

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

In the Matter of

State Employment Relations Board,

Complainant,

v.

Mahoning Education Association of Developmental Disabilities,

Respondent.

Case No. 2007-ULP-11-0616

**ORDER
(OPINION ATTACHED)**

STATE EMPLOYMENT
RELATIONS BOARD
2010 APR 29 P 1:04

Before Chairperson Brundige, Vice Chairperson Verich, and Board Member Spada: March 24, 2010.

On November 27, 2007, the Mahoning County Board of Developmental Disabilities¹ (“Charging Party”) filed an unfair labor practice charge against the Mahoning Education Association of Developmental Disabilities (“Respondent” or “MEADD”). On February 21, 2008, the State Employment Relations Board (“the Board” or “Complainant”) determined that probable cause existed for believing Respondent had committed or was committing an unfair labor practice in violation of Ohio Revised Code (“O.R.C.”) § 4117.11(B)(8), authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to participate in the unfair labor practice mediation process.

On October 3, 2008, a complaint was issued. An answer was filed by Respondent on October 10, 2008. On December 11, 2008, a hearing was conducted by an Administrative Law Judge. On September 2, 2009, the parties filed their joint “Stipulations of Fact.” One of the stipulations was that the parties agreed to waive an evidentiary hearing and submit the case directly to the Board on the parties’ briefs and stipulations. Subsequent to filing their “Stipulations of Fact,” the parties filed their respective briefs. On October 15, 2009, in accordance with the aforementioned stipulation, this matter was transferred from the Hearings Section to the Board for a decision on the merits.

¹ The Mahoning County Board of Developmental Disabilities was formerly known as the “Mahoning County Board of Mental Retardation and Developmental Disabilities.”

After reviewing the joint "Stipulations of Fact," the parties' briefs, and all other filings in this case, the Findings of Fact and Conclusions of Law in the attached Opinion, incorporated by reference, find that Respondent Mahoning Education Association of Developmental Disabilities violated Ohio Revised Code § 4117.11(B)(8) by engaging in picketing related to negotiations for a successor collective bargaining agreement without providing a written ten-day notice as required by this statute. The Mahoning Education Association of Developmental Disabilities is ordered to:

A. Cease and desist from:

Inducing or encouraging its members to engage in activity that violates Ohio Revised Code § 4117.11(B)(8) by picketing without providing the required written notice to State Employment Relations Board and Charging Party ten days prior to the picketing related to a labor relations dispute, and from otherwise violating Ohio Revised Code § 4117.11(B)(8).

B. Take the following affirmative action:

- (1) Post the Notice to Employees furnished by the State Employment Relations Board for sixty days in all of the usual and normal posting locations where bargaining-unit employees represented by the Mahoning Education Association of Developmental Disabilities work;
- (2) Provide all bargaining-unit employees represented by the Mahoning Education Association of Developmental Disabilities with a copy of the posting; 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.

It is so ordered.

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



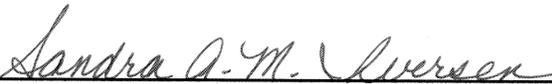
N. EUGENE BRUNDIGE, CHAIRPERSON

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 setting forth the order appealed from and the grounds 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, 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 mail, this 29th day of April, 2010.



SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT



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 Board and to abide by the following:

A. CEASE AND DESIST FROM:

Inducing or encouraging its members to engage in activity that violates Ohio Revised Code § 4117.11(B)(8) by picketing without providing the required written notice to State Employment Relations Board and Charging Party ten days prior to the picketing related to a labor relations dispute, and from otherwise violating Ohio Revised Code § 4117.11(B)(8).

B. TAKE THE FOLLOWING AFFIRMATIVE ACTION:

- (1) Post the Notice to Employees furnished by the State Employment Relations Board for sixty days in all of the usual and normal posting locations where bargaining-unit employees represented by the Mahoning Education Association of Developmental Disabilities work;
- (2) Provide all bargaining-unit employees represented by the Mahoning Education Association of Developmental Disabilities with a copy of the posting; 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. Mahoning Education Association of Developmental Disabilities
Case No. 2007-ULP-11-0616

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.

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

In the Matter of

State Employment Relations Board,

Complainant,

v.

Mahoning Education Association of Developmental Disabilities,

Respondent.

Case No. 2007-ULP-11-0616

OPINION

VERICH, Vice Chairperson:

This unfair labor practice case comes before the State Employment Relations Board (“SERB” or “Complainant”) upon the filing of joint stipulations by the parties and the subsequent filing of briefs by the parties. For the reasons set forth below, we find that the Mahoning Education Association of Developmental Disabilities violated Ohio Revised Code (“O.R.C.”) § 4117.11(B)(8) by engaging in picketing activity related to contract negotiations outside of the public meeting of the Mahoning County Board of Developmental Disabilities¹ on November 5, 2007.

I. FINDINGS OF FACT

1. The Mahoning County Board of Developmental Disabilities (“BDD” or “the Employer”) is a “public employer” as defined by O.R.C. § 4117.01(B). (Stipulations of Fact [“Stip.”] 1)

¹ The Mahoning County Board of Developmental Disabilities was formerly known as the “Mahoning County Board of Mental Retardation and Developmental Disabilities.” Its name was changed after Senate Bill 79 was passed and signed into law in July 2009.

2. The Mahoning Education Association of Developmental Disabilities (“Respondent” or “MEADD”) is an “employee organization” as defined by O.R.C. § 4117.01(D) and is the deemed-certified exclusive representative for a bargaining unit of BDD’s employees. (Stip. 2)

3. On November 27, 2007, BDD filed an unfair labor practice charge with SERB pursuant to and in accordance with O.R.C. § 4117.12(B) and Ohio Admin. Code § 4117-7-01, alleging, among other things, that MEADD violated O.R.C. § 4117.11(B)(8) by engaging in informational picketing at a BDD meeting without providing notice ten days in advance. In defense of the charge, MEADD challenged, among other things, the constitutionality of O.R.C. § 4117.11(B)(8). (Stip. 3)

4. On February 21, 2008, SERB determined that probable cause existed for believing Respondent committed an unfair labor practice by engaging in informational picketing at a BDD meeting without giving a ten day notice, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to unfair labor practice mediation. SERB found no probable cause and dismissed all other aspects of the unfair labor practice charge. (Stip. 4)

5. BDD and MEADD are parties to a collective bargaining agreement effective from September 1, 2004 through August 31, 2007 (“the CBA”), which contains a grievance-arbitration procedure that culminates in final and binding arbitration. Negotiations over a successor collective bargaining agreement are ongoing. MEADD has not engaged in a strike or given to BDD or SERB written notice of its intent to strike. (Stip. 5)

6. On or about June 28, 2007, MEADD filed a Notice to Negotiate with SERB and BDD to commence negotiations for a successor contract to the CBA. (Stip. 6)

7. Beginning at 6:00 p.m. on November 5, 2007, BDD held a public meeting pursuant to O.R.C. § 121.22 at a facility known as “The Centre at Javitt Court,” which is located at 153 Javitt Court, Austintown, Mahoning County, Ohio. (Stip. 7)

8. At all times relevant, the property located at 153 Javitt Court has been owned by the Commissioners of Mahoning County, Ohio. During its normal hours of

operation, i.e., weekdays from 7:30 a.m. to 3:30 p.m., the facility is not usually open to the general public, but is used primarily as a habilitation center for medically fragile clients of BDD and is the site of a retirement program for senior citizens who are developmentally disabled; both of these operations are run by BDD pursuant to its authority under O.R.C. §§ 5126.01 *et seq.* 153 Javitt Court is also one of four Mahoning County-owned locations at which BDD's public meetings are held on a rotating basis three to four times a year pursuant to O.R.C. § 121.22. (Stip. 8)

9. Immediately prior to the November 5, 2007 meeting, MEADD, through its agents or representatives, engaged in picketing related to the successor contract negotiations outside of BDD's meeting. The picketers were expressing their desire for a fair contract and their dissatisfaction with the progress of negotiations with BDD. The picketing was peaceful in nature, and the picket signs contained messages such as "Settle Now," "MEADD Deserves a Fair Contract," and "Tell Superintendent Duck to Give us a Fair Deal."² The picketing took place in the driveway of the 153 Javitt Court property located immediately outside the main entrance to the building. In this location, the picketers could be seen by members of the general public who were attending the BDD meeting as they entered the building. (Stip. 9)

10. MEADD did not give written notice to BDD or SERB prior to engaging in picketing at BDD's November 5, 2007 meeting. (Stip. 10)

11. The parties agreed to waive the evidentiary hearing in this matter and to submit this case on Stipulations and Briefs directly to the SERB members. (Stip. 11)

II. DISCUSSION

The issue presented in this case is whether Respondent Mahoning Education Association of Developmental Disabilities committed an unfair labor practice in violation of Ohio Revised Code § 4117.11(B)(8) by engaging in picketing activity related to contract negotiations outside of the November 5, 2007 public meeting of the Mahoning

² At all times relevant to this matter, Larry Duck was the Superintendent of the Employer.

County Board of Developmental Disabilities. O.R.C. § 4117.11(B)(8) provides as follows:

(B) It is an unfair labor practice for an employee organization, its agents, or representatives, or public employees to:

* * *

(8) Engage in any picketing, striking, or other concerted refusal to work without giving written notice to the public employer and to the state employment relations board not less than ten days prior to the action. The notice shall state the date and time that the action will commence and, once the notice is given, the parties may extend it by written agreement of both.

In *In re Liberty Local School Dist Bd of Ed*, SERB 85-063 (12-6-85), SERB was presented with an allegation of picketing without notice in violation of O.R.C. § 4117.11(B)(8), specifically, sympathy picketing by teachers toward striking non-teaching employees. A primary focus was directed to assess the intent in O.R.C. § 4117.11(B)(8) and to interpret the notice requirements therein. After identifying six interpretive options, SERB adopted two – options a. and f. – for the disposition of the probable-cause question in that case, to wit:

a. The word “picketing” is qualified by “any.” Therefore, statutory notice is required for all picketing, including sympathy picketing.

* * *

f. The General Assembly did not intend to restrict sympathy picketing by any requirements other than notice.

Id at 207. SERB ultimately determined that sympathy picketing, without the prior written notice required by O.R.C. § 4117.11(B)(8), constituted “a prima facie unfair labor practice.” Id at 209.

In *In re University of Akron*, SERB 86-010 (3-14-86), SERB was presented with an allegation of picketing without notice in violation of O.R.C. § 4117.11(B)(8), specifically, the picketing of an investiture ceremony on the university campus. SERB held: “The charge does not allege a job action or labor dispute conjoined with the picketing. Under these circumstances the picketing is informational only and protected

by the picketers' 1st and 14th Amendment right to freedom of expression." *Id* at 244 (footnote omitted). No definition of what constituted "informational picketing" was included therein.

In *In re Ohio Civil Service Employees Assn, Local 11, AFSCME*, SERB 94-009 (5-26-94) ("*OCSEA I*"), SERB's Chief Hearing Officer was presented with an allegation of picketing without notice in violation of O.R.C. § 4117.11(B)(8), specifically the picketing regarding the scheduling of employees and the payment of holiday premium pay at one of the employer's facilities, the Gallipolis Developmental Center ("the GDC"). The picketing occurred adjacent to and on the only road providing egress from and ingress to the GDC's facilities, although apparently not on the property owned by the GDC. The picketers were carrying signs and handing out leaflets related to the scheduling dispute to cars coming and going to the GDC's facilities. No bargaining-unit member participated in the "informational picket" during hours that he or she was scheduled to work. In the Hearing Officer's Proposed Order that was later adopted by SERB as a Board Opinion, the Chief Hearing Officer found that there was a labor dispute between the parties – an alleged breach of contract concerning holiday premium pay that could have been resolved in the parties' contractual grievance-arbitration process and that was actually resolved in a Labor-Management meeting. "[P]urely informational picketing related to First Amendment rights not intended to be regulated by [O.R.C.] Chapter 4117, such as in support of political candidates or general social issues not related to a labor relations dispute involving a public employer or public employee rights under [O.R.C.] Chapter 4117, is not subject to the notice requirements of [O.R.C.] § 4117.11(B)(8). *Id* at 3-63.

In *In re Ohio Turnpike Comm*, SERB 95-014 (9-29-95), SERB was presented with an allegation of picketing at the residence of a public official or representative in violation of O.R.C. § 4117.11(B)(7) and picketing without notice in violation of O.R.C. § 4117.11(B)(8). The charged party did not deny that its actions violated these two sections, but it argued that these provisions were unconstitutional. SERB found unfair labor practices had been committed and that it lacked authority to make a determination

on the constitutionality of these sections. On appeal, the Court of Common Pleas of Cuyahoga County affirmed SERB's order and also found that these sections were "constitutionally sound." *United Electrical Radio v SERB*, 1997 SERB 4-3 (CP, Cuyahoga, 2-12-97). On further appeal, the Eighth District Court of Appeals, in *United Electrical Radio & Mach. v SERB*, 1998 SERB 4-41 (8th Dist Ct App, Cuyahoga, 5-7-98), held that the advance notice requirement in O.R.C. § 4117.11(B)(8) was unconstitutional. It also held that the prohibition on residential picketing was unconstitutional, citing and following the Ohio Supreme Court decision in *City of Seven Hills v. Aryan Nations* (1996), 76 Ohio St.3d 304, which held that a trial court abused its discretion when it completely banned simultaneous residential picketing by groups with contrary views. This appellate decision was appealed to the Ohio Supreme Court, but the court did not accept the discretionary appeal.

In *In re City of North Royalton*, SERB 99-002 (1-22-99), SERB was presented with an allegation that the employer had threatened bargaining-unit members with discipline, including discharge, if they exercised their right to picket, in violation of O.R.C. § 4117.11(A)(1). This case involved a public employer's unfair labor practice as it unlawfully exercised a self-help remedy. SERB addressed in a footnote that since the Ohio Supreme Court declined to hear the appeal in *United Electrical Radio & Mach. v SERB*, supra, the appellate court decision "exists as binding precedent only in the 8th Ohio Appellate District, which is composed solely of Cuyahoga County."

In *In re OCSEA, AFSCME Local 11*, SERB 2002-004 (10-30-2002) ("*OCSEA II*"), the SERB Administrative Law Judge was presented with an allegation of picketing without notice in violation of O.R.C. § 4117.11(B)(8), again involving actions at the Gallipolis Developmental Center ("the GDC"). Four individuals (who were both union members and GDC employees), along with non-employees and a GDC employee in a bargaining unit represented by a different union, gathered at two locations near the GDC campus. One gathering was held on private church property; the other gathering was held on city park property alongside a public road. No GDC employee at the gatherings was on active work status. No work stoppage occurred during the

gatherings. Access to the GDC continued as usual during the time period of the gatherings. The Administrative Law Judge found that the picketing was intended to call attention to a proposed agency budget cut pending in the legislature by providing information to the local community about the loss of services that would be incurred by GDC's residents if the budget cut was enacted as proposed; the Union selected the date for the picketing precisely because of its proximity in time to finance committee hearings on the proposed budget cut. As such, the picketing was concerned with, and designed to impact, a matter under consideration by the State *as lawmaker*, rather than by the State *as employer*. Thus, in the Administrative Law Judge's Proposed Order, which was later adopted by SERB as a Board Opinion, the Administrative Law Judge found that the charged party did not engage in picketing related to a labor relations dispute or other activity intended to be regulated under O.R.C. Chapter 4117 and, accordingly, did not violate O.R.C. § 4117.11(B)(8).

The facts in the present case are not in dispute. Beginning at 6:00 p.m. on November 5, 2007, the Employer held a public meeting pursuant to O.R.C. § 121.22 at a facility known as "The Centre at Javitt Court," which is located at 153 Javitt Court, Austintown, Mahoning County, Ohio. Immediately prior to BDD's November 5, 2007 meeting, Respondent, through its agents or representatives, engaged in picketing related to the successor contract negotiations in the driveway of the 153 Javitt Court property located immediately outside the main entrance to the building. The picketers were expressing their desire for a fair contract and their dissatisfaction with the progress of negotiations with the Employer.

Respondent did not give written notice to the Employer or SERB prior to engaging in picketing at BDD's November 5, 2007 meeting. In Stipulation 9, Respondent admitted engaging in picketing activities related to a labor relations dispute with BDD in the driveway of 153 Javitt Court, Austintown, Mahoning County, Ohio on November 5, 2007. In Stipulation 10, Respondent admitted engaging in picketing without providing to BDD or SERB written notice of MEADD's intent to picket ten days

prior to the picketing. Therefore, the record established that Respondent's conduct on November 5, 2007, was in violation of O.R.C. § 4117.11(B)(8).

In its Answer to the Complaint issued in this matter, Respondent asserted as an affirmative defense that O.R.C. § 4117.11(B)(8) does not require a ten-day notice prior to informational picketing. Even though Respondent did not develop this defense in its post-hearing brief, we still must consider this issue. We have long held that any picketing that relates to those activities intended by the legislature to be regulated by O.R.C. Chapter 4117 and falling within SERB's jurisdiction pursuant to O.R.C. Chapter 4117 constitutes picketing subject to the notice requirements of § 4117.11(B)(8). See, e.g., *In re University of Akron*, supra at 244. Purely informational picketing related to First Amendment rights not intended to be regulated by O.R.C. Chapter 4117, such as in support of political candidates or general social issues not related to a labor relations dispute involving a public employer or public employee rights under O.R.C. Chapter 4117, is not subject to the notice requirements of O.R.C. § 4117.11(B)(8). See, e.g., *In re University of Akron*, supra; *OCSEA I*, supra at 3-62 – 3-63; *OCSEA II*, supra at 3-21.

Restrictions on picketing are also recognized in the private sector. In *National Labor Relations Board v. Retail Store Employers Union*, 447 U.S. 607, 100 S.Ct. 2372 (1980) ("*Safeco*"), a four-justice plurality held that, because Congress may prohibit picketing in furtherance of unlawful objectives, the application of section 8(b)(4), which is identical to the language in the Ohio statute, to the facts of that case (involving single product consumer picketing) did not violate the First Amendment. Justice Stevens also noted that "the very presence of a picket line may induce action of one kind or another, quite irrespective of the nature of the ideas which are being disseminated. Hence those aspects of picketing make it the subject of restrictive regulation" (quoting Justice Douglas's concurring opinion in *Bakery Drivers v. Wohl*, 315 U.S. 769, 62 S.Ct. 816, 819-20 (1942)). *Safeco*, 100 S.Ct. at 2379-80.

In this case, it is undisputed that the MEADD members who were picketing in the driveway of 153 Javitt Court on November 5, 2007, carried signs that contained the

following statements: “Settle Now,” “MEADD Deserves A Fair Contract,” and “Tell Superintendent Duck to Give us a Fair Deal.” Respondent stipulated that the picketers were expressing their desire for a fair contract and their dissatisfaction with the progress of negotiations with the Board. (Stip. 9) These statements plainly focused on the parties’ labor relations dispute, not any socio-political cause. Thus, this activity does not fall with the realm of “informational picketing.”

Lastly, in its post-hearing brief, Respondent argues that the unfair labor practice charge in this case should be dismissed because O.R.C. § 4117.11(B)(7) is unconstitutional on its face and as applied. First, we note that this is not the proper forum in which to raise a constitutional claim as SERB is an administrative agency without authority to declare any portion of its enabling statute unconstitutional. “SERB, like other administrative agencies, does not have jurisdiction to determine [constitutional] claims.” *State ex rel. Rootstown Local School Dist. Bd. of Edn. v. Portage Cty. Court of Common Pleas* (1997), 78 Ohio St.3d 489, 494 (citations omitted).

Second, it is axiomatic that all legislative enactments enjoy a presumption of constitutionality. *Northern Ohio Patrolmen’s Benevolent Assn. v. Parma* (1980), 61 Ohio St.2d 375. As the Ohio Supreme Court has stated: “A regularly enacted statute of Ohio is presumed to be constitutional and is therefore entitled to the benefit of every presumption in favor of its constitutionality. This court has held enactments of the General Assembly to be constitutional unless such enactments are clearly unconstitutional beyond a reasonable doubt.” *State ex rel. Dickman v. Defenbacher* (1955), 164 Ohio St. 142, 147. Third, SERB must interpret and apply a statutory provision in a constitutional manner and must presume that the statutory provisions are constitutional. *In re Dist 1199/HCSSU/SEIU, AFL-CIO*, SERB 96-004 (4-8-96).

Accordingly, we find that Ohio Revised Code § 4117.11(B)(8) is applicable in this case. Based on the discussion set forth above, we note that the record establishes that Respondent’s conduct on November 5, 2007, violated Ohio Revised Code § 4117.11(B)(8).

O.R.C. § 4117.02(O) provides as follows:

Whenever the state employment relations board determines that a substantial controversy exists with respect to the application or interpretation of this chapter and the matter is of public or great general interest, the state employment relations board shall certify its final order directly to the court of appeals having jurisdiction over the area in which the principal office of the public employer directly affected by the application or interpretation is located. The chairperson shall file with the clerk of the court a certified copy of the transcript of the proceedings before the state employment relations board pertaining to the final order. If upon hearing and consideration the court decides that the final order of the state employment relations board is unlawful or is not supported by substantial evidence on the record as a whole, the court shall reverse and vacate the final order or modify it and enter final judgment in accordance with the modification; otherwise, the court shall affirm the final order. The notice of the final order of the state employment relations board to the interested parties shall contain a certification by the chairperson of the state employment relations board that the final order is of public or great general interest and that a certified transcript of the record of the proceedings before the state employment relations board had been filed with the clerk of the court as an appeal to the court. For the purposes of this division, the state employment relations board has standing to bring its final order properly before the court of appeals.

In *In re City of North Royalton*, SERB 99-002 (1-22-99), SERB was presented with an allegation that the employer had threatened bargaining-unit members with discipline, including discharge, if they exercised their right to picket, in violation of O.R.C. § 4117.11(A)(1). This case involved a public employer's unfair labor practice as it unlawfully exercised a self-help remedy. SERB addressed in a footnote that since the Ohio Supreme Court declined to hear the appeal in *United Electrical Radio & Mach. v SERB*, supra, the appellate court decision "exists as binding precedent only in the 8th Ohio Appellate District, which is composed solely of Cuyahoga County."

III. CONCLUSIONS OF LAW

1. The Mahoning County Board of Developmental Disabilities (formerly known as Mahoning County Board of Mental Retardation and Developmental Disabilities) is a "public employer" as defined by O.R.C. § 4117.01(B).

2. The Mahoning Education Association of Developmental Disabilities is an "employee organization" as defined by O.R.C. § 4117.01(D) and is the exclusive representative for a bargaining unit consisting of employees of the Mahoning County Board of Developmental Disabilities.

3. The Mahoning Education Association of Developmental Disabilities violated O.R.C. § 4117.11(B)(8) by engaging in picketing activities related to contract negotiations in the driveway of 153 Javitt Court, Austintown, Mahoning County, Ohio on November 5, 2007, without providing the Mahoning County Board of Developmental Disabilities and the State Employment Relations Board with written notice of its intent to picket ten days prior to the picketing.

IV. DETERMINATION

For the reasons above, we find that the Mahoning Education Association of Developmental Disabilities committed an unfair labor practice in violation of Ohio Revised Code § 4117.11(B)(8) by engaging in picketing related to a labor relations dispute without giving the required written notice to the Mahoning Board of Developmental Disabilities and the State Employment Relations Board ten days prior to the picketing. The Mahoning Education Association of Developmental Disabilities is ordered to:

A. Cease and desist from:

Inducing or encouraging its members to engage in activity that violates Ohio Revised Code § 4117.11(B)(8) by picketing without providing the required written notice to the Mahoning Board of Developmental Disabilities and the State Employment Relations Board ten days prior to the picketing related to a labor relations dispute, and from otherwise violating Ohio Revised Code § 4117.11(B)(8).

B. Take the following affirmative action:

(1) Post the Notice to Employees furnished by the State Employment Relations Board for sixty days in all of the usual and normal

posting locations where bargaining-unit employees represented by the Mahoning Education Association of Developmental Disabilities work;

(2) Provide all bargaining-unit employees represented by the Mahoning Education Association of Developmental Disabilities Association with a copy of the posting; 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.

Brundige, Chairperson, and Spada, Board Member, concur.



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

Ted Strickland, Governor

Sherrie J. Passmore Executive Director

Case No. 2007-ULP-11-0616

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 29TH day of April, 2010.

J. Russell Keith
General Counsel and Assistant Executive Director
April 29, 2010

Case 07-ULP-11-0616, SERB v. Mahoning Education Association of Developmental Disabilities

The 04/29/2010 Directive was served as follows:

Certified Mail to:

Case 07-ULP-11-0616

Richard L. Leslie, Jr.
Clemans, Nelson and Associates
6500 Emerald Parkway, Suite 100
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Case 07-ULP-11-0616

Ira J. Mirkin, Esq.
Stanley J. Okusewsky, III, Esq.
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Regular Mail to:

Case 07-ULP-11-0616

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Case 07-ULP-11-0616

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Case 07-ULP-11-0616

Brian Edwards, Esq., Assistant Attorney General
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*Hand Delivered to:

Case 07-ULP-11-0616