

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of
Delhi Firefighters Association,
Employee Organization,
and
Township of Delhi,
Employer.

CASE NUMBER: 88-REP-08-0169

OPINION AND DISMISSAL

Before Chairman Sheehan, Vice Chairman Davis, and Board Member Latané;
September 1, 1988.

Davis, Vice Chairman:

This matter is before the Board pursuant to a Request for Recognition filed on August 22, 1988, by the Delhi Firefighters Association ("Employee Organization"). The Employee Organization seeks certification as the exclusive representative of a unit of part-time firefighters employed by the Township of Delhi ("Employer").

Ohio Revised Code ("O.R.C.") §4117.05(A)(2) establishes the procedure through which the Employee Organization is attempting to achieve certification without an election. That provision requires, among other elements, that an employee organization produce:

substantial evidence based on, and in accordance with, rules prescribed by the Board demonstrating that a majority of the employees in the bargaining unit wish to be represented by the employee organization.

Rules promulgated by the Board to effectuate this statutory design require that the substantial evidence must consist of:

Original signed statements, with each signature dated not more than one year prior to the date of the filing, including but not limited to cards and petitions, that clearly set forth the intent of the employee with respect to representation by the employee organization....

Ohio Administrative Code ("O.A.C.") Rule 4117-3-03(A)(1).

In support of its request, the Employee Organization submitted to the Board photocopies of petitions, signed by employees, stating their desire for representation by the Employee Organization. This evidence, however, is deficient in two respects: the documents are not originals and the employees' signatures are not individually dated. It is essential that the requirements of the rule be followed precisely. Because of the inadequacy of the substantial evidence without prejudice. The Employee Organization's Request for Recognition is dismissed without prejudice. The Board takes this opportunity to explain the value and purpose of the two requirements at issue.

In O.A.C. Rules 4117-3-03 and 4117-5-02, the Board has set forth identical procedural requirements for: (a) the substantial evidence necessary for certification without an election pursuant to Ohio Revised Code (O.R.C.) §4117.05(A)(2); and (b) the Board performs a critical function necessary for processing petitions for elections or "showing of interest" §4117.07. In both types of cases, the Board performs a critical function when it examines the supporting documentation. The evidence required for election petitions ensures that there is sufficient evidence within the proposed bargaining unit to warrant an election or decertification election. For certification without a majority of employees in the unit wish to be represented by the employee organization--the cornerstone requirement for certification as an exclusive representative.

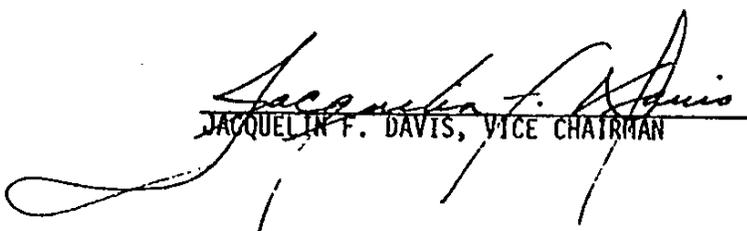
When requests for recognition or petitions for election are filed, Board staff members check the documentation against a payroll list submitted pursuant to O.A.C. Rules 4117-3-03 or 4117-5-05. In addition to verifying that the requisite percentage of unit employees have expressed their desires, the Board staff members for this task also examine the validity of documentation. A general presumption of validity applies, but Board agents remain alert for signs of duplication or forgery. Such documents are submitted through O.A.C. Rules 4117-3-03(A)(1) and 4117-5-02, the Board requires the filing of originals rather than copies. Recognizing the importance and irreplaceable nature of these items, the Board carefully protects the integrity and security of such documents. The chain of custody is monitored, and the documents are kept in a secure location to which access is limited. After a representation case is closed, these original documents are returned to the filing party.

O.A.C. Rules 4117-3-03(A)(1) and 4117-5-02 also require that statements of support be current--i.e., dated not more than one year prior to the filing of the representation petition or request for recognition. This requirement ensures that the documentation is an accurate reflection of the present desires of employees. Accordingly, the Board examines the documents to determine if the statements are current or stale. Only if each employee's individual signature or statement is dated can the Board evaluate the timeliness of the employee's expression.

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It is so directed.

SHEEHAN, Chairman, and LATANE, Board Member, concur.


JACQUELIN F. DAVIS, VICE CHAIRMAN

I certify that this document was filed and a copy served upon each party
on this 29th day of September, 1988.


CYNTHIA L. SPANSKI, CLERK

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