

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of
Ohio Patrolmen's Benevolent Association,
Employee Organization,
and
City of South Euclid,
Employer.

CASE NUMBER: 92-REP-10-0241

OPINION

OWENS, Chairman:

Ohio Revised Code §4117.07(A)(6) provides in pertinent part that:

"The board may not conduct an election under this section in any appropriate bargaining unit within which a board-conducted election was held in the preceding twelve-month period..."

The policy considerations behind such an election bar are sound and well-established both in the private sector and in other public jurisdictions. Election campaigns take a toll on labor relations in the workplace. Emotions are high, public money is spent and the disruption to the normal work process is substantial. (In re Butler County Bd of MRDD, SERB 92-019 [10-2-92]). Hence,

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once an election is concluded, a quiet twelve-month period is warranted regardless of the election results.

Citing Ohio Administrative Code Rule 4117-5-11, the Board has extended this concept to a situation where an employee organization is certified without an election, i.e., via the voluntary recognition process under Ohio Revised Code §4117.05(A)(2). (*In re City of Macedonia, SERB 89-035 [12-7-89]*). The policy considerations behind a certification bar are also sound and well established. A bar emanating from certification without an election is necessary to instill a sense of stability and commitment in the employer and the employees and to allow the union time to carry out its mandate without the pressure of raiding and strife.

In the case at issue, the situation is different from a straightforward election bar situation since what is pending before the Board is not a petition for election but a Request for Recognition. It is also different from a certification bar situation since no employee organization was certified as a result of the prior election. However, similar policy considerations apply. A Request for Recognition, where contested by the employer, may potentially lead to an election, either because the unit is contested and the administrative tool most commonly used to

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resolve such disputes is a consent election agreement, or because an employer is allowed to file a representation election petition in response to a Request for Recognition. In both situations the Request for Recognition culminates in elections which are barred by a statutory election bar for a twelve-month period following an election.

Thus, where a Request for Recognition is filed within a twelve-month period following an election and the employer objects to voluntarily recognizing the union, the Board will dismiss the request without prejudice as untimely.

Here, the Request for Recognition was filed only nine months after a decertification election in a unit that included the employees in question, and the Employer filed objections. Accordingly, the request is dismissed as premature.

Vice Chairman Pottenger concurs.

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