

86-027

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Sugarcreek Local Association
of Support Personnel, OEA/NEA,

Employee Organization,

and

Ohio Association of Public School Employees/
American Federation of State, County and Municipal
Employees, AFL-CIO

Intervenor

Sugarcreek Local School District,

Employer.

CASE NUMBER: 86-REP-03-0055

OPINION

Day, Chairman:

Representation elections conducted by the State Employment Relations Board (SERB) require hygienic conditions. This is virtually an absolute. And here two violations of SERB's election rules are claimed.¹ However, the transgressions, even when fully credited, are so innocuous that setting aside the election on the strength of them would be fatuous. It is equally obvious that the situation does not call for certification without an election as AFSCME contends.²

¹Ohio Administrative Code, Rule 4117-5-08(C) The claimant is the Ohio Association of Public School Employees/American Federation of State, County and Municipal Employees, (AFSCME). According to affidavits in the file, the infractions involved only momentary, inadvertant invasions of the territory within twenty-five feet of the entrance to the polling site.

²AFSCME misapprehends the availability of this type of certification. It is a remedial option only under the conditions specified in R.C. 4117.07(A)(2) (second unnumbered paragraph). The necessary conditions are not met in this case.

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Because the violations are too inconsequential to have affected the election results, no re-run is required. Rather the run-off which the lack of a majority requires, coupled with an admonition to all parties against infractions, even minor ones, will suffice to insure a sanitary process.

This disposition is a practical one. It must not be deemed a precedent for forgiving violations of election regulations. It simply recognizes that to require a re-run on the facts here would do violence to the spirit of the regulations while observing the letter. Accordingly, to limit the precedent and guard against future abuse, the rule here is deemed singular and applicable for this case only.

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

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