

87-003

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

87-003

In the Matter of
Solon Education Association,
Incumbent Organization,

and

Solon United Teachers Association, OEA/NEA,
Employee Organization,

and

Solon City School District,
Employer.

CASE NUMBERS: 86-REP-4-0143
85-AC-10-4653
4563

DIRECTIVE AND OPINION

Sheehan, Vice Chairman:

I

The action giving rise to the issues in the instant case was initiated when the Solon Education Association (SEA), the exclusive representative, filed a Petition for Amendment of Certification seeking to add certain classifications to the existing deemed certified bargaining unit of employees of the Solon City School District Board of Education (Employer). Sometime later, the Solon United Teachers Association (SUTA) filed Petitions for Representation Election seeking to displace SEA as the exclusive representative. SUTA's petition claimed "all certificated employees" as the appropriate bargaining unit. The Employer responded by filing objections to

the SEA's proposed amendment of certification and to the descriptions of the bargaining unit claimed appropriate in the SUTA's petition.

SERB consolidated the Petitions for Amendment of Certification and Representation Election filed by SEA and SUTA, granted SEA's Motion to Intervene, and directed the matter to hearing for determination of an appropriate bargaining unit.

II

The central issue presented for determination by the Hearing Officer is whether educational aides, substitute teachers, learning disability tutors, and auxiliary service personnel should be included in the appropriate bargaining unit.

III

The Hearing Officer determined the appropriate unit should include learning disability tutors but should exclude educational aides, substitute teachers, and auxiliary personnel and so recommended.¹

No exceptions to the Hearing Officer's recommendations were filed.

IV

The Board finds the recommended exclusion of substitute teachers troublesome, since it veers sharply from the Board's opinion in the Toledo Board of Education (Case 84-UR-07-1543) where substitute teachers were found to be an appropriate unit. While complying with the policy that where parties to representation cases file no objections to a hearing officer's report the Board will exercise its discretion to leave the unit and election

¹Conclusions of Law No. 5.

recommendation undisturbed,² the Board does not wish to convey any false impressions that the precedent established in the Toledo case is removed by the action here. It isn't. That precedent stands.

V

In the instant case, the recommendations of the Hearing Officer is the directive of the Board, and the Board:

- 1) dismisses the Petition for Amendment of Certification filed by the Solon Education Association, and
- 2) directs a Representation Election be conducted in the unit described below:

INCLUDED: All full-time and part-time teachers employed under regular teaching contracts, including all counselors, school psychologists, speech and hearing therapists, librarians, media specialists, art, music and physical education instructors and special education teachers; learning disability tutors.

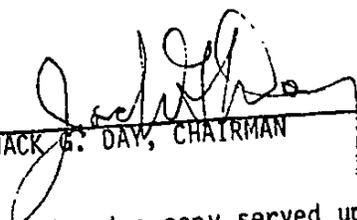
EXCLUDED: All noncertificated employees; the superintendent; assistant superintendents; assistants to the superintendents; directors; including the athletic director; principals; assistant principals; administrative interns; coordinators; including adult educational coordinators; hourly community education instructors; substitutes; and all other confidential; supervisory and management level employees as defined in Section 4117.01(F), (J) and (K) of the Ohio Revised Code.

²Communications Workers of America, Ohio Civil Service Employees Association/American Federation of State, County and Municipal Employees, AFL-CIO, Fraternal Order of Police, and Ohio Attorney General, SERB Case Nos. 85-VR-03-3194, 85-RC-03-3229, 85-VR-09-4162, 85-RC-09-4222, and 85-RC-09-4259 (1986), p. 2 et seq. of the opinion.

As required by Ohio Administrative Code Rule 4117-5-07(A), no later than March 16, 1987, the Employer shall serve on SEA and SUTA and file with the Board an alphabetized election eligibility list containing the names and home addresses of all employees eligible to vote as of February 26, 1987. The election shall be held on a date determined by the Labor Relations Department in consultation with the parties.

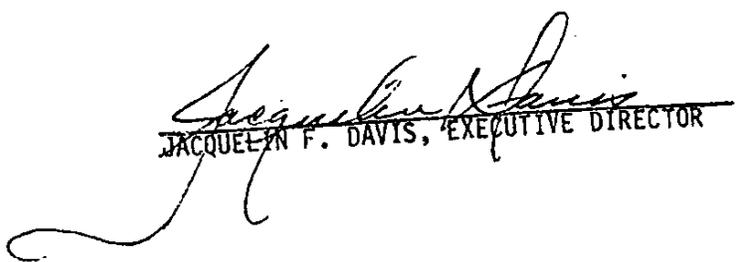
It is so directed.

DAY, Chairman, concurs.



JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 5th day of March, 1987.



JACQUELIN F. DAVIS, EXECUTIVE DIRECTOR

0275B:s/b:3/3/87:f