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UNFAIR LABOR PRACTICES

Public Employee Collective Bargaining in Ohio

This booklet is intended for public employers, public employees, public employee organizations, and anyone with an interest in public employee collective bargaining within the jurisdiction of the Ohio State Employment Relations Board (SERB).

It provides basic information concerning Chapter 4117 of the Ohio Revised Code and the related rules contained in Chapters 4117-1 through 4117-25 of the Ohio Administrative Code.

This information is provided solely as an aid in understanding the concepts and procedures related to the subject matter. It is not an exhaustive treatment of the topic, nor can it be used as the basis for any action or legal position.

Ohio’s System of Collective Bargaining in Ohio

The unfair labor practice provisions of the Ohio Public Employees’ Collective Bargaining Act are part of a system created by the law to promote order and stability in public sector labor relations.

Under that system, each public employee is guaranteed the individual right to join and participate in a labor organization, or to refrain from joining and participating in a labor organization. The public employees in a unit have the collective right to determine by majority rule whether to be represented by an employee organization(union) for collective bargaining purposes.

If a majority of the public employees in a unit choose to be represented by an employee organization, that organization becomes the exclusive representative of all the employees in the unit, whether they are members of the representing organization or not.

The public employer and the exclusive bargaining representative are required to bargain in good faith with the objective of negotiating a written agreement. If they are able to agree upon and enter a collective bargaining agreement, that agreement will govern the wages, hours, and terms and conditions of employment of the employees in that unit for the length of time the agreement is in effect.

The Role of SERB

The State Employment Relations Board (“SERB” or “Board”) was established by the Public Employees’ Collective Bargaining Act (“Act”) to administer and enforce the provisions of the Act, which governs the conduct of collective bargaining in Ohio public employment. The three-member Board acts by majority vote in its public meetings to decide matters brought before it by public employers, public employees, and employee organizations. The Board employs a staff to assist in carrying out its administrative and quasi-judicial responsibilities.

SERB has the authority to determine the composition of bargaining units; to conduct elections, if necessary; to determine the will of the majority of the bargaining unit employees; and if an employee organization(union) is chosen, to certify it as the exclusive representative of the public employees in that unit.

When the public employers and the employee organization(union) representatives begin negotiations, SERB monitors the progress of the negotiations according to an established timeline, and appoints neutrals, third-party mediators, fact finders, and conciliators.
SERB also determines whether a violation of Ohio Revised Code Chapter 4117.11 has occurred when a charge is filed claiming that a public employer, or an employee organization(union) has violated provisions of the Collective Bargaining Act; and if so, the Board will impose an appropriate remedy. These violations are called unfair labor practices and are the subject of this brochure.

What are Unfair Labor Practices
Section 4117.11 of the Ohio Revised Code spells out those acts that can be considered as unfair labor practices. Unfair labor practices that can be committed by the public employer are listed in Ohio Revised Code Section 4117.11(A). Unfair labor practices that can be committed by the employee organization(union) are listed in Ohio Revised Code Section 4117.11(B).

FILING AN UNFAIR LABOR PRACTICE CHARGE

An entity or person, with a direct interest, relevant knowledge of the alleged harm and a right to be protected may file a charge with the State Employment Relations Board if that person has reasons to believe that an unfair labor practice has been committed or is being committed. A charge may be filed against a public employer, an employee organization, or any person representing the public employer or employee organization.

The entity or person filing the charge is referred to as the “Charging Party.” The organization or person the charge is filed against is referred to as the “Charged Party.”

A charge must be filed, in writing, and signed by the Charging Party or by the representative filing the charge on behalf of the Charging Party. An unfair labor practice charge form may be obtained from the State Employment Relations Board’s office in Columbus or downloaded from the Board’s website at www.SERB.ohio.gov.

One original and one copy of the charge must be filed in hardcopy with the State Employment Relations Board. If the Charging Party wishes to receive a return copy showing the time stamp of the State Employment Relations Board, an additional copy and a self-addressed, stamped envelope must be filed with the unfair labor practice charge form.

When to File an Unfair Labor Practice Charge
The charge must be filed within 90 days of the occurrence of the act or conduct that is claimed to be an unfair labor practice. The Charging Party must have actual or constructive knowledge of the conduct or act that is claimed to be an unfair labor practice and there must be actual damage to the Charging Party resulting from the conduct or act claimed to be an unfair labor practice.

The only exception to this 90-day deadline is if the Charging Party is in the armed forces, which prevented the Charging Party from filing the charge within the 90-day limit. In this case, the unfair labor practice charge must be filed within 90 days after the Charging Party is discharge from the armed services.
How to File an Unfair Labor Practice Charge

Unfair labor practice charges must be filed, in hard copy, by mail or hand delivery with the State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, during regular business hours, 8:30 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays observed by the State of Ohio.

The Charging Party (the person or entity filing the charge) must serve an exact copy of the charge and any attachments to the Charged Party (the person or entity the charge is filed against) before filing the charge with the State Employment Relations Board. The State Employment Relations Board will not accept the charge for filing unless the Proof of Service on the form is completely filled out confirming that the unfair labor practice charge form was charged was sent to the Charged Party.

What Must Be Included in the Unfair Labor Practice Charge

The unfair labor practice charge must contain the following information:

1. **Charging Party information**
   - Identify the Charging Party as a public employer, an employee organization, or a public employee by checking the appropriate box. If the Charging Party is none of these, check the box “Other” and state the status of the Charging Party.
   - Fill in the name, address, city, county, state, zip code, telephone number, and email of the Charging Party.

2. **Charging Party Representative Information**
   - Fill in the name, address, city, state, zip code, telephone number and email address of the person representing the Charging Party, if there is a representative.
   - **Please Note:** Neither the Charging Party nor the Charged Party are required to have a representative. If there is no representative and the Charging Party is self-represented, please leave this box blank.
3. **Charged Party (the party the charge is filed against)**
   - Identify the Charged Party as a public employer, an employee organization, or a public employee by checking the appropriate box. If the Charged Party is none of these, check the box “Other” and state the status of the Charged Party.
   - Fill in the name, address, county, state, zip code, telephone number and email address of the Charged Party (the party the charge is filed against).

4. **Employer information**
   - Fill in the public employer’s information if the public employer is neither the Charging nor the Charged Party.
   - Fill in the public employer’s name, address, county, state, zip code, telephone number, and email address of the employer.

5. **Select the section(s) of the Ohio Revised Code that the Charged Party allegedly violated**
   - The charge must allege that the Charged Party’s (the party the charge is filed against) actions violated one or more of the unfair labor practices listed in Ohio Revised Code Section
4117.11. The Charging Party must refer to this section of the Ohio Revised Code to select the specific and appropriate provision(s) that the conduct allegedly violated.

- **Note:** For violations that the employer is accused of committing, refer to Ohio Revised Code Section 4117.11(A). For violations that the employee organization (union) is accused of committing, refer to Ohio Revised Code Section 4117.11(B). (see Page 10-11).

- Indicate the specific provision of 4117.11(A) or (B) by checking the box that best fits the section of the statute that the Charged Party’s actions allegedly violated. (See Basis of Charge section for more information).

### 5. Basis of Charge

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### 6. Statement of Facts

- State clearly and briefly the facts that the Charging Party claims as the basis of the charge.
- Include the names of any persons involved in the actions. Give the date, time and place of the actions.
- Tell the story of what happened. Be very detailed and give the where, when, what and why.
- If additional space is needed, please feel free to put the information on a separate sheet and attach it to the unfair labor practice charge form.
- **Please Note:** A failure to provide sufficient facts may result in the charge being dismissed for failure to provide a “clear and concise” statement of the facts.
7. **Signature**
   - Under “Declaration,” Print, sign and date the statement confirming that all information and allegations stated in the charge are true and correct.

```
A failure to provide the above information could result in the charge being dismissed for failure to provide a clear and concise statement.

DECLARATION

I declare that I have read the contents of this Unfair Labor Practice Charge and that the statements it contains are true and correct to the best of my knowledge and belief.

To distinguish originals, please do not use black ink for signatures.

Signature of Person Attesting to Content of Form

Print or Type Name

Date
```

8. **Proof of Service**
   As proof that an exact copy of the charge has been served upon the Charged Party, complete the proof of service portion of the charge by:
   - writing the name and complete address of the party to whom the charge was sent,
   - the date of delivery (or when the charge was sent), and
   - the method of delivery (by regular U.S. mail, by hand delivery, or by email).
   - This proof of service must be SIGNED by the Charging Party (the person filing the charge).
   - **Please Note:** THE CHARGE WILL NOT BE ACCEPTED BY THE STATE EMPLOYMENT RELATIONS BOARD WITHOUT PROOF OF SERVICE SECTION BEING COMPLETED.

```
THIS UNFAIR LABOR PRACTICE CHARGE WILL NOT BE ACCEPTED FOR FILING UNLESS THE PROOF OF SERVICE IS FULLY COMPLETED AND BEARS AN ORIGINAL SIGNATURE OF A REPRESENTATIVE OF THE PARTY FILING THE CHARGE.

PROOF OF SERVICE

I certify that an exact copy of the foregoing Unfair Labor Practice Charge has been sent or delivered to:

(Name and complete address of party against whom this charge is brought)

By  [ ] Regular U.S. Mail [ ] Certified U.S. Mail [ ] Hand Delivery [ ] Other _______________

this ___________(day) of ___________(month), ___________(year).

Signature of Person Attesting to Service of Form

Print or Type Name

Page 2 of 2
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Basis of Charge
In section five (5) of the Unfair Labor Practice Charge form, the statutory provision that is alleged to have been violated must be specifically selected. Select the provision that closely applies to the conduct that is claimed to be an unfair labor practice. It is possible for there to be more than one allegation. The boxes on the unfair labor practice charge corresponds with the paragraphs identified in the statute. [For example, if you are alleging that the Employer committed an act that interferes with the Employee’s right to join an employee organization, you would check box (A)(1)].

If the allegations are against the Employer, Ohio Revised Code 4117.11(A) provides 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 Ohio Revised Code or an employee organization in the selection of its representative for the purposes of collective bargaining or the adjustment of grievances;
   (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;
   (3) Discriminate in regard to hire or tenure of employment or any term or condition of employment on the basis of the exercise of rights guaranteed by Chapter 4117 of the Revised Code. Nothing precludes any employer from making and enforcing an agreement pursuant to division of section 4117.09 of the Revised Code.
   (4) Discharge or otherwise discriminate against an employee because he has filed charges or given testimony under Chapter 4117 of the Revised Code;
   (5) Refuse to bargain collectively with the representative of his employees recognized as the exclusive representative or certified pursuant to Chapter 4117 of the Revised Code.
   (6) Establish a pattern or practice of repeated failures to timely process grievances and requests for arbitration of grievances;
   (7) Lock out or otherwise prevent employees from performing their regularly assigned duties where an object thereof is to bring pressure on the employees or an employee organization to compromise or capitulate to the employer’s terms regarding a labor relations dispute;
   (8) Cause or attempt to cause an employee organization, its agents or representatives to violate division (B) of this section.

If the allegations are against the Employee Organization, Ohio Revised Code 4117.11(B) provides as follows:

(B) 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 Ohio Revised Code or an employee organization in the selection of its representative for the purposes of collective bargaining or the adjustment of grievances;
   (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;

(3) Discriminate in regard to hire or tenure of employment or any term or condition of employment on the basis of the exercise of rights guaranteed by Chapter 4117 of the Revised Code. Nothing precludes any employer from making and enforcing an agreement pursuant to division of section 4117.09 of the Revised Code.

(4) Discharge or otherwise discriminate against an employee because he has filed charges or given testimony under Chapter 4117 of the Revised Code;

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

(6) Establish a pattern or practice of repeated failures to timely process grievances and requests for arbitration of grievances;

(7) Lock out or otherwise prevent employees from performing their regularly assigned duties where an object thereof is to bring pressure on the employees or an employee organization to compromise or capitulate to the employer’s terms regarding a labor relations dispute;

(8) Cause or attempt to cause an employee organization, its agents or representatives to violate division (8) of this section.

Notice of Appearance

A Notice of Appearance form (Form ERB 1004) indicates who is representing the party. The form can be downloaded from SERB’s website. It must be filed with the State Employment Relations Board by representatives of the Charging Party or the Charged Party. Please note: This form also requires that the proof of service be completed.

Complete the Notice of Appearance as follows:

Top Portion

- Fill in the case number assigned by SERB, if a case number has been assigned.
- Fill in the Charging Party’s name on the first line
- Fill in the Charged Party’s name on the second line.
- Above “Name of Party to be represented’, identify the party who is being represented
- Name the representative and his/her title. Give the firm name (if applicable), the address, city, state, zip code and email of the representative.
Proof of Service

As proof that an exact copy of the charge has been served upon the Charged Party, complete the proof of service portion of the charge by:

- writing the name and complete address of the party to whom the charge was sent,
- the date of delivery (or when the charge was sent), and
- the method of delivery (by regular U.S. mail, by hand delivery, or by email).

This proof of service must be SIGNED by the Charging Party (the person filing the charge).
What Happens After the Filing of an Unfair Labor Practice Charge

Investigation Process

Initial Review
When an unfair labor practice charge is filed, staff in SERB’s Investigations Section will initially review the charge to determine whether the charge was properly filed. The Investigators will check the unfair labor practice charge form for the following:

(1) Whether the charge was filed in hard copy;
(2) Whether the charge was filed within 90-days of the event/alleged violation;
(3) Whether the Proof of Service was completely filled out, signed and dated; and
(4) Whether the charge sets forth a “clear and concise” statement of the facts.

If these criteria have been met, the Investigator will begin investigating the charge.

Information Requested
The Investigator will begin the investigation by requesting information from the Charging Party and the Charged Party. Once the information has been received from each party, the Investigator will, if necessary, follow-up with the parties to obtain additional information, such as relevant documents and testimony (by affidavit or telephone interview).

Upon receipt of information from both parties, the Investigator will review all documentation and testimony submitted to determine whether there is the probability that the alleged conduct constitutes a violation of one or more of the unfair labor practice provisions contained in Sections 4117.11(A) and/or (B) of the Ohio Revised Code that was specifically selected by the Charging Party in Box 5.

If the Investigator reviews the information submitted and determines that the alleged act(s) in the charge is not an unfair labor practice, the Investigator will prepare a report of the factual findings, the reason for the recommendation and the recommendation for the Board to dismiss the charge.

On the other hand, if the Investigator reviews the information submitted and determines that the alleged act(s) in the charge may constitute an unfair labor practice, if proven, the Investigator will prepare a report of the factual findings, the reason for the recommendation and the recommendation for the Board to find probable cause that an unfair labor practice has been committed.

The Board will then conduct an independent review of the Investigator’s report and recommendation and issue a determination.

*See the following diagram of the Investigation Process.
Unfair Labor Practice

After the Investigation and a report and recommendation is submitted to the Board, the Board will review the investigation report and determine whether there is probable cause that a violation has occurred.

If the Board finds that there is no probable cause, the charge is dismissed.

A motion for reconsideration may be filed with the Board no later than thirty (30) days after the Board issues its final ruling. The motion must contain a thorough statement of the reasons why the Board should reconsider its previous decision. New and additional information and documentation that the Board had not previously considered should be attached to the Motion for Reconsideration. (Please see FORMS on the website for instructions on how to file a Motion for Reconsideration.)

If the Board finds that there is probable cause, an unfair labor practice complaint is issued. The Board may direct the parties to mediation pending issuance of the complaint. The complaint describes the acts claimed to be unfair labor practices and is accompanied by a procedural order setting a date for a hearing on the complaint. The Charged Party must respond, in writing, stating admission, denial, or explaining each allegation in the complaint.

At the hearing, which may be conducted by an Administrative Law Judge (ALJ), by a Board member, or by the Board itself, evidence is taken in the form of documents and witness testimony. After the hearing is completed, a proposed order with supporting findings of fact, reasoning and conclusions of law is submitted to the Board. Within twenty (20) days after receiving the proposed order, any party to the complaint may respond with a written brief in support of the proposed order or a written exception disagreeing with the proposed order.

If no exceptions are filed, the proposed order becomes the order of the Board. If exceptions are filed, the Board may adopt the proposed order in its entirety, making it a Board opinion; the Board may issue its own opinion, or may adopt only the findings of fact and conclusions of law from the proposed order. If exceptions
are filed and the Board disagrees with the recommendations in the proposed order, a Board opinion is usually issued.

If the Board concludes no violation has occurred, the complaint is dismissed. If the Board concludes that a violation has occurred, the Board will impose an appropriate remedy.

*See the following diagram of the Determination Process.

It should be noted that the determination by the Board or any court, that a public officer or employee has committed any of the acts prohibited by divisions (A) and (B) of this section, shall not be made the basis of any charge for the removal from office or recall of the public officer or the suspension from or termination of employment or disciplinary acts against an employee; nor shall the officer or employee be found subject to any suit for damages based on such a determination. However, nothing in this division prevents any party to a collective bargaining agreement from seeking enforcement or damages for a violation against the other party to the agreement.

**Jurisdictional Work Disputes**

The Board is authorized to hear and determine a Jurisdictional Work Dispute. A Jurisdictional Work Dispute is filed when two (2) or more employee organizations claim jurisdiction over employees who perform certain work. The Board shall hear and determine the dispute unless, within ten (10) days after notice to the Board by a party to the dispute that a dispute exists, the parties to the dispute submit to the Board satisfactory evidence that they have adjusted or agreed upon the method for the voluntary adjustment of, the dispute.
Non-Compliance Complaints

The Board is authorized to handle Non-Compliance Complaints filed by any party with a vested interest that alleges an employee organization(union) failed to comply with an employee organization’s mandatory filing requirements outlined in Ohio Revised Code 4117.19(A) through (E).

Rights

Public Employee Rights

Interfering with Public Employees Rights
Neither the public employer nor an employee organization(union) representing public employees may restrain or coerce employees in their exercise of the rights guaranteed in the Ohio Public Employees’ Collective Bargaining Act. Employee rights are spelled out in Section 4117.03(A) of the Ohio Revised Code.

The Right to Join an Employee Organization
Each public employee has the right to form, join, assist, or participate in any employee organization(union) he or she chooses. Each employee likewise has the right not to form, join, assist, or participate in any employee organization. Employee organizations have the right to set rules governing membership.

The Right to Act Together
To bargain with their employer, or to assist and protect each other, public employees have the right to act together in other ways besides forming or joining an employee organization. Employees acting collectively in good faith, even those not represented by an employee organization, may, for example, legitimately refuse to do work in abnormally dangerous working conditions, and are entitled to complain of unsafe practices of a superior without retaliation.

The Right to Be Represented
Each public employee has the right to be represented by an employee organization, provided that a majority of the employees in the employee’s bargaining unit have demonstrated their desire for representation by that employee organization(union) and the organization has been certified by the State Employment Relations Board.

The Right to Bargain
Public employees have the right to bargain collectively, through their exclusive representative, with their employer, and to enter into collective bargaining agreements. The public employer is required to bargain with its public employees on the following subjects: wages, hours, terms and conditions of employment, and the provisions of an existing agreement.

The Right to Present Grievances
Public employees within a bargaining unit have the right to present grievances and have them resolved. Public employees may exercise this right through their employee organization(union) representative, or they have the option of pursuing their grievances without intervention of the representative. If they choose not to involve the employee organization, the representative nevertheless must have the opportunity to be present at the adjustment meeting. In most cases, the employee organization(union) maintains the right to
determine which grievances will be forwarded to arbitration. The resolution of the grievance must not be inconsistent with the terms of the collective bargaining agreement.

**The Right to Select Representatives**
The public employer and the employee organization(union) have the right to select the individuals who will act as their representatives in bargaining or in processing grievances. Neither party may interfere with this selection or restrain or coerce the other in its choice. Except in very limited circumstances, it would be an unfair labor practice for one party to refuse to bargain on the grounds that a particular individual takes part in negotiations for the other party.

**The Right to an Independent Employee Organization**
An employee organization(union) that represents public employees must not be dependent upon the public employer. The statute forbids the public employer to initiate or create an employee organization, or to interfere with or dominate the formation or the administration of an employee organization.

The public employer, therefore, may not contribute financially to an employee organization, nor support the employee organization(union) in any other way. Some common practices are specifically permitted, however, despite the fact that they may represent minimal employer support of the employee organization. Public employees may confer with the public employer during work hours without loss of time or pay, and employee organizations may be permitted to use the employer’s meeting facilities and internal mail system.

**The Right to Equal Treatment**
Public employees must be free to exercise all rights guaranteed under the collective bargaining law without fear of retaliation. Public employers may not refuse to hire any individual or refuse to retain in employment any public employee on the basis of participation in protected activity. Likewise, no public employee may be subjected to a change in terms or conditions of employment on this basis.

Disciplinary action against a public employee is unlawful when it is motivated by a desire to retaliate because that public employee engaged in protected activity. Whenever disciplinary action follows closely after the exercise of protected rights, the unfavorable action is suspect and may justify investigation.

**The Right to File Charges or to Testify**
Employees who file unfair labor practice charges or who testify in matters relating to Chapter 4117 of the Ohio Revised Code are protected from retaliation by the public employer. The statute forbids firing or otherwise discriminating against a public employee in retaliation for filing charges or giving testimony.

**Refusal to Bargain**
Once an employee organization(union) has been certified as the exclusive representative of employees in a bargaining unit, and for as long as the employee organization(union) remains the certified exclusive representative, both the public employer and the employee organization(union) have a legal obligation to engage in collective bargaining.

It is an unfair labor practice for either the public employer or the employee organization(union) to refuse to bargain when the other party makes a timely request for negotiations concerning an appropriate subject of bargaining.
What is Collective Bargaining?
Good faith bargaining requires negotiating with the intent to reach an agreement, or to resolve questions arising under the agreement. It specifically does not require that either party accept a proposal or make a concession.

The object of bargaining is to reach an agreement in matters relating to wages, hours, terms and conditions of employment, and any proposed change in the provisions of an existing agreement. When an agreement is reached, the agreement must be reduced to writing and signed by both parties.

When Does Bargaining Occur?
Bargaining is most commonly initiated when it is time to begin negotiations for a collective bargaining agreement, either for the first time following certification of a new representative, or for a successor agreement in anticipation of the expiration of an existing agreement.

A party will also initiate bargaining when a specified date is reached that, in the current collective bargaining agreement, has been mutually selected as the time to reopen an agreement to bargain only over certain issues. For example, an agreement effective for a two-year period may contain a wage schedule only for the first year, with the stipulation that the parties will reopen the agreement at a specified date to bargain over the wage rate to be effective during the second year.

Another common occasion for bargaining arises when a public employer wishes to make a change in some aspect of work that affects wages, hours, and terms and conditions of employment, or is contrary to a provision of the current collective bargaining agreement. The employer and the certified bargaining representative are the only parties who may bargain. The employee organization(union) must only bargain with the public employer, and the public employer must only bargain with the employee organization. Other governmental units, other employee organizations, and even the employees themselves, when approached directly by the public employer without involvement of the certified representative, are not permissible bargaining agents.

Grievance Processing and Fair Representation
The law places great importance on the parties’ use of a grievance mechanism of their own design to resolve disputes concerning compliance with the terms of the collective bargaining agreement. Although the public employer and the public employees are free to decide the way their grievance system will work, Section 4117.09(B) of the Ohio Revised Code requires that all public employee collective bargaining agreements contain a provision for some kind of grievance procedure.

Employers Must Process Grievances
Public employers are required to process properly filed grievances in the time frame specified for the steps in the grievance process. While an occasional lapsed deadline does not necessarily constitute a violation, it is an unfair labor practice for the public employer to repeatedly fail to process grievances in a timely fashion.

Employee Organizations Must Represent All Employees Fairly
Employee Organizations that are certified as the exclusive representative of the public employees in a bargaining unit are obligated to make use of the grievance process on behalf of all employees in the bargaining unit, regardless of membership in the employee organization(union) fairly and without discriminating.
The employee organization(union) has the right to pursue a grievance based on its own interpretation of the collective bargaining agreement and does not necessarily commit an unfair labor practice when it does not agree with the grievant’s interpretation.

**Unlawful Lockouts, Strikes, Picketing**

Many tactics designed to bring pressure on a party to resolve a labor relations dispute may constitute unfair labor practices under Ohio’s public employee collective bargaining law. Often the legal status of a strike, lockout, picketing, or other action depends on the circumstances under which it is carried out.

**Strikes**

Under Ohio law, some public employees — such as police, fire, guards, and certain other units described in Section 4117.15(A) of the Ohio Revised Code — are never permitted to strike. A strike by other public employees is lawful only when negotiations for a collective bargaining agreement have failed, the dispute resolution process has been exhausted, and the prior contract, if any, has expired. Even then, if the strike involves work stoppage, a strike is legal only after notice is given at least ten days in advance, specifying the date and time that the strike will begin. Any strike, picketing, or other concerted refusal to work by public employees that does not meet all of these standards is an illegal strike and constitutes an unfair labor practice. Inducing or encouraging any individual to engage in an unlawful strike also constitutes an unfair labor practice.

Picketing, involving a work stoppage, may require the ten-day notice. For example, non-strikers, who conduct a picket in sympathy with striking teachers displaying signs encouraging students to stay home, commit an unfair labor practice if they fail to give notice to the school board and to the State Employment Relations Board ten days prior to the scheduled picketing. On the other hand, where picketing is determined to be informational only, and is in no way connected with a work stoppage, it does not require the filing of a ten-day notice.

**Lockouts**

A lockout occurs when the public employer denies employees access to the workplace or otherwise acts to prevent them from performing their duties. The statute prohibits the use of this tactic by a public employer when its purpose is to bring pressure to settle a labor dispute in favor of the employer’s terms.

**Jurisdictional Disputes**

When two or more employee organizations claim jurisdiction over employees who perform certain work, the decision as to which bargaining unit is appropriate for the employees cannot always be made by the public employer to the satisfaction of the employee organizations. In this situation, picketing or boycotting the public employer in an attempt to compel a decision constitutes an unfair labor practice on the part of the employee organization(union) or the public employees conducting the picketing or boycott. Instead, the proper avenue for resolution of the dispute is to notify the State Employment Relations Board of the jurisdictional work dispute. SERB is empowered by Section 4117.11(D) of the Ohio Revised Code to hear and determine the dispute.

**“Hot Cargo” and Unlawful Recognition**

Historically, in the private sector, an employee organization(union) on strike might receive the support of other employee organizations whose members would refuse to handle the goods produced by the struck employer, called “hot cargo,” or persuade other employers to cease doing business with the struck employer. Such activities are now prohibited in the private sector, and are also prohibited under Ohio’s public employee collective bargaining law. It is an unfair labor practice for public employees or their
employee organizations to induce or encourage any person to refuse to handle goods or perform services, or to use threats or force to compel any public employee to cease doing business with any other person.

It is also an unfair labor practice to use threats or force to compel a public employer to recognize as a bargaining representative any employee organization(union) not certified by the State Employment Relations Board.

Places of Residence and Private Employment
During a labor dispute, it is an unfair labor practice for a public employee or employee organization(union) to induce or encourage anyone to picket the residence of a public official or employer representative. If the official or employer representative has private employment in addition to the duties with the public employer, it is an unfair labor practice to picket the place of private employment.

Causing an Unfair Labor Practice
It is an unfair labor practice for public employers, public employees, and representatives of either to cause, or to attempt to cause, the other party to commit an unfair labor practice. For example, a supervisor violates this provision by questioning a subordinate employee, who serves as a union steward, about another employee represented by the union steward. If the steward responds as he or she is directed, it would be a breach of his or her duty to represent the employee about whom the steward was questioned.
# Telephone Directory

<table>
<thead>
<tr>
<th>Office</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board Member Offices</td>
<td>(614) 995-4242</td>
</tr>
<tr>
<td>Executive Director’s Office</td>
<td>(614) 466-3013</td>
</tr>
<tr>
<td>General Counsel’s Office</td>
<td>(614) 466-3367</td>
</tr>
<tr>
<td>Bureau of Mediation</td>
<td>(614) 644-8716</td>
</tr>
<tr>
<td>Clerks Office</td>
<td>(614) 644-8573</td>
</tr>
<tr>
<td>Hearings Section</td>
<td>(614) 644-8688</td>
</tr>
<tr>
<td>Investigations Section</td>
<td>(614) 466-3569</td>
</tr>
<tr>
<td>Representation Section</td>
<td>(614) 644-6278</td>
</tr>
<tr>
<td>Research and Training</td>
<td>(614) 466-1122</td>
</tr>
</tbody>
</table>