

**STATE OF OHIO
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of
State Employment Relations Board,
Complainant,
v.
Lima Public Library Board of Trustees,
Respondent.

STATE EMPLOYMENT
RELATIONS BOARD
2010 FEB 19 PM 1:40

Case Numbers 2007-ULP-05-0199, 2007-ULP-10-0564, & 2007-ULP-10-0565

ORDER
(OPINION ATTACHED)

Before Chairperson Brundige, Vice Chairperson Verich, and Board Member Spada:
December 17, 2009.

On May 3, 2007, the Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and its Local 776 ("OAPSE" or "Union") filed an unfair labor practice charge against the Lima Public Library Board of Trustees ("the Employer"), alleging that the Employer violated Ohio Revised Code ("O.R.C.") §§ 4117.11(A)(1) and (A)(5). On July 12, 2007, the State Employment Relations Board ("the Board" or "Complainant") found probable cause to believe the Employer violated O.R.C. §§ 4117.11(A)(1) and (A)(5) by failing to sign the successor agreement. A Complaint was issued on September 21, 2007.

On October 31, 2007, OAPSE filed a second charge (Case No. 2007-ULP-10-0564) alleging that the Employer violated O.R.C. §§ 4117.11(A)(1), (A)(2), and (A)(3) by denying OAPSE access to meeting rooms in an attempt to dominate or interfere with the administration of the Union. Also, on October 31, 2007, OAPSE filed a third charge (Case No. 2007-ULP-10-0565) alleging that the Employer violated O.R.C. §§ 4117.11(A)(1) and (A)(2) by engaging in a concerted and continuing effort to get bargaining unit members to withdraw from the Union. On February 7, 2008, the Board found probable cause to believe that the Employer violated O.R.C. §§ 4117.11(A)(1) and (A)(2), but not (A)(3), in Case Nos. 2007-ULP-10-0564 and 2007-ULP-10-0565 and consolidated these cases with Case No. 2007-ULP-05-0199. An Amended Complaint and Notice of Hearing for the consolidated cases was issued on May 22, 2008.

A hearing was held on September 16, 2008. On March 10, 2009, the Administrative Law Judge issued her Proposed Order, recommending that the Board find that the Employer did not violate O.R.C. §§ 4117.11(A)(1) and (A)(5) in Case No. 2007-ULP-05-0199 and that the Employer did violate O.R.C. §§ 4117.11(A)(1) and (A)(2) in the remaining cases. Each of the parties filed exceptions to the Proposed Order. Counsel for Complainant and OAPSE filed responses to the Employer's exceptions. The Employer filed a response to OAPSE's exceptions and a motion to strike the exceptions filed by the Complainant.

Order

Case Numbers 2007-ULP-05-0199, 2007-ULP-10-0564, & 2007-ULP-10-0565

December 17, 2009

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After reviewing the unfair labor practice charge, complaint, answer, transcript, Proposed Order, exceptions, responses to exceptions, and all other filings in this case, for the reasons set forth in the attached Opinion, incorporated by reference, Conclusion of Law No. 3 is amended to read: "The Lima Public Library did violate Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) by failing to sign the successor agreement."; the Findings of Fact, and Conclusions of Law, as amended, in the Proposed Order are adopted, finding that the Employer violated O.R.C. § 4117.11(A)(1) in Case No. 2007-ULP-10-0564 by denying OAPSE access to meeting rooms in an attempt to dominate or interfere with the administration of the union, that the Employer violated O.R.C. §§ 4117.11(A)(1) and (A)(2) in Case No. 2007-ULP-10-0565 by engaging in a concerted and continuing effort to get bargaining-unit members to withdraw from OAPSE, and that the Employer violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) in Case No. 2007-ULP-05-0199 by failing to sign the successor agreement.

Case No. 2007-ULP-05-0199 is hereby remanded to the Hearings Section for a hearing on the appropriate remedy. In Case Nos. 2007-ULP-10-0564 and 2007-ULP-10-0565, the Lima Public Library Board of Trustees is hereby ordered to:

A. CEASE AND DESIST FROM:

- (1) Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by denying union members access to a meeting room and by hanging a banner and displaying lawn signs during an OAPSE picket encouraging bargaining-unit employees to withdraw from OAPSE, and from otherwise violating Ohio Revised Code § 4117.11(A)(1); and
- (2) Interfering with the administration of an employee organization in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by hanging a banner and displaying lawn signs during an OAPSE picket encouraging bargaining-unit employees to withdraw from OAPSE and from otherwise violating Ohio Revised Code §§ 4117.11(A)(2).

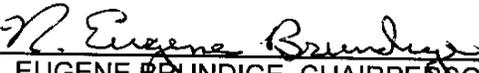
B. TAKE THE FOLLOWING AFFIRMATIVE ACTION:

- (1) Cease and desist from interfering with, restraining, or coercing employees in the exercise of rights guaranteed in Ohio Revised Code Chapter 4117 by denying union members access to a meeting room, by hanging a banner and displaying lawn signs during an OAPSE picket encouraging bargaining-unit employees to withdraw from OAPSE, and from otherwise violating Ohio Revised Code §§ 4117.11(A)(1) and (A)(2).
- (2) Post for sixty days in all the usual and normal posting locations where bargaining-unit employees represented by OAPSE work, the Notice to Employees furnished by the State Employment Relations Board, stating that the Lima Public Library Board of Trustees shall cease and desist from actions set forth in paragraphs (1), (2), and (3), and shall take the affirmative action set forth in paragraph (4);

- (3) Notify the State Employment Relations Board in writing within twenty calendar days from the date the **ORDER** becomes final of the steps that have been taken to comply therewith; and
- (4) Comply with any remedy subsequently ordered by the State Employment Relations Board in Case No. 2007-ULP-05-0199.

It is so ordered.

BRUNDIGE, Chairperson; VERICH, Vice Chairperson; and SPADA, Board Member, concur.



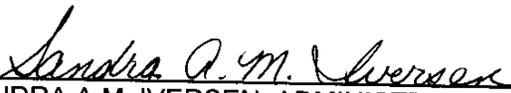
N. EUGENE BRUNDIGE, CHAIRPERSON

TIME AND METHOD TO PERFECT AN APPEAL

You are hereby notified that an appeal may be perfected, pursuant to Ohio Revised Code Section 4117.13(D), by filing a notice of appeal with the court of common pleas in the county where the unfair labor practice in question was alleged to have been engaged in, or where the person resides or transacts business, by filing in the court a notice of appeal setting forth the order appealed from and the grounds of appeal within fifteen days after the mailing of the State Employment Relations Board's order. A copy of the notice of appeal must also be filed with the State Employment Relations Board, at 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, pursuant to Ohio Administrative Code Rule 4117-7-07.

PROOF OF SERVICE

I certify that a copy of this document was served upon each party by certified mail, return receipt requested, and upon each party's representative by ordinary U.S. mail, this 19th day of February, 2010.



SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

**STATE OF OHIO
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

Lima Public Library Board of Trustees,

Respondent.

Case Nos. 2007-ULP-05-0199, 2007-ULP-10-0564, & 2007-ULP-10-0565

OPINION

Brundige, Chairperson:

This matter comes before the State Employment Relations Board (“the Board” or “Complainant”) upon the issuance of the Administrative Law Judge’s Proposed Order. Each of the parties filed exceptions to the Proposed Order. The Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and its Local 776 (“OAPSE”) and Counsel for Complainant filed responses to the exceptions filed by the Lima Public Library Board of Trustees (“Library Board”). The Library Board filed a response to OAPSE’s exceptions and a motion to strike the exceptions filed by Counsel for Complainant. On December 17, 2009, the Board denied the motion to strike. For the reasons that follow, we find that the Library Board violated Ohio Revised Code (“O.R.C.”) §§ 4117.11(A)(1) and (A)(5) in Case No. 2007-ULP-05-0199 and that the Library Board violated O.R.C. §§ 4117.11(A)(1) and (A)(2) in Case Nos. 2007-ULP-10-0564 and 2007-ULP-10-0565.

I. BACKGROUND

OAPSE is the Board-certified exclusive representative for a combined bargaining unit of the Library Board's professional and nonprofessional employees. OAPSE and the Library Board were parties to a collective bargaining agreement ("2004-06 CBA"), effective from January 1, 2004 through December 31, 2006, which contained a grievance process that culminated in binding arbitration.

On October 10, 2006, OAPSE filed a Notice to Negotiate (Case No. 2006-MED-10-1222) with SERB and served it on the Library Board. The parties met at the library for negotiations. At the conclusion of the second day of bargaining, the parties reached a tentative agreement ("TA"). Both the union and management negotiating teams agreed to recommend the TA.

The Article III, Dues Deduction provision of the 2004-06 CBA states in relevant part: "If 90% of bargaining unit members are members of the Union, employees who are not members of the Union shall pay to the Union an agency fee as a condition of employment with the Board. Such agency fee shall begin when the 90% membership occurs." The Article III, Dues Deduction provision of the TA reduced the percentage of bargaining-unit members who were required to be members of OAPSE to 70 percent for the agency-fee provision to be triggered. OAPSE initially asked for 50 percent. On or about December 8, 2006, the union membership ratified the TA.

The Library Board had historically opposed fair-share fees. The 2001-2003 CBA contained no agency-fee provision. During the 2003 negotiations, even though it was opposed to a fair-share fee, but as part of the give-and-take of contract negotiations, the Library Board agreed to the 90-percent figure since such a figure would reflect overwhelming support for OAPSE.

The management negotiating team warned the union negotiating team that the Library Board had historically opposed fair-share fees and that the Library Board might well decide that the lower threshold for fair share was a "deal breaker." Despite this warning, OAPSE's negotiating team asked Scott Shafer, the Library Director and a Library Board negotiating team member, to present the TA to the Library Board.

Mr. Shafer agreed to present the TA containing the 70 percent agency-fee provision to the Library Board.

The minutes of the December 19, 2006 Library Board of Trustees meeting (Joint Exhibit 2), regarding the topic "Collective Bargaining Agreement 2007-2009," state: "Dr. [Wilfred] Ellis made a motion to accept the presented contract *except for the fair share provision*. Mr. Rapp seconded. Motion carried." (Emphasis added).

At the December 19, 2006 Library Board meeting, Denise Holler, OAPSE Vice President and member of the OAPSE negotiating team, asked the Library Board members if they realized their position could take everyone back to the table. Dr. Ellis said at the December 19, 2006 Library Board meeting that because of the agency-fee provision, the Board could not accept the contract.

Deputy Clerk Treasurer Jane Pahl's notes from the December 19, 2006 Library Board meeting reflect: "Collective Bargaining Agreement all okay except Dr. Ellis-re'fair share prov" [sic], and that the Board's position would put them back into negotiations.

Minutes from a December 19, 2006 Department Head meeting (Joint Exhibit 2), state: "The Board accepted the collective bargaining unit's position except for the fair share clause. After the first of the year the union may decide to go to a Mediator to help resolve the issue."

OAPSE and the Library Board met with a mediator in January 2007 and February 2007 in unsuccessful attempts to resolve the issue. The Library Board received a fax from a local media outlet (WLIO-NBC Lima) that consisted of a notice WLIO had received from OAPSE indicating in part, "Fact: The Library Director and their high priced Cleveland Attorney entered into a tentative agreement which they both agreed to recommend to the Library Board. The tentative agreement contained a change in the 'Union Security Provision'. Fact: The Board rejected the agreement, refusing to follow the recommendation of the Director and their own Attorney."

On August 16, 2007, the Library Board sent out notices with paychecks titled "Your Attention Please...", which included, in addition to information on the monthly staff meeting and the Library Board's participation in the Allen County Fair, information on how to join OAPSE and how to withdraw from OAPSE. The Library Board sent out an e-mail to library staff containing similar information.

The Library Board has sent out "Your Attention Please..." paycheck notices for the last eighteen months, but prior to August 2007, the notices had never included information on how to join or withdraw from OAPSE.

On September 6, 2007, OAPSE served a notice of intent to picket on the Library Board, indicating that a picket would take place on September 22, 2007. The notice of intent to picket stated that the Employer and OAPSE were currently parties to a CBA that expired December 31, 2006.

A banner was placed on the library windows before the picket, which stated: "Library Staff Supports Lima Library Board in saying NO to Forced Union Dues. *Union membership down 16% this year.*" Signs were placed around the grounds before the picket. One sign stated: "If Library Staff *Wanted* to Pay Dues, They Would Have Already Joined the Union"; another sign stated: "**NEWS FLASH**: Library Staff Dropping Out of Union: Membership Down 16% This Year"; a third sign stated: "What Local 776 Hasn't Told Library Staff: Pay Dues or Lose Your Job. Union big wigs in Columbus need your money."

The Library Board's Meeting Room Policies and Procedures ("MRPPs") provide that meeting rooms are reserved no more than three months in advance and are available on a first-come, first-served basis. The MRPPs provide that meetings must end at least fifteen minutes before the library closing time. The MRPPs provide that meeting rooms may not be used more than three times a year by the same group or individual and that a contract must be completed, signed, returned with maintenance fee payment and accepted at least two weeks before the meeting, before a meeting room would be considered reserved.

Since its certification in 1985, OAPSE has used a library meeting room for union meetings. The procedure has been that OAPSE President and book mobile driver Kathy Stark would ask OAPSE Vice President Denise Holler or one of the other union officers to call the Assistant Department Head of Maintenance to reserve a meeting room. OAPSE had previously used the meeting room for meetings approximately six times per year, usually requesting the room a week in advance. The meetings were held after library hours. OAPSE was never charged a maintenance fee for a meeting room.

In the situation giving rise to the instant case, OAPSE Secretary Cindy Nichols e-mailed a request to Assistant Library Director Candace Newland on September 25, 2007, three days after the picket. Ms. Nichols' request was based upon Ms. Newland's August 23, 2007 e-mail reminder that such meetings be scheduled either through her or Scott Shafer. Ms. Nichols requested the use of the auditorium on the third Friday of every month at 5:00 p.m. for their union meetings. Ms. Nichol's e-mail included a request for the dates of October 19, 2007, November 16, 2007, December 21, 2007, January 18, 2008, February 15, 2008, March 21, 2008, and April 16, 2008.

Ms. Newland answered the e-mail stating: "It is not the responsibility of the Lima Public Library to provide a meeting place for your group especially when OAPSE's ultimate purpose is to undermine the management of the Library. Given the events of the past week, a local union hall would better suit your needs. For this reason, I must deny your request."

III. DISCUSSION

In the Proposed Order, the Administrative Law Judge ("the ALJ") recommended that the Board find that: (1) the Library Board did not violate O.R.C. §§ 4117.11(A)(1) and (A)(5) by failing to sign the successor agreement; (2) the Library Board did violate O.R.C. § 4117.11(A)(1) by denying union members access to a meeting room; and (3) the Library Board did violate O.R.C. § 4117.11(A)(1) and (A)(2) by hanging a banner and displaying lawn signs during OAPSE's picket encouraging union employees to withdraw from OAPSE. For the reasons set forth below, we agree with the ALJ's second and third recommendations; we disagree with the ALJ's first recommendation and instead find that the Library Board did violate O.R.C. §§ 4117.11(A)(1) and (A)(5) in Case No. 2007-ULP-05-0199 by failing to sign the successor agreement.

Initially, we note that SERB dismissed two earlier cases, Case Nos. 2006-ULP-12-0618 and 2007-ULP-02-0048. Those cases involved the same parties as the present cases. The dismissal directive issued by SERB in Case Nos. 2006-ULP-12-0618 and 2007-ULP-02-0048 found that *no probable cause* existed to believe the Library Board violated O.R.C. § 4117.11. In dicta, SERB made a statement regarding the Library Board of Trustees' failure to either accept or reject the proposed tentative

agreement during its December 19, 2006 meeting (Case No. 07-ULP-02-0048). In Case No. 2007-ULP-05-0199, the Library Board raised the issue of res judicata with respect to the dismissal of Case No. 2007-ULP-02-0048. The ALJ addressed that issue in the Proposed Order. We agree with the ALJ's conclusion that SERB's dismissal of Case No. 2007-ULP-02-0048 did not raise any issues with respect to the doctrine of res judicata in the present cases.

The dismissal directive SERB issued in Case Nos. 2006-ULP-12-0618 and 2007-ULP-02-0048 does not constitute a *decision on the merits* of whether the Library Board failed to properly accept or reject the tentative agreement under O.R.C. § 4117.10(B). The ALJ noted that a SERB dismissal that does not result from the issuance of a complaint and a formal hearing on the merits is not a final appealable order and such a dismissal is not an adjudication. The ALJ further noted that case law has established that the doctrine of res judicata does not apply to a finding of "no probable cause" by an administrative agency.

The Supreme Court of Ohio has held that *res judicata*, whether issue preclusion or claim preclusion, applies to those administrative proceedings that are "of a judicial nature and where the parties have had an ample opportunity to litigate the issues involved in the proceeding[.]" *Superior's Brand v. Lindley* (1980), 62 Ohio St.2d 133, syllabus; *Consumers' Counsel v. Pub. Util. Comm.* (1985), 16 Ohio St. 3d 9, 10; *Wilson v. Semco, Inc.*, 152 Ohio App.3d 75, 2002-Ohio-4965 (3rd Dist Ct App, Marion, 2002); *Doan v. Southern Ohio Administrative District Council, Intl. Union of Bricklayers & Allied Craftworkers*, 145 Ohio App. 3d 482 (10th Dist Ct App, Franklin, 2001).

A. The Library Board Violated O.R.C. §§ 4117.11(A)(1) and (A)(5) by Failing to Sign and Execute the Successor Agreement.

O.R.C. § 4117.11 provides in relevant part as follows:

(A) It is an unfair labor practice for a public employer, its agents or representatives to:

(1) Interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Chapter 4117. of the Revised Code[;]

(2) Initiate, create, dominate, or interfere with the formation or administration of any employee organization, or contribute financial or other support to it; except that a public employer may permit employees to

confer with it during working hours without loss of time or pay, permit the exclusive representative to use the facilities of the public employer for membership or other meetings, or permit the exclusive representative to use the internal mail system or other internal communications system;

(5) Refuse to bargain collectively with the representative of [its] employees recognized as the exclusive representative or certified pursuant to Chapter 4117. of the Revised Code[.]

O.R.C. § 4117.10(B) provides in relevant part as follows:

The public employer shall submit a request for funds necessary to implement an agreement and for approval of any other matter requiring the approval of the appropriate legislative body to the legislative body within fourteen days of the date on which the parties finalize the agreement, unless otherwise specified, but if the appropriate legislative body is not in session at the time, then within fourteen days after it convenes. *The legislative body must approve or reject the submission as a whole, and the submission is deemed approved if the legislative body fails to act within thirty days after the public employer submits the agreement.* The parties may specify that those provisions of the agreement not requiring action by a legislative body are effective and operative in accordance with the terms of the agreement, provided there has been compliance with division C of this section. If the legislative body rejects the submission of the public employer, either party may reopen all or part of the entire agreement. (emphasis added)

Case law has established that under the provisions of O.R.C. § 4117.10(B), the legislative body must either *accept or reject* the submission as a whole. In *In re City of Martins Ferry*, SERB 89-021 (8-23-89), the union and employer bargaining teams were negotiating agreements for two bargaining units. When they reached tentative agreements for both units, the employer submitted the tentative agreements to its city council for approval. The city council took the agreements under consideration and then made counter offers that were communicated to the union's bargaining teams. SERB held that when "the legislative body chose to pick and choose and to begin negotiations anew with the union, they failed to properly and timely reject the agreement in accordance with O.R.C. § 4117.10(B)." Although the SERB order was reversed by the common pleas court in *SERB v. City of Martins Ferry*, 1990 SERB 4-63 (CP, Belmont, 8-9-90), the SERB order was ultimately reinstated by the 7th District Court of

Appeals, Belmont County in *SERB v. City of Martins Ferry*, 1991 SERB 4-62 (7th Dist Ct App, Belmont, 6-6-91). The appellate court reasoned:

The foregoing reasoning leads us to one conclusion that, pursuant to R.C. 4117.10(B), when a tentative agreement is submitted to a legislative body, the legislative body may do one of two things. It may only approve or reject the tentative proposal within 30 days of submission. Failure to so act by the legislative body shall trigger a deemed approval of the tentative agreement.

Id at 4-65.

In *In re East Palestine City School Dist Bd of Ed*, SERB 86-011 (3-20-86), the employer's representative reached a tentative agreement with the exclusive representative and presented the requisite submission to the legislative body, i.e., the school board. The legislative body failed to act within the 30-day limit in O.R.C. § 4117.10(B). We held that when the school board failed to act within 30 days on the tentative agreement, "the provisions of R.C. 4117.10(B) were activated. School board inaction allowed the tentative agreement to become the contract by operation of law." Id at 247.

Then, what of the failure to execute the written agreement? We find that the 1986 decision clearly sets forth the responsibilities and consequences for legislative bodies and is still applicable today:

When an agreement is reached, it must be incorporated in a signed and executed agreement. Failure to sign and execute is an unfair labor practice. Such omission constitutes an interference with employees' rights and the refusal to bargain.

In this case the respondent employer did not reject the tentative agreement within the statutorily required 30-day interval. Therefore, it is deemed approved and final under the statute, and the failure to execute a contract incorporating the terms of the tentative agreement was a violation of R.C. 4117.11(A)(1) and (5).

Id at 248.¹ The SERB Order was affirmed on appeal by the common pleas court, *East Palestine City School Dist Bd of Ed v SERB*, SERB 1987 4-22 (CP, Columbiana, 1-21-87), except that the court did not require the posting of the cease-and-desist order by the employer. On appeal, the appellate court affirmed the SERB Order and reinstated the posting of the cease-and-desist order. *East Palestine City School Dist Bd of Ed v SERB*, SERB 1987 4-91 (7th Dist Ct App, Columbiana, 12-15-87).

In the present case, the motion made by Dr. Willis Ellis at the Lima Public Library Board of Trustees meeting on December 19, 2006, was to accept part of the tentative agreement and to reject another part of it. This action is reflected in the meeting's minutes, which state, in pertinent part, "Dr. Wilfred Ellis made a motion to accept the presented contract, **except for the fair share provision.**" (emphasis added) The action attempted by the Library Board at the December 19, 2006 meeting was insufficient to either accept or reject the tentative agreement "as a whole" and therefore such action did not meet the statutory requirements of O.R.C. § 4117.10(B). As a result, the tentative agreement was deemed accepted pursuant to O.R.C. § 4117.10(B). Based on the foregoing analysis, we find that the Lima Library Board of Trustees violated O.R.C. §§ 4117.11(A)(1) and (A)(5) by refusing to sign the successor agreement.

We agree with the Findings of Fact and Conclusions of Law set forth in the ALJ's Proposed Order with respect to the conclusion that the Library Board violated O.R.C. § 4117.11(A)(1) by denying union members access to a meeting room. We also agree with the Findings of Fact and Conclusions of Law set forth in the ALJ's Proposed Order with respect to the conclusion that the Library Board violated O.R.C. §§ 4117.11(A)(1) and (A)(2) by hanging a banner and displaying lawn signs during a union picket encouraging bargaining-unit employees to withdraw from OAPSE. Lastly, we agree with the Findings of Fact and Conclusions of Law set forth in the ALJ's Proposed Order

¹ The SERB Order was affirmed on appeal by the common pleas court in *East Palestine City School Dist Bd of Ed v SERB*, SERB 1987 4-22 (CP, Columbiana, 1-21-87), except that the court did not require the posting of the cease-and-desist order by the employer. On appeal, the appellate court affirmed the SERB Order and reinstated the posting of the cease-and-desist order. *East Palestine City School Dist Bd of Ed v SERB*, SERB 1987 4-91 (7th Dist Ct App, Columbiana, 12-15-87).

with respect to the issue regarding the Library Board's request for attorney fees. Accordingly, we deny the Library Board's request.

B. Bifurcation.

On August 25, 2008, the Complainant filed an agreed joint motion to bifurcate the hearing, requesting a separate hearing on the issue of remedy if the Proposed Order concluded that the Library Board violated O.R.C. Chapter 4117 by failing to sign and execute the successor agreement. The agreed motion was made and granted. Because SERB has determined that the Lima Public Library Board of Trustees violated O.R.C. §§ 4117.11(A)(1) and (A)(5) by failing to execute the collective bargaining agreement, this matter will be remanded to the Hearings Section, which will convene a hearing specifically on the question of remedy and any remedy awarded as the result of the reconvened hearing will be in addition to the findings listed herein.

IV. CONCLUSION

For the reasons set forth above, the Board finds that the Lima Public Library Board of Trustees violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) in Case No. 2007-ULP-05-0199 by failing to sign and execute the successor agreement, that the Lima Public Library Board of Trustees violated Ohio Revised Code § 4117.11(A)(1) in Case No. 2007-ULP-10-0564 by denying union members access to a meeting room, and that the Lima Public Library Board of Trustees violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(2) in Case No. 2007-ULP-10-0565 by hanging a banner and displaying lawn signs during a Union picket encouraging bargaining-unit employees to withdraw from OAPSE. Accordingly, we adopt the Findings of Fact and Conclusions of Law, as amended, in the Proposed Order, deny the Library Board's request for attorney fees, and remand this matter to the Hearings Section for a hearing on the appropriate remedy with regard to the Employer's violation of Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) in Case No. 2007-ULP-05-0199 by failing to sign and execute the successor agreement.

As for Case Nos. 2007-ULP-10-0564 and 2007-ULP-10-0565, the Library Board is hereby ordered to: **(1)** cease and desist from interfering with, restraining, or coercing

employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by denying union members access to a meeting room and from otherwise violating Ohio Revised Code § 4117.11(A)(1); **(2)** cease and desist from interfering with the administration of an employee organization and interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by hanging a banner and displaying lawn signs during OAPSE's picket encouraging bargaining-unit employees to withdraw from OAPSE and from otherwise violating Ohio Revised Code §§ 4117.11(A)(1) and (A)(2); **(3)** cease and desist from interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 and failing to bargain collectively with the representative of its bargaining-unit employees by refusing to sign a collective bargaining agreement that has become effective pursuant to Ohio Revised Code § 4117.10(B) and from otherwise violating Ohio Revised Code §§ 4117.11(A)(1) and (A)(5); **(4)** post for sixty days in all the usual and normal posting locations where bargaining-unit employees represented by OAPSE work, the Notice to Employees furnished by the State Employment Relations Board, stating that the Lima Public Library Board of Trustees shall cease and desist from actions set forth in paragraphs (1), (2), and (3), and shall take the affirmative action set forth in paragraph (4); **(5)** notify the State Employment Relations Board in writing within twenty calendar days from the date the **ORDER** becomes final of the steps that have been taken to comply therewith; and **(6)** comply with any remedy subsequently ordered by the State Employment Relations Board in Case No. 2007-ULP-05-0199.

Verich, Vice Chairperson, and Spada, Board Member, concur.



NOTICE TO EMPLOYEES

FROM THE STATE EMPLOYMENT RELATIONS BOARD

POSTED PURSUANT TO AN ORDER OF THE
STATE EMPLOYMENT RELATIONS BOARD,
AN AGENCY OF THE STATE OF OHIO

After a hearing in which all parties had an opportunity to present evidence, the State Employment Relations Board has determined that we have violated the law and has ordered us to post this notice. We intend to carry out the order of the State Employment Relations Board and to abide by the following:

A. CEASE AND DESIST FROM:

- (1) Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by denying union members access to a meeting room and by hanging a banner and displaying lawn signs during an OAPSE picket encouraging bargaining-unit employees to withdraw from OAPSE, and from otherwise violating Ohio Revised Code § 4117.11(A)(1); and
- (2) Interfering with the administration of an employee organization in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by hanging a banner and displaying lawn signs during an OAPSE picket encouraging bargaining-unit employees to withdraw from OAPSE and from otherwise violating Ohio Revised Code §§ 4117.11(A)(2).

B. TAKE THE FOLLOWING AFFIRMATIVE ACTION:

- (1) Cease and desist from interfering with, restraining, or coercing employees in the exercise of rights guaranteed in Ohio Revised Code Chapter 4117 by denying union members access to a meeting room, by hanging a banner and displaying lawn signs during an OAPSE picket encouraging bargaining-unit employees to withdraw from OAPSE, and from otherwise violating Ohio Revised Code §§ 4117.11(A)(1) and (A)(2);
- (2) Post for sixty days in all the usual and normal posting locations where bargaining-unit employees represented by OAPSE work, the Notice to Employees furnished by the State Employment Relations Board, stating that the Lima Public Library Board of Trustees shall cease and desist from actions set forth in paragraphs (1), (2), and (3), and shall take the affirmative action set forth in paragraph (4); and
- (3) Notify the State Employment Relations Board in writing within twenty calendar days from the date the **ORDER** becomes final of the steps that have been taken to comply therewith.

**SERB v. Lima Public Library Board of Trustees,
Case Nos. 2007-ULP-10-0564 & 2007-ULP-10-0565**

BY

DATE

TITLE

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED

This Notice must remain posted for sixty consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this Notice or compliance with its provisions may be directed to the State Employment Relations Board.

SERB

"Promoting Orderly and Constructive
Labor Relations Since 1984"

State
Employment
Relations
Board



65 East State Street, 12th Floor
Columbus, Ohio 43215-4213
Phone 614.644.8573
Fax 614.466.3074
www.serb.state.oh.us

N. Eugene Brundige, Chairperson
Michael G. Verich, Vice Chairperson
Robert F. Spada, Board Member

Ted Strickland, Governor

Sherrie J. Passmore Executive Director

Case Nos. 2007-ULP-05-0199, 2007-ULP-10-0564, & 2007-ULP-10-0565

CERTIFICATION

I, the undersigned General Counsel and Assistant Executive Director for the State Employment Relations Board, hereby certify that the attached document is a true and exact reproduction of the original Order (with Opinion Attached) of the State Employment Relations Board entered on its journal on the 19TH day of February, 2010.

A handwritten signature in black ink, appearing to read "J. Russell Keith", is written over a horizontal line.

J. Russell Keith
General Counsel and Assistant Executive Director
February 19, 2010