

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

SERB OPINION 8,

In the Matter of
Ohio Association of Public School Employees, Chapter #219,
Charging Party,

v.

United Local School District,
Charged Party.

CASE NUMBER: 86-ULP-10-0384

87-019

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE
(Dissenting Opinion Attached)

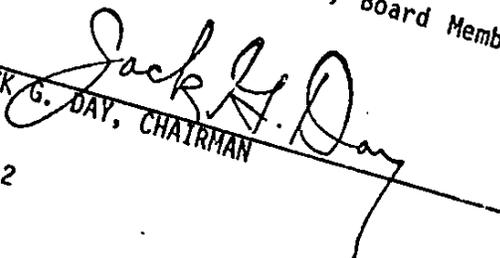
Before Chairman Day, Vice Chairman Sheehan, and Board Member Latané;
August 27, 1987.

The Ohio Association of Public School Employees, Chapter #219 (Charging Party) has filed an unfair labor practice charge against the United Local School District (Charged Party). The charge alleges that the Charged Party violated Ohio Revised Code Section 4117.11(A)(5) by unilaterally implementing a change in terms and conditions of employment without negotiating with the exclusive bargaining representative. Specifically, it is alleged that Charged Party amended a safety policy so as to reduce the number of occasions for which bus drivers may be disciplined.

The Board found probable cause in this matter on August 20, 1987. Upon further review, the Board concludes that although it is probable the Charged Party's unilateral act constitutes an unlawful refusal to bargain, processing this case through a full hearing does not appear appropriate. The change in the safety policy was minor in nature and actually worked to the benefit of bargaining unit members. It is unlikely that more could be achieved through expending resources in a hearing, even if the result was an order to bargain. Accordingly, the previous probable cause finding is vacated and the charge is dismissed.

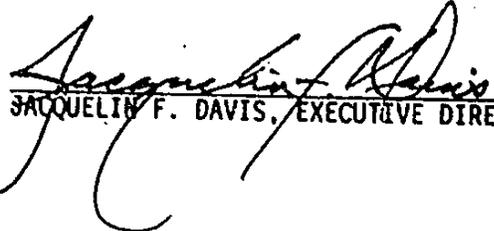
It is so directed.

DAY, Chairman; SHEEHAN, Vice Chairman, concur. LATANE, Board Member, dissents.


JACK G. DAY, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE
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AUGUST 27, 1987
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I certify that this document was filed and a copy served upon each party
on this 9th day of October, 1987.


JACQUELIN F. DAVIS, EXECUTIVE DIRECTOR

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STATE OF OHIO
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In the Matter of
Ohio Association of Public School Employees, Chapter #219,
Employee Organization,

v.

United Local School District Board of Education,
Employer.

CASE NUMBER: 86-ULP-10-0384

OPINION

Latané, Board Member, Dissenting:

The majority finds that the Employer, United Local School District Board of Education, had a duty to bargain with the Employee Organization, Ohio Association of Public School Employees, Chapter #219, on the changes in a safety policy involving disciplinary actions against bus drivers. Nevertheless, the majority dismisses the unfair labor practice charge on the grounds that the unilateral change was to the benefit of the employees and that the violation was trivial in nature.

While I agree with the majority on the existence of a duty to bargain, I respectfully dissent from the majority ruling dismissing the charge.

Ohio Revised Code (O.R.C.) §4117 is a collective bargaining law and the right of employees to collectively bargain is at the heart of the law.

Once it is determined that a duty to bargain exists on a certain issue and that one of the parties involved violated its duty to bargain, a complaint should be issued. Whether the subject matter itself is trivial or

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not is irrelevant since the duty to bargain collectively is the essence of the Act. In practice, if the issue is trivial, the parties undoubtedly will settle sooner or later. However, as a matter of policy, SERB should not dismiss refusal to bargain cases on the basis of the triviality of the topic of bargaining.

Moreover, if the unilateral change is to the benefit of the employees, the harm to the bargaining process could be greater than if the change is to the detriment of the employees. Not bargaining a detrimental bargainable issue would tend to strengthen an employee's commitment to the bargaining process and to the need for a bargaining agent.

Not bargaining a beneficial change could lead to serious erosion of the efficacy of an exclusive bargaining agent. Probably one of the most successful methods of undermining the status of an exclusive bargaining agent is granting benefits to employees without bargaining them. Lucas Co. MR/DD and AFSCME, SERB Case No. 85-UR-02-2996 (1986).

For the above-mentioned reasons probable cause should be found in this case and a complaint should be issued.