 1984. The Board has not certified the bargaining unit.

Lack of certification is significant for the disposition of this case. The reasons are adduced below.

I

In Liberty School District<sup>1</sup> the Board enunciated a policy "not to tamper with a privately bargained unit during a contract term except by mutual agreement of the parties or during the window period." Since Liberty School District further policy considerations lead to the conclusion that the Board ought not intervene upon a unilateral request to clarify or amend a unit "deemed certified" even during the window period unless the changes

In the matter of Board of Education and Ohio Association of Public School Employees, Chapter 264, Case No. 84-UC-01-2738 (1985).

proposed are aimed at excluding from the unit classifications proscribed from inclusion by the statute [cf. p.e. O.R.C. 4117.06(D)(1)-(6)].<sup>2</sup>

There is no principled reason for different treatment of unilateral modifications of "deemed certified" units and "voluntarily recognized" or "agreed" units. Accordingly, the principle of Cincinnati Nurses coupled to the rule in Liberty School District results in this policy:

No petition for unilateral clarification or amendment in a "deemed certified," "voluntarily recognized" or "agreed" unit will be entertained unless made during the window period and directed at the exclusion of statutorily proscribed classifications.

The classifications involved were included in the unit by agreement. They are not proscribed and, therefore, are not amenable to change by unilateral petition within or without the window period.

II

The petition is dismissed.

Sheehan, Vice Chairman, and Fix, Member, concur.

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<sup>2</sup>In the Matter of Ohio Nurses Association v. University of Cincinnati, Case No. 84-UC-10-2214 (1985) (Cincinnati Nurses).