

86-035

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of
Betty Fitzpatrick,
Charging Party,

v.

Village of Ada,
Charged Party.

CASE NUMBER: 86-ULP-3-0096

DIRECTIVE
(Opinion Attached)

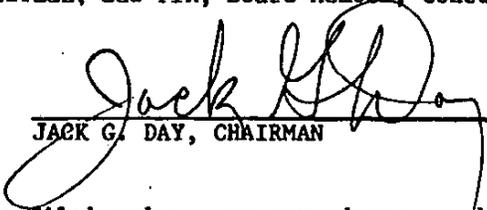
Before Chairman Day, Vice Chairman Sheehan, and Board Member Fix,
July 31, 1986.

Betty Fitzpatrick (Charging Party) has filed an unfair practice charge against the Village of Ada (Charged Party) alleging that the Charged Party has taken action that violates Ohio Revised Code Sections 4117.11(A)(1) and 4117.03(A)(5). In response to the charge, the Charged Party contends that it is a village with a population under 5,000 and therefore is exempt from the coverage of Ohio Revised Code Chapter 4117. The Charged Party, however, has stated that it wishes to waive its exemption "to invite an investigation of the charges."

For the reasons stated in the attached Opinion, incorporated by reference, the Board finds that, pursuant Ohio Revised Code Section 4117.01(B), the Charged Party is a public employer subject to the coverage of Ohio Revised Code Chapter 4117. Accordingly, the Board directs that the investigation of the unfair labor practice will proceed in accordance with Ohio Revised Code Section 4117.12.

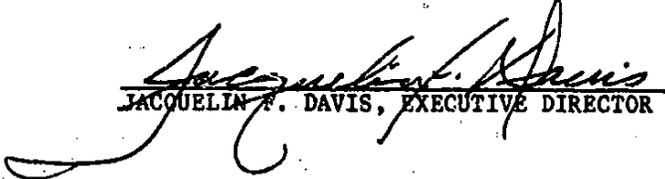
It is so directed.

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 10th day of September, 1986.



JACQUELIN F. DAVIS, EXECUTIVE DIRECTOR

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OPINION

Day, Chairman:

This case requires a response to a preliminary question before the usual investigatory process can begin. That question is: does the Village of Ada have a population of "at least five thousand according to the most recent federal decennial census?" If it does, it is clearly within the definition of public employer in R.C. 4117.01(B) and covered by Chapter 4117 of the Ohio Revised Code.

The Board holds that population of the Village of Ada does exceed 5,000 according to the relevant census. Accordingly, the investigation of the subject unfair labor practice will proceed.

I

The question answered in this case arose only because the federal decennial figures for Ada are in conflict with those in the "Ohio Population Report" published by the Secretary of State. The federal figure is 5,669.

The population report puts Ada's population at 3,005. This difference results from the operation of Ohio Revised Code Section 703.01. That section governs the "Ohio Population Report" and provides in pertinent part:

"...Villages, which, at any federal census, have a population of five thousand or more, shall become cities. No municipal corporation shall have its classification as a village changed to that of a city by virtue of there being counted, in determining the population of such municipal corporation, college or university students in attendance at an educational institution within the municipal corporation where the residential addresses of such students when not in attendance at the educational institution, or the residential addresses of the guardians of such students, as determined by the records of the institution kept by its registrar, are at a place other than the municipal corporation wherein such institution is located. After each decennial census the secretary of state shall issue a proclamation certifying the number of permanent residents in such municipal corporation and the number of students attending a college or university therein."¹

The Secretary issued a proclamation for the Village of Ada in response to the duties imposed by R.C. 703.01. That document proclaimed that Ada, Hardin County, Ohio "...according to the Federal Census of Nineteen Hundred and Eighty has a population of 5,699, which population includes 2,664 students at an educational institution within the municipality who have residential addresses at places outside the municipality; and that in accordance with Section 703.01 of the Revised Code of Ohio said municipality shall retain its classification as a village."

II

It is apparent the Secretary of State's proclamation responds to a statute designed to regulate village status. Ohio Revised Code, Section 4117.01(B), on the other hand, represents legislative implementation of the coverage and exemptions of Ohio's public sector collective bargaining law.

R.C. 703.01.

The two statutes have a common interest in determining the population of Ohio villages. But that is where community ends. For the statutory objectives are entirely different.

There is always a risk of misapprehending legislative intent when meanings are transported from one statute to another. But never is the hazard more obvious than when, as here, the statutory objectives are widely divergent. Moreover, the General Assembly could have used the same population standard in both statutes had it chosen to do so. That it did not is significant. Finally, it is a truism of construction that plain meanings do not require interpretation. R.C. 4117.01(B) could hardly have said more plainly in the English language that the source for population data to determine village status is the "most recent federal decennial census." Thus, the relevant census must guide the Board when population data is crucial to decision.

III

The investigation of the unfair labor practice alleged in this case will proceed as in any other.

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

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