

VERMONT LABOR RELATIONS BOARD

VERMONT EARLY EDUCATORS        )  
UNITED, AFT                                )  
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STATE OF VERMONT                        )

DOCKET NO. 14-61

**MEMORANDUM AND ORDER**

1. On December 15, 2014, Vermont Early Educators United, American Federation of Teachers (“AFT”), filed a timely objection to this mail ballot election. *See* Section 73.22, *Vermont Labor Relations Board Rules of Practice*. AFT objects to: (1) an alleged lack of election security at VLRB offices, and (2) an alleged failure to maintain late ballots by VLRB staff. AFT requested that the Board investigate the allegations contained in its Objection, set aside the results of the election, and order a new election.

2. The election was conducted pursuant to an October 28, 2014 Order (“Election Order”), providing for a secret ballot election by mail ballot. AFT and the State of Vermont stipulated to the content and procedure set forth in the Election Order.

3. AFT did not subsequently object to the Election Order at any time prior to the December 9, 2014 ballot count.

4. The deadline to file objections to the election was December 23, 2014. The content of an objection filed by that date must include “the factual allegations to support the objection to the conduct of the election, including the names or identities of the persons or organizations charged and the early care and education providers affected”. *See* Section 73.22(A)(2), *Vermont Labor Relations Board Rules of Practice*.

5. AFT filed multiple affidavits on December 26, 2014, after the ten-day Objection deadline. *See* Section 73.22, *Vermont Labor Relations Board Rules of Practice*.
6. Board Members Gary Karnedy, Chairman, Richard Park, and Edward Clark were assigned as the Panel to consider and rule upon AFT's Objection.
7. The Panel appointed Edward Clark to interview Board staff and review the factual allegations made by AFT.
8. The AFT alleges that on the date Heather Reimer filed the AFT election petition, office staff was not present at the VLRB office. The Board concludes, based on its investigation, that in fact the AFT representative handed the election petition in person to VLRB staff on that date. The AFT does not allege that ballots were lost on that date, nor could it, since no votes had yet been cast. The Board concludes that there was no security breach at the VLRB office.
9. There was also no evidence that ballots were not maintained and counted throughout the voting period. The Executive Director is a highly-skilled and seasoned professional, and has been conducting elections and maintaining election ballots for decades. Ballots were carefully and meticulously maintained and secured each day during the voting period, immediately after the mail arrived.
10. Pursuant to the Election Order, mail ballots were required to be post-marked by December 4, 2014 to be counted. The parties and the Board further stipulated on December 8<sup>th</sup> to consider valid a ballot "filed with the Board by the time the Board receives its mail on the morning of December 9 regardless of postmark date". The Board concludes that nine ballots were accurately deemed late ballots because they were postmarked after December 4, 2014 and were not received in the Board's mail by the morning of December 9th. There is no probative evidence that the late ballots were not maintained and secured by VLRB staff.

11. AFT filed affidavits on December 26<sup>th</sup>, after the objection deadline, and consequently, the Board concludes that the affidavits were not timely filed. Even if the Board considered these affidavits, the Board concludes that they do not provide any probative evidence of a failure to maintain late ballots by the VLRB staff, or ballot security issues at the VLRB offices.

Based on the foregoing reasons, upon investigation, the AFT's objection is denied.

Dated this 31st day of December, 2014, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

/s/ Gary F. Karnedy

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Gary F. Karnedy, Chairperson

/s/ Edward Clark, Jr.

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Edward W. Clark, Jr.

/s/ Richard W. Park

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Richard W. Park