

85-051 #83

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Stow Professional and Education Secretaries Association, OEA/NEA

Employee Organization,

and

Ohio Association of Public School Employees,

Employee Organization,

and

Stow City School District,

Employer.

CASE NUMBERS: 84-VR-03-3271  
85-RC-04-3489

DISMISSAL OF REQUEST FOR VOLUNTARY RECOGNITION AND PETITION  
(Opinion Attached)

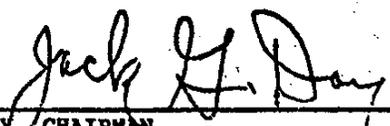
Before Chairman Day, Vice Chairman Sheehan, and Board Member Fix;  
September 26, 1985.

The Stow Professional and Educational Secretaries Association (SPESA) filed a Request For Voluntary Recognition as exclusive representative of a bargaining unit of secretarial and clerical employees of the Stow City School District (Employer). The Employer filed a responsive Petition For Representation Election, contending that certification was inappropriate under Ohio Revised Code Section 4117.05(B). The Ohio Association of Public School Employees (OAPSE) moved to intervene and objected to the request, contending that OAPSE and the Employer were parties to a collective bargaining agreement covering the employees in the proposed unit. The matter was referred to hearing.

The Board has reviewed the hearing officer's recommendation, exceptions, and responses. For the reasons set forth in the attached opinion, incorporated by reference, the Board dismisses the Request For Voluntary Recognition and the responsive Petition For Representation Election.

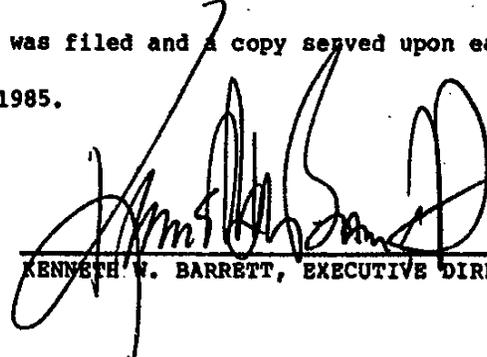
It is so directed.

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



JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party  
on this 30<sup>th</sup> day of September, 1985.



KENNETH W. BARRETT, EXECUTIVE DIRECTOR

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Stow Professional and Educational Secretaries Association,  
Employee Organization,  
and  
Stow City School District,  
Employer,  
and  
Ohio Association of Public School Employees,  
Intervenor.

CASE NUMBERS: 85-VR-03-3271  
85-RC-04-3489

OPINION

Fix, Board Member:

This case deals with a request for voluntary recognition filed by an employee organization during the window period<sup>1</sup> of an existing lawful written agreement. The employer in the instant case filed a petition for representation election and charged that recognition of the employee organization would fragment the existing bargaining unit.

The Ohio Association of Public School Employees (OAPSE) moved to intervene as part of a motion to dismiss the request for voluntary recognition. OAPSE also filed an objection to voluntary recognition on the grounds that employees in the unit sought by the employee organization were currently represented by a duly certified exclusive bargaining representative (OAPSE).

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<sup>1</sup>O.R.C. 4117.07(C)(6).

I

The issues are:

1. Is the appropriateness of the bargaining unit relevant?
2. Is the procedure in the instant case proper for requesting voluntary recognition?

Both questions are answered "no" for reasons set forth below.

II

The appropriateness of the bargaining unit is not relevant since the method for requesting voluntary recognition is improper pursuant to O.R.C. 4117.05.

O.R.C. 4117.05(B) requires that the State Employment Relations Board honor lawful written agreements, contracts or memoranda of understanding between public employers and employee organizations executed prior to the effective date of the Act.

The employee organization has not questioned the lawfulness of the written agreement in effect between the employer and the intervenor at the time the voluntary recognition request was filed.

Directly applicable to this case is O.R.C. 4117.05(A) which states that the Board shall certify the employee organization filing a request for recognition on the twenty-second day following the filing of the request for recognition, subject to receipt of any of the items listed in O.R.C. 4117.05(A)(b)(i-iv).

This provision renders impossible Board certification of an employee organization filing a request for voluntary recognition during the window period prior to the expiration of an existing lawful written agreement or contract.

III

Clearly a request for voluntary recognition is more properly utilized in the absence of a bargaining representative certified pursuant to Board action or the "grandfather" provisions of Chapter 4117, O.R.C.

The Board finds the method for requesting voluntary recognition improper and dismisses the petition.

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