

**In the
Supreme Court of Ohio**

MAHONING EDUCATION ASSOC.	:	Case No. 2012-12-1378
OF DEVELOPMENTAL DISABILITIES,	:	
	:	On Appeal from the
Appellee,	:	Mahoning County
	:	Seventh Appellate District
	:	
v.	:	
	:	Court of Appeals Case
STATE EMPLOYMENT RELATIONS	:	No. 11 MA 52
BOARD, et al.,	:	
	:	
Appellants.	:	

**MERIT BRIEF OF AMICUS CURIAE OHIO PUBLIC EMPLOYER LABOR
RELATIONS ASSOCIATION, OHIO PUBLIC TRANSIT ASSOCIATION, COUNTY
COMMISSIONERS ASSOCIATION OF OHIO, AND NATIONAL PUBLIC EMPLOYER
LABOR RELATIONS ASSOCIATION SUPPORTING APPELLANTS.**

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STATEMENT OF AMICUS INTEREST

The Ohio Public Employer Labor Relations Association ("OHPELRA") is a state-wide, non-partisan organization comprised of public employers at all levels of government in Ohio which deliver essential public services. OHPELRA's mission is to educate, inform, and provide professional interaction for its members, as well as, advocate for excellence in public sector labor and employee relations and the delivery of essential public services

OHPELRA's members are public employees, attorneys, law firms, private consultants and others who work in or represent hundreds of local governments in labor-relations and human-resources matters, including dealings with labor unions. OHPELRA includes a broad range of public employer representatives, from the smallest to the largest jurisdictions, who handle a wide range of issues in the labor relations and human resources areas.

The Ohio Public Transit Association ("OPTA") is a professional association which provides leadership, resources, support and technical assistance to public and private transit agencies in Ohio. OPTA's role in achieving the best possible transit system is to be: (1) a respected voice in legislative affairs; (2) an effective influence on public policy for mobility of members of the public and environmental issues; (3) a builder of active coalitions for transit; (4) an internal communicator of legislative, professional and technical information; (5) an external communicator with news media, governmental, business and civic leaders; and (6) an organization dedicated to achieving its goals while embracing the highest ethical standards.

Members of OPTA include 62 different transportation agencies throughout Ohio who service cities such as Cleveland, Columbus, Cincinnati, Toledo, Dayton and Akron. OPTA members serve daily more than 500,000 Ohioans and provide over 100 million trips per year while employing more than 60,000 people. OPTA's mission is to act as a unified voice

advocating and strengthening the role of uninterrupted public transportation in improving the quality of life for all Ohio citizens.

The County Commissioners Association of Ohio (“CCAO”) is a private, not-for-profit statewide association of county commissioners founded in 1880 to promote the best practices and policies in the administration of county government for the benefit of Ohio residents. CCAO’s membership consists of the county commissioners of 86 of Ohio’s 88 counties and the members of the Summit and Cuyahoga County Councils.

The National Public Employer Labor Relations Association (“NPELRA”) is the premier national organization for public sector labor relations and human resource professionals. NPELRA is a network of state and regional affiliates with over 2000 members across the country. The governmental agencies represented by NPELRA employ more than 4 million workers in federal, state and local government, including education.

NPELRA’s members represent public employers in a wide range of areas from management-union contract negotiations to working with arbitrators under grievance and arbitration procedures. NPELRA strives to provide its members with high quality, progressive labor relations advice that balances the needs of management and the public interest.

NPELRA also works to promote the interests of public sector management in the judicial and legislative arenas and to provide opportunities for networking among members by establishing state and regional organizations throughout the country.

The removal of the 10-day notice requirement for informational picketing will have a negative impact on the safe delivery of essential public services delivered by the agencies, departments, cities, counties and local governments which are members of one or more of the Amici associations, OHPELRA, OPTA, CCAO and NPELRA.

STATEMENT OF THE CASE AND FACTS

OHPELRA, OPTA, CCAO and NPELRA adopt the Statement of the Case and Statement of Facts as contained in the Brief of Appellants, State Employment Relations Board.

LAW AND ARGUMENT

I. The public's right to unimpeded, uninterrupted delivery of public services justifies and necessitates the short, reasonable notice provision for informational picketing of public facilities

Any disruption, interference or impediment in the delivery of services to the public, even the slightest delay or inconvenience, is unjustified. The public should not shoulder any burden resulting from a public-sector labor-management dispute, and the legislature intentionally provided advance notice of "*any picketing*" to prevent such injustice. R.C. 4117.11(B)(8). (Emphasis added.) A balance of the rights of the public to receive essential public services and the ability of public employees to engage in informational picketing is established with the reasonable ten day notice requirement in the public employee Collective Bargaining Act (Act). R.C. Chapter 4117. Providing advance notice of a potential disruption or interruption to the efficient and safe delivery of essential public services protects the interests of the public.

Advance notice is not a burden on unions. The requirement of a ten day advance notice of a picket is consistent with the original legislative intent to allow, as with strike notices, public employers and the union to attempt resolution of the employee grievances and for the public employer to prepare for potential interruption of public services. Preparations for picketing include making arrangements for staffing, security, and publicity, as well as coordinating the delivery of supplies and services provided by contractors and subcontractors.

A. The public has benefited from the unions timely compliance with the advance notice requirement as it has allowed for the uninterrupted delivery of public services

From 2004-2012, unions filed over 85 notices to picket with the State Employment Relations Board (“SERB”)¹. (See Appendix A.) These informational pickets took place across the state at: Kent State University; Franklin County Children Services; Avon Lake Public Library; Bucyrus City Board of Education; University of Akron; Mahoning County Job and Family Services; City of Parma; University of Toledo; the Greater Cleveland Regional Transit Authority; City of Steubenville; Greene County Children Services; Gallia County Local School District Board of Education; City of Piqua; Miami Township Board of Trustees; City of Parma Board of Education; and at many other colleges, elementary and secondary schools, cities, children services boards, public health agencies, transit authorities, sheriff offices, career centers, boards for developmental disabilities, public libraries, counties, and departments of job and family services. These notices to picket were not notices to picket accompanying a strike—these notices were solely for informational pickets. The unions were able to timely provide notice to SERB and the employer, and were still able to exercise their right to picket. The simple act of filing notice ten days in advance, allowed the public employer the opportunity to make necessary preparations for the picket, as well as work to resolve the employees’ concerns.

The advance notice to picket was essential to the public employers referenced above as it allowed them an opportunity to prevent a disruption or interruption in public services. Pickets create a disruption, confusion and interruption in the delivery of public services, hindering the public’s ability to receive these services in an efficient and safe manner. The absence of the advance notice to picket would have caused a disruption in providing the school children of

¹ SERB is the agency responsible for the administration of the Act.

Bucyrus and college students at the University of Toledo with education, the underprivileged of Mahoning County with food stamps, the citizens of Parma with its firefighter services, and the citizens of the greater Cleveland area with transportation. The advance notice allowed the public employer to prevent such a disruption in services by providing a reasonable amount of time for the public employer to properly staff its facility, notify the public of the picket and make alternate arrangements for any deliveries or contractors with which the picket may interfere. The advance notice requirement under R.C. 4117.11(B)(8) is necessary and does not impose an undue burden on unions.

B. Public employers deliver essential services ranging from education and health care to transportation and social services

The Act defines public employers to include the state, any political subdivisions, cities, counties, townships of more than five thousand, school districts, developmental disabilities, boards, public schools, colleges and universities, community schools, commissioners and boards. R.C. 4117.04(B). Nearly every citizen of Ohio is impacted or directly affected by one or more covered entities on a daily basis.

Public employers include a variety of entities that deliver a wealth of diverse, essential services to the public. These employers include school districts, transportation authorities, counties, villages, townships, cities, health departments, hospitals, boards of developmental disabilities, universities, etc. The services provided range from police and fire safety, to health care and social services, from waste water treatment to parks and recreation. Each public employer provides an invaluable service to the public—services that are essential, necessary, and paid for by the public tax dollars.

In 2012, the United State Census Bureau estimated Ohio's population at 11,544,951.

(U.S. Census Bureau, *State and County QuickFacts Ohio*,

<http://quickfacts.census.gov/qfd/states/39000.html> (accessed Jan. 25, 2013). Those 11.5 million Ohio citizens rely upon these essential public services for: safe and timely transportation to and from work, doctors and schools; for health care needs; for counseling and social work; for public assistance; for a safe and effective learning environment; for sanitary water and clean streets; and many more needs. For example, in August 2012, 1,787,417 Ohioans received food stamps through the Department of Job and Family Services, Ohio Department of Job and Family Services, *Public Monthly Statistics Report*, August 2012, p. 1, available at <http://jfs.ohio.gov/pams/Reports/PAMS2012-08.pdf> (accessed Jan. 25, 2013); 54.3 million people visited Ohio's 75 state parks in 2010, Ohio Legislative Service Commission, Ohio Facts 2012 Edition, p. 15, available at <http://www.lsc.state.oh.us/fiscal/ohiofacts/sept2012/2012ohiofacts.pdf> (accessed Jan. 25, 2013) [hereinafter "LSC Report"]; 10.8 million people were provided with drinking water from Ohio's public water systems daily, LSC Report at p. 16; 1,774,538 students were enrolled in Ohio's public schools in 2010, LSC Report at p. 59; 1,573 elderly Ohioans with serious disabilities and unstable medical conditions were served through the Transitions Aging Carve-Out Program each month in 2009, LSC Report at p. 72; 360,000 individuals were served by Ohio's 50 community-based behavioral health boards in 2011, LSC Report at p. 74; 268,500 individuals received Medicaid mental health services through the Ohio Department of Mental Health in 2011, LSC Report at p. 74; and 6,730 individuals were provided with inpatient services through the Ohio Department of Mental Health's behavioral healthcare organizations by state hospitals in 2011, LSC Report at p. 74.

It is clear that the public relies upon these essential and diverse public services. Interruption of those services is detrimental to public needs. The removal of the advance notice

requirement would negatively affect and impact the thousands of Ohioans who utilize these public services and rely upon public employers to efficiently and safely provide them.

II. The legislature intentionally included the 10-day notice provision in the Act, unique to public employers

The legislature intentionally included the provision for informational picketing with the 10-day notice requirement in addition to the bargaining impasse procedures culminating in the right to strike or final and binding arbitration. Those legislators, with input from interested parties, included the 10-day notice provision while also providing a separate, specific statutory right for public employees to engage in informational picketing. *See In re Ohio Civil Service Employees Assn., Local 11, AFSCME*, SERB 94-009, at 5 (May 26, 1994) (“any picketing’ which relates to those activities intended by the Legislature to be regulated by Chapter 4117 and falling within SERB’s jurisdiction pursuant to Chapter 4117 constitutes picketing subject to the notice requirements of R.C. 4117.11(B)(8).”)

The only condition imposed on public employees in this process is that the employees or unions must provide to SERB and the public employer the 10-day written notice. This short notice then allows for:

1. SERB to intervene and attempt to peacefully resolve the impasse through its mediation services; *See In re Ohio Civil Service Employees Assn., Local 11, AFSCME*, SERB No. 94-009, at 5 (May, 26, 1994) (“The Legislature’s legitimate reasons for requiring a ten-day notice related to Chapter 4117 rights and issues may include: (1) providing all parties an opportunity for at least ten days to resolve or mediate any labor dispute through the available procedures in Chapter 4117 prior to the heightened emotions, publicity and disruptions which often accompany picketing activities ...”); and
2. Public employers to be able to respond to employee grievances without interruption of essential services. *See In Re Garaway Teachers Association, OEA/NEA*, SERB ALJ 2002-ALJ-005, at 3 (March 14, 2002) (“The key purpose of the notice requirement is to put management in a position to know that a job action is contemplated and when it may occur, and to take whatever responsive action would be appropriate or necessary.”).

It is important to note that a picket is not the only opportunity for public employees to address their concerns. Public employees and public unions have, in nearly all collective bargaining agreements, grievance procedures which conclude with binding arbitration, labor-management meeting provisions, and impasse proceedings under the Act which for public safety employees culminates in final and binding arbitration, conciliation. R.C. 4117.14. Public employees also have the right to air their grievances publicly, attend public meetings to speak out against the employer in matters relating to public concern, write letters to the editor, or campaign for elected officials.

Employers must have the opportunity to address and resolve employee grievances and have the responsibility to maintain uninterrupted, efficient operation of the public's services. The notice provision of the Act is a balance of the interests of the public and is a minimal restraint on public employees' First Amendment rights.

III. The advance notice requirement under R.C. 4117.11(B)(8) is not a prohibition on picketing and leaves many other laws untouched

More than 680,000 Ohioans work for the state or local governments. Bureau of National Affairs, Inc., *Union Membership, Coverage, Density and Employment by State*, 2011, available at <http://www.unionstats.com> (accessed 1/25/2013). Firefighters, bus drivers, teachers, and administrative employees are just a small sampling of the many Ohio public employees. As public employees, these individuals are entitled to more protections to their job than employees in the private sector; they are able to speak out against their employer, with minimal limitation, without the fear of discipline. *See Connick v. Myers*, 461 U.S. 138, 103 S.Ct. 1684 (1983). Furthermore, public employees have a constitutionally protected right in their jobs and may only

be removed from their jobs with due process. *Loudermill v. Cleveland Bd. of Educ.*, 470 U.S. 532, 105 S. Ct. 1487 (1985).

The advance notice requirement provided for in R.C. 4117.11(B)(8) leaves these First Amendment rights of public employees untouched. Furthermore, the substantive labor rights of public employees remain intact. The advance notice requirement merely channels the exercise of the employees' right to picket. The tailoring of this right is not uncommon for public employees as many of the freedoms afforded to public employees come with a degree of limitation. The Supreme Court has recognized that "many of the most fundamental maxims of our First Amendment jurisprudence cannot reasonably be applied to speech by government employees." *Waters v. Churchill*, 511 U.S. 661, 114 S.Ct. 1878 (1994).

Public employees have protections afforded to them under law (e.g. civil service law provides public employees tenure and they may only be removed from service for specific reasons). R.C. 124.34. Further, public employees enjoy bargaining privileges not enjoyed by private sector employees (e.g. binding conciliation for safety employees). R.C. 4117.14. However, these protections are not without limitations. As discussed herein, public employees who are members of a bargaining unit are required under R.C. 4117.11(B)(8) to provide advance notice of any picketing or a strike. R.C. 4117.11(B)(8). Additionally, public employees' political speech is limited by R.C. 124.57. Specifically, classified civil service employees are subject to restrictions on political speech to ensure that employees are independent of any political party control over appointment to, and continuance in office. R.C. 124.57; O.A.C. 123:1-46-02; *See also* "Hatch Act" 5 USC §1501-08. These few, reasonable limitations on public employees' speech are *de minimis* at best, and serve to forward the untainted, uninterrupted delivery of public services to the citizens of Ohio.

IV. The advance notice requirement provides the public employer notice to prepare for the safety of the public and provide essential services without disruption

The advance notice requirement for informational pickets is necessary to ensure the public does not experience any interruption in services. When notice is given, the public has the opportunity to rearrange their schedules, allot additional time, and address the issue before it disrupts and interrupts the service they need. Public employers must have the opportunity to prepare for and possibly prevent the potential disruption of essential public services.

A. The advance notice requirement allows employers to prepare for the safety and security of the public and its employees

Safety is a major concern for public employers. Public employers invite the public onto their property and into their buildings, and provide care and services to the public. Ensuring the safety of all while under the care of the public employer is imperative. Public employers require advance notice for a picket to be able to secure public premises and staff adequate protection in the event tensions rise to a conflict or a disturbance during the picket.

Most public facilities are located on busy thoroughfares, in the center of towns, cities, and counties to provide the easiest access for the public. By design, pickets are designed to draw attention and raise awareness. Picketing employees picket outside public buildings holding signs, marching, and even chanting. In the present case, the Mahoning County Education Association of Developmental Disabilities held signs stating, "Settle Now," "MEADD Deserves a Fair Contract" and "Tell Superintendent Duck to Give us a Fair Deal." *In re. Mahoning Education Association of Developmental Disabilities*, SERB No. 2010-008, at 8 (April 29, 2010). In other cases, union picket signs display similar messages, such as "Honk," "Call County Commissioners 419-774-5693," "We Will Remember in November." (See Appendix B.) These signs are distracting as they pull the attention of everyone in the area, including drivers.

In addition, pickets draw a crowd. Whether it is solely the union members and employees picketing, or their supporters, the picket can be a few people or hundreds. The larger the crowd becomes, the larger the distraction and the more intimidating the crowd becomes to the public.

Accordingly, public employers require advance notice of a picket to properly secure their facility, ensure safe egress and ingress from the facility and alert authorities of the potential traffic issues, as drivers slow down to read the signs.

B. The advance notice requirement allows employers to adequately respond to the issues and to inform the public

When public employers receive advance notice of a picket, the public employer has an opportunity to address the grievances and prepare responses to the issues of the public employees and their organizations. Pickets are designed to create attention, specifically from the media. Without a proper, prepared response, a picket can disseminate misinformation and create confusion. For example, if a citizen sees a picket outside of the local public transit authority, they may assume that there is a work stoppage and not know how to find alternate transportation. However, with notice, a public employer can alert the public to the continued operation of the transit authority and explain its response to the picket. This will prevent the public from being misinformed about the employee actions. Importantly, the advance notice provides the public employer with sufficient time to notify the public of the picket so the public is aware that there is not a work stoppage and allow the public to rearrange their schedule if they do not want to cross the picket line.

V. The removal of the advance notice requirement would disrupt public services.

A. Pickets cause a physical disruption of essential public services

Pickets, by their very nature, cause a physical disruption. Pickets are typically conducted at the entrance to the headquarters of the public agency, or at another location of the public

agency if it is more visible. Some pickets may be small, with few employees picketing; however, other pickets can be large with numerous employees, or non-employees, participating.

Unannounced picketing, or “flash” picketing could occur at any time, on any day, and be staffed with individuals who are not public employees. These could be moved from facility to facility to maximize disruption, at schools for instance. This tactic, already utilized in private employment settings, would likely result in confusion of the public and public employers ability to deliver essential services.

This disruption of essential public services can have a life-threatening effect for some. Each of Ohio’s major cities offers public transportation for seniors and individuals with disabilities.² These individuals use public transportation to attend routine, necessary services, such as dialysis. When public transportation is disrupted or delayed due to an unannounced picket, these individuals could miss live-saving appointments. With advance notice, outreach can be initiated to the dialysis units, their patients and families to provide information regarding the continued operation of the transportation system and alert them of any delays.

With advance notice, the public employer has the opportunity to learn of the location of the picket, ensure that the public can safely enter and exit the building, to prepare for potential disruption and meet with the public employees to resolve their grievances without the disruption to public services.

² Statewide ridership of the elderly and disabled amounted to 16.9 million trips in 2011. Ohio Department of Transportation Status of Public Transit in Ohio, July 2012, available at: <http://www.dot.state.oh.us/Divisions/Planning/Transit/Documents/Programs/Publication/StatusOfPublicTransitinOhio2012.pdf> (last accessed on January 25, 2013).

B. A sympathy strike would disrupt public services if advance notice is not required

Another serious concern for unannounced pickets is the sympathy strike by other unions. Public entities rely upon private suppliers, contractors and subcontractors to operate efficiently. Private suppliers and contractors may be unionized with a collective bargaining agreement that does not permit its employees to cross picket lines. If the public entity does not know that a picket is planned, it cannot alert these private entities of the potential picket. Furthermore, unlike public unions, SERB has no control over these private unions. If the employees of suppliers and contractors refuse to cross the picket line, members of the public would be disadvantaged from a lack of supplies and services due to the sympathy strike. With advance notice, however, the employer would have the ability to notify the private entity of the picket and make alternate arrangements if needed.

A sympathy strike by a private union at a public employer's facility would have serious detrimental consequences. Such a strike could result in the failure of a public employer to receive essential goods and supplies necessary to providing public services including medications, food and supplies. Sympathy strikes could also interrupt contractors and subcontractors from providing essential services to patients, students and other members of the public, as well as, providing necessary repairs and maintenance to a public facility.

A sympathy strike would have a negative impact on each and every public agency. Public schools rely upon the delivery of food for their cafeterias as many students rely upon the school to provide both breakfast and lunch.³ A public behavioral health clinic may rely upon

³ In its October 2011 Lunch MR 81 Report, 1,856,178 students were enrolled in Ohio public schools and 840,782 students received free or reduced lunches daily. State of Ohio Department of Education Office for Child Nutrition, *LUNCH MR 81 Report*, October, 2011, available at: ftp://ftp.ode.state.oh.us/MR81/MR81_October%202011/ (accessed Jan. 25, 2013).

privately contracted therapists and nurses to provide medical care to its patients. If these individuals refuse to cross the picket line, the patients would be deprived of the medical attention.

With advance notice of a picket, public employers can contact these private contractors and suppliers to ensure timely delivery of goods and obtain notice from contractors if they are unlikely to cross the picket line. This notice enables the public employer to make preparations, find alternate ways of receiving goods and services so that there is no disruption of essential public services.

C. Intimidation and embarrassment caused by picket would disrupt the public services if advance notice is not required

Pickets are utilized to bring attention to an issue, typically in a confrontational manner. However, whether intended to or not, pickets also draw attention to more than just the issue. Picketers can communicate with individuals crossing the picket line. Citizens will need to cross the picket line to access the public building for services. When a citizen crosses a picket line, all eyes are on them, and sometimes, the media cameras are as well. This can cause anxiety, embarrassment, and confusion for members of the public.

Some of the diverse services provided are personal and of a sensitive nature such as behavioral health treatments, counseling, testing for sexually transmitted diseases, medical treatment, applying for governmental benefits, and more. These are essential services that are offered to the public with trust and confidence. The public reasonably expects a certain level of privacy and discretion in receiving these services.

Exposure of members of the public to picketers and media would result in intimidation and embarrassment. Agencies impacted include hospitals, county departments of job and family services, public health departments and others. County departments of job and family services,

in particular, serve very vulnerable populations including older workers, disabled customers, low-income individuals and ex-felons. There is a specific concern that Ohio veterans who may be experiencing brain trauma, PTSD or other mental illnesses, and who may need special assistance in accessing services, will be detrimentally impacted by an unannounced picket. With advance notice, these entities have the opportunity to reach out to patients and customers to reschedule appointments, provide clarification on business operations for the day of the picket and answer any questions the patients and customers may have. In doing so, the public employers can limit or eliminate the disruption in services and continue to serve public needs.

D. Removal of the advance notice requirement would hinder the public employer's ability to respond to misinformation

Public employers have concerns regarding misinformation. When employees picket, the information provided by the picketers is often one-sided. Consequently, the public is uninformed of the employer's position and possibly misinformed about the realities of the picket. For example, in a recent labor dispute the Cleveland Regional Transit Authority experienced concerns of misinformation when its employees filed 10-day notice to picket regarding unsafe equipment. The employer feared that the union would misinform the public regarding the quality and safety of its services.

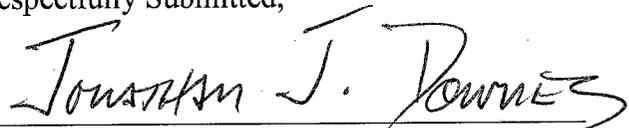
Misinformation has a serious impact on both the union and the employer. Such misinformation can result in the loss of current or future clients; which in turn, results in loss of business and revenue. If revenue is lost, the employer is forced to reduce services or increase the cost of services. It is necessary that essential public services remain affordable for the public. A reduction in services results in less hours for employees to work, which may lead to layoffs or reduction of positions through attrition.

With advance notice, the public employer has the opportunity to address misinformation by providing the factual position of the public employer for the public to consider. The ability to be prepared for misinformation has major implications for the public services in the long term.

CONCLUSION

The public has a right to the unimpeded, uninterrupted delivery of public services which justifies and necessitates the advance notice requirement for informational picketing under R.C. 4117.11(B)(8). This advance notice requirement was intentionally included in the Act as a process to exercise the right to picket. It does not burden the labor union, nor does it prohibit picketing. Public employers provide essential public services that are necessary to the efficient and effective function of society. The advance notice requirement of R.C. 4117.11(B)(8) ensures that the public employer has time to notify the public of the picket and prepare accordingly to prevent and disruption in services. The removal of this notice and subsequent unannounced pickets at public facilities will disrupt public services and impair the public's ability to timely receive these services in a manner consistent with the confidentiality and respect those services demand.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **MERIT BRIEF OF AMICUS CURIAE OHIO PUBLIC EMPLOYER LABOR RELATIONS ASSOCIATION, OHIO PUBLIC TRANSIT ASSOCIATION, COUNTY COMMISSIONERS ASSOCIATION OF OHIO, AND NATIONAL PUBLIC EMPLOYER LABOR RELATIONS ASSOCIATION SUPPORTING APPELLANTS** was served, via U.S. mail, upon the following on this 1st day of February, 2013:

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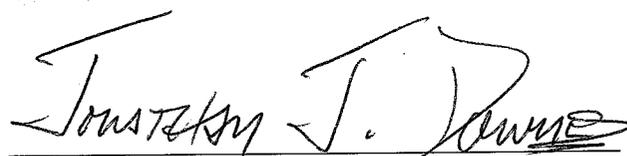
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APPENDIX A

EXHIBIT 1

APPENDIX A

The following list contains the Notices of Intent to Strike or Picket (“Notices”) filed with the State Employment Relations Board between August 18, 2004 and August 14, 2012. Specifically, these Notices were marked as notices to picket only. These Notices are public records obtained from the State Employment Relations Board and can be provided by counsel upon the Court’s request.

1. Notice of Intent to Strike or Picket, *Stow-Munroe Falls CSD v. Stow-Munroe Falls Classified Employees' Association/OEA/NEA*, SERB Case No. 04-MED-04-0427 (2004).
2. Notice of Intent to Strike or Picket, *Cincinnati State Technical and Community College v. SEIU Dist. 1199*, SERB Case No. 04-MED-06-0671 (2004).
3. Notice of Intent to Strike or Picket, *Swanton Bd. of Education v. Ohio Education Association/NEA*, SERB Case No. 04-MED-04-0403 (2004).
4. Notice of Intent to Strike or Picket, *Owens Community College v. Owens Faculty Association*, SERB Case No. 04-MED-12-1410 (2004).
5. Notice of Intent to Strike or Picket, *Chesapeake Union Exempted Village School District v. Chesapeake Local Teachers Association/OEA/NEA*, SERB Case No. 04-MED-04-0495 (2004).
6. Notice of Intent to Strike or Picket, *Edison Local School Dist. Bd. of Education v. Edison Local Education Association/OEA/NEA*, SERB Case No. 04-MED-02-0161 (2004).
7. Notice of Intent to Strike or Picket, *Dayton City School District Board of Education at Board Office v. Dayton Education Association/OEA/NEA*, SERB Case No. 04-MED-04-0431 (2004).
8. Notice of Intent to Strike or Picket, *Celina City Schools v. Celina Education Association/OEA-NEA*, SERB Case No. 04-MED-05-0549 (2004).
9. Notice of Intent to Strike or Picket, *Greene County Career Ctr. v. Greene County Career Ctr. Classified Employees Association/OEA/NEA*, SERB Case No. 04-MED-03-0351 (2005).
10. Notice of Intent to Strike or Picket, *Trumbull Co. SO v. OPBA*, SERB Case No. 04-MED-07-0720; 0719; 0718; 0717 (2005).

11. Notice of Intent to Strike or Picket, *Warren Co. Bd. of MRDD Production Services Unlimited Building v. PGO*, SERB Case No. 03-MED-03-0203 (2005).
12. Notice of Intent to Strike or Picket, *Franklin Co. Children Services v. PGO*, SERB Case No. 04-MED-10-1018 (2005).
13. Notice of Intent to Strike or Picket, *Kent State University v. AAUP-KSU*, SERB Case No. 04-MED-10-1121 (2005).
14. Notice of Intent to Strike or Picket, *Avon Lake Public Library v. SEIU/Dist. 1199, Health Care & Social Service Union, AFL-CIO*, SERB Case No. 04-MED-09-0968 (2005).
15. Notice of Intent to Strike or Picket, *Sycamore Community School Dist. Bd. of Education v. OAPSE Local #243*, SERB Case No. 04-MED-03-0180 (2005).
16. Notice of Intent to Strike or Picket, *City of Bay Village v. IAFF Local 1144*, SERB Case No. 03-MED-09-1019 (2005).
17. Notice of Intent to Strike or Picket, *Kent State University v. AAUP-KSU*, SERB Case No. 04-MED-05-0572 (2005).
18. Notice of Intent to Strike or Picket, *Bucyrus City Bd of Education v. Bucyrus Education Association/OEA/NEA*, SERB Case No. 04-MED-12-1311 (2005).
19. Notice of Intent to Strike or Picket, *Mentor Public Library v. SEIU/Dist. 1199, Health Care & Social Service Union, AFL-CIO*, SERB Case No. 05-MED-02-0085 (2005).
20. Notice of Intent to Strike or Picket, *Kent State University v. AAUP-KSU*, SERB Case No. 05-MED-05-0567 (2005).
21. Notice of Intent to Strike or Picket, *Columbus State Community College v. Columbus State Education Association, OEA/NEA*, SERB Case No. 05-MED-04-0556 (2005).
22. Notice of Intent to Strike or Picket, *Central Ohio Transit Authority v. Transport Workers Union of America, Local 208*, SERB Case No. 05-MED-11-1280 (2005).
23. Notice of Intent to Strike or Picket, *University of Akron (New Student Union) v. Akron-AAUP*, SERB Case No. 05-MED-10-1280 (2005).

24. Notice of Intent to Strike or Picket, *Hocking College v. Hocking Technical College E.A. - SSP's/OEA/NEA*, SERB Case No. 05-MED-03-0288 (2005).
25. Notice of Intent to Strike or Picket, *Montgomery County Bd of MRDD v. PGO*, SERB Case No. 05-MED-04-0505 (2005).
26. Notice of Intent to Strike or Picket, *Bellaire Local School District Board of Education v. Bellaire Education Association*, SERB Case No. 05-MED-05-0645 (2005).
27. Notice of Intent to Strike or Picket, *Riverdale Local Schools v. OEA/Riverdale Education Association*, SERB Case No. 05-MED-03-0254 (2005).
28. Notice of Intent to Strike or Picket, *Elgin Local School District v. Elgin Education Association, OEA/NEA*, SERB Case No. 05-MED-03-0238 (2006).
29. Notice of Intent to Strike or Picket, *Martins Ferry City School Bd. of Education v. OAPSE AFSCME Local 4/AFL-CIO and its Local #0546*, SERB Case No. 04-MED-09-0935 (2006).
30. Notice of Intent to Strike or Picket, *Stark Area Regional Transit Auth. v. AFSCME Local 1880, Stark Area Reg. Transit Auth.*, SERB Case No. 03-MED-10-1298 (2006).
31. Notice of Intent to Strike or Picket, *Montgomery County Children Services v. PGO/Ohio Federation of Teachers/American Federation of Teachers*, SERB Case No. 06-MED-03-0256 (2006).
32. Notice of Intent to Strike or Picket, *Montgomery County Children Services v. PGO/Ohio Federation of Teachers/American Federation of Teachers*, SERB Case No. 06-MED-03-0255 (2006).
33. Notice of Intent to Strike or Picket, *Greenville City Schools v. Greenville Education Association/OEA/NEA*, SERB Case No. 05-MED-04-0457 (2006).
34. Notice of Intent to Strike or Picket, *Huber Heights City Schools - Wayne High School - Varsity Football Game v. Huber Heights Education Association/OEA/NEA Certified & Classified*, SERB Case No. 06-MED-02-0144; 0143 (2006).
35. Notice of Intent to Strike or Picket, *Shawnee State University v. Shawnee Education Association*, SERB Case No. 06-MED-06-0737 (2006).

36. Notice of Intent to Strike or Picket, *Covington Exempted Village v. Covington Education Association*, SERB Case No. 06-MED-02-0174 (2006).
37. Notice of Intent to Strike or Picket, *Dayton City School District Board of Education v. Dayton Education Association*, SERB Case No. 06-MED-04-0578 (2006).
38. Notice of Intent to Strike or Picket, *Indian Valley Public Schools and Administrative Offices v. Ohio Education Association*, SERB Case No. 06-MED-03-0290 (2006).
39. Notice of Intent to Strike or Picket, *Jefferson Community College v. Jefferson Community College Education Association OEA/NEA, Support Staff*, SERB Case No. 06-MED-04-0440 (2007).
40. Notice of Intent to Strike or Picket, *Miami Township Board of Trustees v. IAFF Local 2951, Miami Twp. Career Fire Fighters*, SERB Case No. 06-MED-09-1000 (2007).
41. Notice of Intent to Strike or Picket, *Barnesville Exempted Village School District v. Barnesville Education Association OEA/NEA*, SERB Case No. 06-MED-05-0633 (2007).
42. Notice of Intent to Strike or Picket, *Montgomery County Engineer v. Teamsters Local Union No. 957*, SERB Case No. 06-MED-10-1154 (2007).
43. Notice of Intent to Strike or Picket, *Cincinnati State Technical and Community College v. Service Employees Int. Union Dist. 1199, Health Care & Svc. Union, CTW, CLC*, SERB Case No. 07-MED-06-0688 (2007).
44. Notice of Intent to Strike or Picket, *City of Vermilion v. OPBA*, SERB Case No. 06-MED-12-1400 (2007).
45. Notice of Intent to Strike or Picket, *Buckeye Local Schools v. Ohio Association of Public School Employees AFSCME Local 4/AFL-CIO and its Local #373*, SERB Case No. 06-MED-03-0221 (2007).
46. Notice of Intent to Strike or Picket, *Mason City Schools Board of Education v. Ohio Association of Public School Employees and its Local #070*, SERB Case No. 06-MED-04-0489 (2007).
47. Notice of Intent to Strike or Picket, *Columbia Local Schools High School and Football Stadium v. Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO*, SERB Case No. 06-MED-03-0232 (2007).

48. Notice of Intent to Strike or Picket, *Carlisle Local Schools v. Carlisle Teachers Association*, SERB Case No. 07-MED-03-0207 (2007).
49. Notice of Intent to Strike or Picket, *City of Dayton/Dayton City Council v. Ohio Council 8 and Local 101, AFSCME*, SERB Case No. 07-MED-02-0132; 0133; 0134; 0135 (2007).
50. Notice of Intent to Strike or Picket, *City of Dayton/Dayton City Council v. Ohio Council 8 and Local 101, AFSCME*, SERB Case No. 07-MED-09-0813 (2007).
51. Notice of Intent to Strike or Picket, *Ashtabula County BD of MRDD v. Ashtabula Co. Professional Assoc. of Community Service Coordinators and Ashtabula County Employees Association for the Mentally Handicapped*, SERB Case No. 07-MED-08-0798 (2008).
52. Notice of Intent to Strike or Picket, *Mason City Schools District Board of Education v. Ohio Association of Public School Employees a(OAPSE) AFSCME Local 4, AFL-CIO*, SERB Case No. 06-MED-04-0489 (2008).
53. Notice of Intent to Strike or Picket, *Central Campus of Southern State Community College v. Southern State Education Association OEA/NEW*, SERB Case No. 07-MED-03-0321 (2008).
54. Notice of Intent to Strike or Picket, *City of Vandalia v. Ohio Council 8, AFSCME, AFL-CIO and Local 101, AFSCME, AFL-CIO*, SERB Case No. 07-MED-07-0739 (2008).
55. Notice of Intent to Strike or Picket, *Madison Local School Dist. (Madison Bd. of Education Building and Madison High School) v. OAPSE/AFSCME Local 4, AFL-CIO*, SERB Case No. 08-MED-03-0223 (2008).
56. Notice of Intent to Strike or Picket, *Richland County DJFS v. AFSCME Ohio Council 8*, SERB Case No. 08-MED-02-0155 (2008).
57. Notice of Intent to Strike or Picket, *Mahoning County Jobs and Family Services v. Ohio Council 8 AFSCME, AFL-CIO*, SERB Case No. 06-MED-06-0776 (2008).
58. Notice of Intent to Strike or Picket, *East Palestine City School Dist. v. East Palestine Education Association/OEA/NEA*. SERB Case No. 07-MED-12-1271 (2008).

59. Notice of Intent to Strike or Picket, *Eastern Local School v. Eastern Local E.A.*, SERB Case No. 08-MED-05-0627 (2008).
60. Notice of Intent to Strike or Picket, *Lucas County Children Services v. PGO*, SERB Case No. 08-MED-12-1375 (2009).
61. Notice of Intent to Strike or Picket, *City of Findlay v. OPBA*, SERB Case No. 08-MED-09-0977 (2009).
62. Notice of Intent to Strike or Picket, *City of Findlay v. OPBA*, SERB Case No. 08-MED-09-0976 (2009).
63. Notice of Intent to Strike or Picket, *City of Findlay v. OPBA*, SERB Case No. 08-MED-09-0975 (2009).
64. Notice of Intent to Strike or Picket, *City of Findlay v. OPBA*, SERB Case No. 08-MED-09-0974 (2009).
65. Notice of Intent to Strike or Picket, *Franklin County Sheriff and BCC v. Teamsters Local Union No. 413*, SERB Case No. 08-MED-03-0317 (2009).
66. Notice of Intent to Strike or Picket, *University of Toledo v. CWA*, SERB Case No. 07-MED-10-1036 (2009).
67. Notice of Intent to Strike or Picket, *City of Parma v. Parma FireFighters, IAFF Local 639*, SERB Case No. 09-MED-07-0743 (2009).
68. Notice of Intent to Strike or Picket, *Public Health - Dayton and Montgomery County v. AFSCME Ohio Council 8*, SERB Case No. 07-MED-12-1258 (2009).
69. Notice of Intent to Strike or Picket, *Ohio University v. AFSCME Ohio Council 8*, SERB Case No. 06-MED-11-1378 (2009).
70. Notice of Intent to Strike or Picket, *Green Local School District v. Green Local Teachers' Association*, SERB Case No. 09-MED-09-0836 (2009).
71. Notice of Intent to Strike or Picket, *Greene County Children Services v. PGO*, SERB Case No. 08-MED-11-1309 (2009).

72. Notice of Intent to Strike or Picket, *City of Norwalk v. IAFF Local 1199 Norwalk Firefighters*, SERB Case No. 08-MED-09-0853 (2009).
73. Notice of Intent to Strike or Picket, *The Greater Cleveland Regional Transit Authority v. The Amalgamated Transit Union, Local No. 268*, SERB Case No. 09-MED-05-0639 (2009).
74. Notice of Intent to Strike or Picket, *The Greater Cleveland Regional Transit Authority v. The Amalgamated Transit Union, Local No. 268*, SERB Case No. 09-MED-05-0639 (2009).
75. Notice of Intent to Strike or Picket, *The Greater Cleveland Regional Transit Authority v. The Amalgamated Transit Union, Local No. 268*, SERB Case No. 09-MED-05-0639 (2009).
76. Notice of Intent to Strike or Picket, *Wayne County Sheriff v. OPBA*, SERB Case No. 09-MED-01-0052; 0053; 0054 (2010).
77. Notice of Intent to Strike or Picket, *South-Western City Schools (Grove City High School) v. OAPSE/AFSCME Local 4, AFL-CIO and its local #211*, SERB Case No. 10-MED-03-0274 (2010).
78. Notice of Intent to Strike or Picket, *Parma City Bd. of Edu, Parma Sr. High School, and Parma Rotunda v. Ohio Association of Public School Employees/AFSCME Local 4/AFL-CIO and its Local 695*, SERB Case No. 09-MED-12-1447 (2010).
79. Notice of Intent to Strike or Picket, *Hocking College v. Hocking College Edu. Association OEA/NEA*, SERB Case No. 10-MED-03-0337 (2010).
80. Notice of Intent to Strike or Picket, *Kirtland Local Schools v. Kirtland Edu. Association*, SERB Case No. 10-MED-03-0357 (2010).
81. Notice of Intent to Strike or Picket, *City of Steubenville, Ohio v. Steubenville Fire Fighters Association IAFF Local 228*, SERB Case No. 10-MED-09-1071 (2011).
82. Notice of Intent to Strike or Picket, *Xenia Community City School Bd. of Edu. And Attached Sites v. Xenia Edu. Support Professionals/OEA/NEA*, SERB Case No. 10-MED-04-0536 (2011).



83. Notice of Intent to Strike or Picket, *Kent State University v. AFSCME Ohio Council 8, Local 153*, SERB Case No. 11-MED-06-0915 (2011).
84. Notice of Intent to Strike or Picket, *Gallia County Local School Dist. Bd. of Edu. v. Gallia County Local Support Staff Association*, SERB Case No. 11-MED-09-1154 (2011).
85. Notice of Intent to Strike or Picket, *Hocking College v. Hocking Technical College E.A. – SSP*, SERB Case No. 11-MED-04-0759 (2012).
86. Notice of Intent to Strike or Picket, *City of Piqua v. AFSCME Ohio Council 8, Local 984*, SERB Case No. 11-MED-09-1329 (2012).
87. Notice of Intent to Strike or Picket, *Big Walnut Local School District (Board Office) v. Big Walnut Professional Support Staff Association OEA/NEA*, SERB Case No. 12-MED-03-0278 (2012).
88. Notice of Intent to Strike or Picket, *Big Walnut Local School District (Board Office) v. Big Walnut Professional Support Staff Association OEA/NEA*, SERB Case No. 12-MED-03-0344 (amended) (2012).

APPENDIX B

EXHIBIT 2

Ohio: AFSCME Council 8 Members Picket to Ask for Negotiations

AFSCME Council 8 Local 1295 (Pres. Roberta Skok) members and employees of the Richland County Job & Family Services picketed August 4 in Mansfield.

Photo credit: Lynda Mobley

This photo was obtained at <http://www.flickr.com/photos/labor2008/2732670275/>, and originally posted by AFL/CIO (Bernard Pollack).



Ohio: AFSCME Council 8 Members Picket to Ask for Negotiations

AFSCME Council 8 Local 1295 (Pres. Roberta Skok) members and employees of the Richland County Job & Family Services picketed August 4 in Mansfield.

This photo was obtained at <http://www.flickr.com/photos/labor2008/2733503418/in/photostream/>, and originally posted by AFL/CIO (Bernard Pollack).



Ohio: AFSCME Council 8 Members Picket to Ask for Negotiations

AFSCME Council 8 Local 1295 (Pres. Roberta Skok) members and employees of the Richland County Job & Family Services picketed August 4 in Mansfield.

Photo credit: Lynda Mobley

This photo was obtained at <http://www.flickr.com/photos/labor2008/2733503610/in/photostream/>, and originally posted by AFL/CIO (Bernard Pollack).



Ohio: AFSCME Council 8 Members Picket to Ask for Negotiations

AFSCME Council 8 Local 1295 (Pres. Roberta Skok) members and employees of the Richland County Job & Family Services picketed August 4 in Mansfield.

Photo credit: Lynda Mobley

This photo was obtained at <http://www.flickr.com/photos/labor2008/2733503522/in/photostream/>, and originally posted by AFL/CIO (Bernard Pollack).



Ohio: AFSCME Council 8 Members Picket to Ask for Negotiations

AFSCME Council 8 Local 1295 (Pres. Roberta Skok) members and employees of the Richland County Job & Family Services picketed August 4 in Mansfield.

Photo credit: Lynda Mobley

This photo was obtained at <http://www.flickr.com/photos/labor2008/2732670223/in/photostream/>, and originally posted by AFL/CIO (Bernard Pollack).

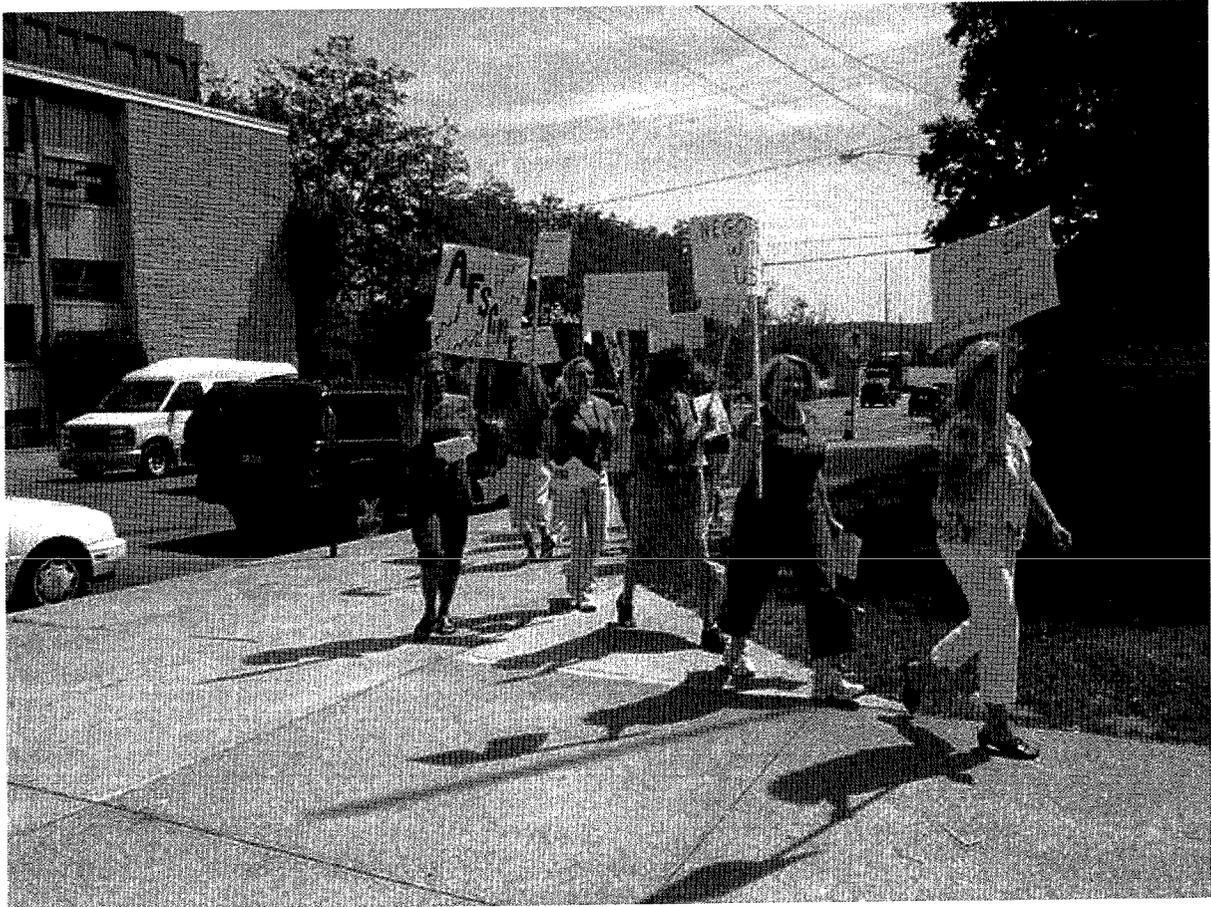


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AFSCME Council 8 Local 1295 (Pres. Roberta Skok) members and employees of the Richland County Job & Family Services picketed August 4 in Mansfield.

Photo credit: Lynda Mobley

This photo was obtained at <http://www.flickr.com/photos/labor2008/2732670115/in/photostream/>, and originally posted by AFL/CIO (Bernard Pollack).



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Photo credit: Lynda Mobley

This photo was obtained at

<http://www.flickr.com/photos/labor2008/2732670165/in/photostream/>, and originally posted by AFL/CIO (Bernard Pollack).

