

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

165
SERB OPINION 88-011

In the Matter of
State Employment Relations Board,
Complainant,
and
Findlay Education Association,
Intervenor,
v.
Findlay City School District Board of Education,
Respondent.

CASE NUMBER: 85-UR-04-3558

ORDER
(Opinion Attached.)

Before Chairman Sheehan, Vice Chairman Davis, and Board Member Latané;
June 16, 1988.

On May 13, 1988, the Board issued an Order and Opinion in SERB v. Findlay City School District Board of Education, SERB 88-006 (5-13-88) finding the Findlay City School District Board of Education (Respondent) in violation of Ohio Revised Code (O.R.C.) §§4117.11(A)(1) and (5) because the Respondent had engaged in direct dealing with bargaining unit employees. The Respondent was ordered by the Board to cease and desist from such direct dealing, but no posting was required.

On May 27, 1988, the Findlay Education Association (Intervenor) filed a Motion for Reconsideration in which it requested that the Board reconsider its decision not to require posting. Upon reexamination of the issue and for reasons stated in the attached opinion, incorporated by reference, the Board grants the motion and amends its remedial order to add a requirement for posting.

Thus, in addition to the order issued on May 13, 1988, in SERB 88-006, the Respondent is ordered to take the following affirmative action: post for sixty (60) days in all Findlay City School District Board of Education buildings the NOTICE TO EMPLOYEES furnished by SERB stating that the Findlay City School District Board of Education shall cease and desist from interfering with, restraining, or coercing employees in the exercise of rights guaranteed in Chapter 4117 of the Revised Code, and from refusing to bargain collectively with the exclusive representative of our employees recognized or certified pursuant to Chapter 4117 of the Revised Code, and from otherwise violating §§4117.11(A)(1) and (A)(5).

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It is so ordered.

SHEEHAN, Chairman; DAVIS, Vice Chairman; and LATANE, Board Member,
concur.

William P. Sheehan
WILLIAM P. SHEEHAN, CHAIRMAN

I certify that this document was filed and a copy served upon each party
on this 15th day of July, 1988.

Cynthia L. Spanski
CYNTHIA L. SPANSKI, CLERK

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OPINION

Davis, Vice Chairman:

On February 18, 1988, the Board found that the Findlay City School District Board of Education ("School District") violated Ohio Revised Code §§4117.11(A)(1) and (5) by engaging in direct dealing with bargaining unit employees. The Board dismissed the portion of the complaint regarding the Respondent's failure to bargain on the establishment of a make-up day of classroom instruction. The Board held that the Respondent had had a duty to bargain on the issue, but because of the Findlay Education Association's ("FEA") inaction, the failure did not constitute an unfair labor practice. In fashioning a remedy for the School District's violation, the Board voted not to require the usual posting of a Board-provided notice to employees. On May 13, 1988, the Board issued its opinion and order (SERB 88-006, 5/27/88). On May 27, 1988, the FEA filed a Motion For Reconsideration in which it requested that the Board reconsider its decision not to require the School District to post a notice regarding the unfair labor practice finding. The School District did not file a response.

The FEA's motion is well-taken. Upon reexamination of the issue, the Board concludes that a posting should be required. The posting of a notice is an important remedial element. It serves three critical functions. The first function is to notify the employees that a particular action has been found to be unlawful and that such action will cease. The second function is to acknowledge the aggrieved party's effort to protect the integrity of the process. Indeed, in some instances, such as the case at bar, the only practical reparation is a formal, publicized statement from the Board that

the injured party's legal position opposing certain conduct has been found to be meritorious. An aggrieved party is entitled to announcement that it has prevailed and that an obligation owed to it has been breached. A third, purpose is served by the action of posting: it is a respondent's public commitment that it will abide by the law in the future. This statement of commitment provides a respondent with the opportunity to affirm its intention to fulfill its statutory responsibilities, and it provides reassurance for the employees, assuaging fears or concerns they may have about future conduct.

In the instant case, all three benefits would be achieved by a posting. The employees are entitled to information about the illegality of direct dealing by the School District; the FEA has a right to acknowledgment of the validity of its legal position; and the School District, FEA, and employees all benefit from the School District's affirmation of future compliance with its bargaining obligations.

The Board had previously stated that it would relieve the School District from the posting obligation because an unusually long period of time had passed since the violation occurred--the school year for which the make-up day had been scheduled elapsed nearly four years ago. As the FEA argues in its motion, such a policy could encourage delaying tactics. Even if SERB's unfortunate but diminishing backlog of complaint cases caused or contributed to the delay, the party aggrieved by the unfair labor practice should not be deprived of acknowledgment that it has prevailed, and the employees should not be deprived of the official information and reassurances to be disseminated through the posting.

The Board's previous order and opinion are modified to require the School District to post the Board-provided notice for sixty days in conspicuous locations where employees will be reasonably apprised of the content.

Sheehan, Chairman, and Latané, Board Member, concur.

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