

IN THE SUPREME COURT OF OHIO

SERVICE EMPLOYEES INTERNATIONAL
UNION (SEIU), DISTRICT 1199 WV/OH/KY,
Becky Williams, President
1395 Dublin Rd.
Columbus, OH 43215

Case No. _____

and

BECKY WILLIAMS,
President, SEIU District 1199
1395 Dublin Rd.
Columbus, OH 43215

and

JOSH NORRIS
Public Division Directors, SEIU District 1199
1395 Dublin Rd.
Columbus, OH 43215

**ORIGINAL ACTION
IN MANDAMUS
(Verified Complaint)**

Relators,

v.

CINCINNATI STATE TECHNICAL AND
COMMUNITY COLLEGE
O'dell Moreno Owens, President
3520 Central Pkwy.
Cincinnati, OH 45223

and

CARLA CHANCE
Executive Vice President
Cincinnati State Technical and Community College
3520 Central Pkwy.
Cincinnati, OH 45223

and

BETTY YOUNG :
Director, Human Resources :
Cincinnati State Technical and Community College :
3520 Central Pkwy. :
Cincinnati, OH 45223 :

and :

STEPHEN BROOKS :
Manager of Labor Relations, Human Resources :
Cincinnati State Technical and Community College :
3520 Central Pkwy. :
Cincinnati, OH 45223 :

Respondents. :

VERIFIED COMPLAINT FOR A WRIT OF MANDAMUS

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ATTORNEYS FOR RELATORS

NATURE OF ACTION

1. Relators bring this Original Action, pursuant to Section 149.43 of the Ohio Revised Code, seeking a Writ of Mandamus compelling the Respondents to make public records available and to compel Respondents to provide public records in a timely manner and without redaction of information that is not exempt from disclosure under Ohio law. An affidavit verifying the factual allegations of the complaint is attached hereto.

THE PARTIES

2. Relator, the Service Employees International Union (SEIU) District 1199 (hereafter “District 1199”) is an unincorporated association and is a labor organization operating in, and representing employees of Cincinnati State Technical and Community College.

3. Relator Becky Williams is a resident of and citizen of the State of Ohio, and is the President of SEIU District 1199.

4. Relator Josh Norris is a resident of and citizen of the State of Ohio, and is the Public Division Director of SEIU District 1199.

5. Respondent, Cincinnati State Technical and Community College (the “College”) is a “community college” as defined by Ohio Rev. Code §3354.01(c) and therefore a public institution of education. As such, the College is a “public office” as defined by Ohio Rev. Code §149.011(A), and as specified by Ohio Rev. Code §149.43(A)(1).

6. Respondent Carla Chance is Executive Vice President of the College, and is a “public official” pursuant to Ohio Rev. Code §149.011(D), as a duly authorized employee of the College.

7. Respondent Betty Young is the Director of Human Resources, and is a “public official” pursuant to Ohio Rev. Code §149.011(D), as a duly authorized employee of the College.

8. Respondent Stephen Brooks is the Manager of Labor Relations in Human Resources, and is a “public official” pursuant to Ohio Rev. Code §149.011(D), as a duly authorized employee of the College.

FACTUAL BACKGROUND

9. On or about August 1, 2014, Relator Josh Norris, Public Division Director and agent of District 1199, presented a public records request pursuant to Ohio Rev. Code §149.43

by fax, mail, and e-mail to Labor Relations Manager and Respondent, Stephen Brooks, requesting the personnel files of Mr. Brooks, President Owens, Respondent Young, and Respondent Chance. The letter specified that Mr. Norris would pay the reasonable cost of any reproduction of the documents. He requested that if the College believed any responsive documents were covered by an exemption under public records law that such exemption be specified. Further, the letter requested that if there were no responsive documents that a letter indicating such be provided. A response was requested on or before August 15, 2014. See Exhibit B attached.

10. By August 15, 2014, District 1199 had not received any response or acknowledgment by the College regarding the public records request.

11. On or about November 7, 2014, the College, through Respondent Carla Chance and Respondent Betty Young, filed an unfair labor practice (“ULP”) against District 1199 with the State Employment Relations Board (“SERB”) regarding the public records. The College charged, in part, that it was a violation of Ohio Rev. Code §4117.11(B)(2) for Mr. Norris to request public records. The College attached the August 1, 2014 request to its ULP. See Exhibit C attached.

12. As of the date of this Complaint, the College has refused to provide any documents, redacted or otherwise, in response to the August 1, 2014 public records request. The College has not sought clarification from District 1199 regarding the request, claimed it was exempt from providing the information under Ohio Rev. Code §149.43(A)(1) or (B)(2), stated that it did not possess information responsive to the request, nor has the College provided a denial of the request pursuant Ohio Rev. Code §149.43(B)(4).

CAUSE OF ACTION

COUNT I

13. Paragraphs 1 through 12 are incorporated as if fully re-written herein.

14. Respondent Cincinnati State is a “public office” as contemplated by Ohio Rev. Code §149.43.

15. Ohio Rev. Code §149.43(B) requires that upon request all public records shall be promptly prepared and made available for inspection to any person at all reasonable times. It also requires that a person responsible for public records shall make copies available at cost within a reasonable period of time.

16. The Relator’s letter set forth as Exhibit A is a request for public records under Ohio Rev. Code §149.43(B).

17. Relators have a clear legal right to obtain these files and any other records maintained by the College that are responsive to the records request set forth as Exhibit A.

18. Respondents have a clear legal duty to provide the Relators with records responsive to the records request set forth as Exhibit A. Respondents’ failure to provide the records or make them available to Relators is contrary to law.

19. Relators have no adequate remedy at law by which to compel Respondents to provide the public records sought.

COUNT II

20. Paragraphs 1 through 19 are incorporated as if fully re-written herein.

21. Ohio Rev. Code §149.43(C) provides for statutory damages, and permits reasonable attorney’s fees to be awarded Relators who bring an action to enforce that provision.

22. The facts set forth in this action, and the facts underlying them, entitle Relators to an award of statutory damages and attorney's fees for prosecuting this matter.

PRAYER FOR RELIEF

WHEREFORE, Relators request that this Court:

1. Issue a Peremptory Writ of Mandamus directed to Respondents compelling and ordering them to prepare and copy, at actual cost, the public records requested to be reviewed and inspected. In the alternative, Relators request the issuance of an Alternative Writ to show cause why a Peremptory Writ of Mandamus should not issue;
2. Award Relators their expenses, costs, and disbursements incident to the prosecution of this action;
3. Award Relators reasonable attorney fees for the prosecution of this action;
4. Award Relators statutory damages;
5. Grant Relators such other relief as this Court deems appropriate.

Respectfully submitted,

/s/ Cathrine J. Harshman

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