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BEFORE THE BOARD OF PERSONNEL APPEALS

* * * * *

IN THE MATTER OF UNFAIR LABOR PRACTICE #21, 1976

DANIEL JAMES MULLAN, PRESIDENT)
VICTOR FEDERATION OF TEACHERS,)

Complainant,)

vs-)

FINAL ORDER

DUANE W. REAGAN, SUPERINTENDENT)
OF SCHOOLS, VICTOR PUBLIC SCHOOLS,)

Defendant.)

* * * * *

No party to the above captioned matter has filed exceptions to the Findings of Fact, Conclusions of Law, and Recommended Order, within the time limits established by the rules and regulations of the Board of Personnel Appeals,

THEREFORE, the Board adopts the Recommended Order, in the above captioned matter, as the Final Order of the Board.

BOARD OF PERSONNEL APPEALS
BY Brent Crowley
Brent Crowley, Chairman

Dated: December 1976, 1976.

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CERTIFICATE OF MAILING

I, Vonda Brewster, hereby certify and state that I did on the 13th day of December, 1976, mail a copy of the above Final Order to the following:

Mr. Duane Reagan
Superintendent of Schools
Victor Public Schools
Victor, MT 59875

Daniel James Mullen
President
Victor Federation of Teachers
112 Crestline Drive
Missoula, MT 59801

James McGarvey
Executive Secretary
Montana Federation of Teachers
P. O. Box 1246
Helena, MT 59601

David L. Astle
Attorney at Law
Astle & Astle
705 Main
Kalispell, MT 59901

Vonda Brewster

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BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNFAIR LABOR PRACTICE #21, 1976:

DANIEL JAMES MULLAN, PRESIDENT)
VICTOR FEDERATION OF TEACHERS)
Complainant,)
-VS-)
DUANE W. REAGAN)
SUPERINTENDENT OF SCHOOLS)
VICTOR PUBLIC SCHOOLS)
Defendant.)

FINDINGS OF FACT
CONCLUSIONS OF LAW
RECOMMENDED ORDER

On July, 2, 1976, Mr. Daniel J. Mullan, President of the Victor Federation of Teachers, affiliated with the Montana Federation of Teachers, filed an unfair labor practice charge with the Montana State Board of Personnel Appeals against Duane M. Reagan, Superintendent of Schools, Victor Public Schools.

The charge alleges that Sections 59-1605(1)(a) and (b) have been violated in that Mr. Reagan did assist in the formation of a labor organization.

A hearing in the above captioned matter was held on October 6, 1976, in the Conference Room of the Ravalli County Courthouse, Hamilton, Montana. The Victor Federation of Teachers was represented by Mr. David L. Astle of the law firm of Astle and Astle, Kalispell, Montana; Mr. Reagan represented himself.

As the duly appointed hearing examiner of the Board of Personnel Appeals, I conducted the hearing in accordance with the provisions of the Montana Administrative Procedures Act (Sections 82-4201 to 82-4225, R.C.M., 1947).

After a thorough review of the record of this case, I make the following:

FINDINGS OF FACT

1. That Mr. Reagan, school superintendent, instructed his secretary to type an authorization card which, when signed by a teacher employer by the Victor schools, would denote said teacher's desire for the Victor Education Association's name to be placed on the ballot for the election held May 19, 1976. The election was held to determine the exclusive representative of the Victor teachers.



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DISCUSSION

Sections 59-1605(1)(a) and (b) state in effect that a public employer may not interfere with or impede its employees in their efforts to form or affiliate with a labor organization; nor may the employer aid or assist its employees in their efforts to form or affiliate with a labor organization. Essentially, perfect neutrality is the correct posture for the employer to assume.

Mr. Reagan, an agent of the Victor School Board, used materials and staff from his office to aid the cause of one labor organization during the period when two organizations were vying for the right to represent the teachers of Victor. This departure from the doctrine of neutrality is a blatant violation of both the spirit and the letter of the law.

CONCLUSIONS OF LAW

The allegation that Duane M. Reagan, Superintendent of Victor Public Schools, has engaged in an unfair labor practice within the meaning of Sections 59-1605(1)(a) and (b), R.C.M., 1947, has been sustained in that Mr. Reagan has interfered with employees in the exercise of their rights as guaranteed in Section 59-1603(1) by assisting in the formation of a labor organization.

RECOMMENDED ORDER

It is hereby ordered that Duane M. Reagan, Superintendent of Victor Public Schools, Victor, Montana, shall:

1. Cease and desist from interfering with the rights guaranteed to public employees by the Montana Public Employees Collective Bargaining Law, Title 59, Chapter 16, R.C.M., 1947.

BOARD OF PERSONNEL APPEALS

By Jeff Andrews
Jeff Andrews
Hearing Examiner

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CERTIFICATE OF MAILING

I Janice M. Fishburn, hereby certify and state that I did on the 29th day of October, 1976, mail a copy of the above FINDINGS OF FACT,

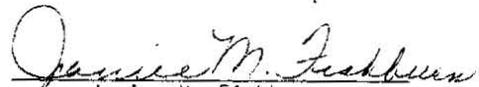
CONCLUSIONS OF LAW AND RECOMMENDED ORDER to the follow:

Duane W. Reagan
Superintendent of Schools
Victor Public Schools
Victor Mt 59875

Daniel James Mullen
President
Victor Federation of Teachers
112 Crestline Drive
Missoula, MT 59801

James McGarvey
Executive Secretary
Montana Federation of Teachers
P.O. Box 1246
Helena, MT 59601

David L. Astle
Attorney at Law
Astle & Astle
705 Main
Kalispell, MT 59901


Janice M. Fishburn