





State Employment Relations Board  
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7. Case 02-REP-07-0118 Fraternal Order of Police, Lodge 67 and City of Maple Heights

Vice Chairman Gillmor moved that the Board construe the Employee Organization's letter as a motion to withdraw the petition, grant the motion, and dismiss without prejudice the Petition for Amendment of Certification. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied \_\_\_

8. Case 02-REP-10-0199 Cincinnati Federation of Teachers, Local 1520, AFT and Cincinnati Public Schools Board of Education

Board Member Verich moved that the Board dismiss without prejudice the Petition for Clarification of Bargaining Unit. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied \_\_\_

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 02-ULP-08-0546 SERB v. Marion City School District Board of Education
2. Case 02-ULP-05-0308 SERB v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO
3. Case 02-ULP-07-0486 SERB v. State of Ohio, Department of Rehabilitation and Correction, Grafton Correctional Institution
4. Case 02-ULP-09-0594 SERB v. United Electrical, Radio and Machine Workers of America, Local 741

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5. Case 02-ULP-07-0467 SERB v. State of Ohio, Department of Mental Health

Vice Chairman Gillmor moved that the Board approve and adopt the settlement agreements, construe the settlement agreements as motions to dismiss, grant all of the motions, dismiss the complaints, and dismiss with prejudice the unfair labor practice charges. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
                 Affirmed X                      Denied \_\_\_

6. Case 02-REP-04-0074 West Chester Professional Firefighters IAFF, Local 3518 and West Chester Township, Butler County

Board Member Verich that the Board grant the Employer's request for oral argument, which shall be held in the Board's offices and scheduled at a date and time to be determined by the Board's General Counsel in consultation with the parties. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
                 Affirmed X                      Denied \_\_\_

7. Case 02-REP-03-0062 Ohio Patrolmen's Benevolent Association and United Auto Workers-Region 2, Local 70 and Cuyahoga County Sheriff's Department

Vice Chairman Gillmor moved that the Board adopt the Findings of Fact, Analysis and Discussion, and Conclusions of Law in the Recommended Determination; sustain the objections filed by the Ohio Patrolmen's Benevolent Association; set aside the results of the July 23, 2002 election; direct that a rerun election be conducted, in accordance with Ohio Administrative Code Rule 4117-5-10(B), in the bargaining unit at a time and place to be determined by the Labor Relations Section Administrator in consultation with the parties; and direct the Cuyahoga County Sheriff's Department to serve on each of the employee organizations and file with the Board a numbered, alphabetized election eligibility list setting forth the names and home addresses of all employees eligible to vote as of May 23, 2002. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
                 Affirmed X                      Denied \_\_\_





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5. Case 02-ULP-11-0759 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 546 v. Martins Ferry City School District Board of Education

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied \_\_\_

6. Case 02-ULP-11-0768 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 41 v. Switzerland of Ohio Local School District Board of Education

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied \_\_\_

7. Case 02-ULP-11-0770 Diane Barnes v. State of Ohio, Department of Rehabilitation and Correction, Noble Correctional Institution

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied \_\_\_

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8. Case 02-ULP-10-0657 Fraternal Order of Police, Capital City Lodge No. 9 v. City of Columbus

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11 (A)(1) by denying Officer Greg Stevens representation during a polygraph examination, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
                 Affirmed X                      Denied   

9. Case 02-ULP-10-0679 Ohio Patrolmen's Benevolent Association v. City of Seven Hills

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
                 Affirmed X                      Denied   

10. Case 02-ULP-10-0677 Queen City Lodge No. 69, Fraternal Order of Police v. City of Cincinnati

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11 (A)(1) and (5) by changing the terms and conditions of employment for assistant police chiefs, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
                 Affirmed X                      Denied

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11. Cases 02-ULP-11-0749 Marilyn McQuater v. Cleveland State University  
02-ULP-11-0750 Marilyn McQuater v. Communications Workers of America, Local 4309

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Parties and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied \_\_\_

12. Case 02-ULP-09-0646 Ohio Patrolmen's Benevolent Association v. Portage County Sheriff

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11 (A)(1), (2), and (6) by establishing a pattern of repeated failures to timely process grievances and interfering with the Union's administration of the grievance process, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied \_\_\_

13. Case 02-ULP-10-0673 Ohio Patrolmen's Benevolent Association v. Huron County Sheriff

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied \_\_\_



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18. Cases 02-ULP-12-0809 International Union of Police Associations, Local 63  
v. Hancock County Sheriff's Office

02-ULP-12-0810 International Union of Police Associations, Local 76  
v. Hancock County Sheriff's Office

Board Member Verich moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied \_\_\_

19. Case 03-ULP-01-0008 International Brotherhood of Teamsters, Local 377 v.  
Canfield Township Trustees, Montgomery County

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied \_\_\_

20. Cases 03-ULP-01-0003 Jarrod A. Blanc v. Ohio Council of Police and Safety  
Associations, IUPA/AFL-CIO

03-ULP-01-0004 Robert J. First v. Ohio Council of Police and Safety  
Associations, IUPA/AFL-CIO

03-ULP-01-0005 Brian S. Pittman v. Ohio Council of Police and Safety  
Associations, IUPA/AFL-CIO

03-ULP-01-0006 James A. Stevic v. Ohio Council of Police and Safety  
Associations, IUPA/AFL-CIO

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03-ULP-01-0007

Allen L. Tyson, Jr. v. Ohio Council of Police and Safety Associations, IUPA/AFL-CIO

Board Member Verich moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
                 Affirmed X                      Denied \_\_\_

21. Case 02-ULP-11-0727                      Ohio Patrolmen's Benevolent Association v. City of Norwalk

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
                 Affirmed X                      Denied \_\_\_

22. Case 02-ULP-10-0651                      Tino Valjean and Robert Folk v. City of Painesville

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
                 Affirmed X                      Denied \_\_\_

23. Case 02-ULP-10-0710                      Lorain Education Association, OEA/NEA and Margaret Welcome v. Lorain City School District Board of Education and Loretta Jones

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
                 Affirmed X                      Denied \_\_\_







**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

Ohio Patrolmen's Benevolent Association,

Rival Employee Organization,

and

Mayfield Heights Communication Association,

Incumbent Employee Organization,

and

City of Mayfield Heights,

Employer.

Case Number: 02-REP-09-0178

**DIRECTION TO ELECTION PURSUANT TO CONSENT ELECTION AGREEMENT**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich:  
February 27, 2003.

Pursuant to Ohio Revised Code § 4117.07(B) and Ohio Administrative Code Chapter 4117-5, the Board approves the Consent Election Agreement executed by the parties and directs that a representation election be conducted in accordance with the terms of the consent agreement or *at a date, time and place to be determined by the Representation Division in consultation with the parties.*

As required by Ohio Administrative Code Rule 4117-5-07(A), no later than March 9, 2003, the City of Mayfield Heights shall serve on the Ohio Patrolmen's Benevolent Association and the Mayfield Heights Communication Association and shall file with the Board a numbered, alphabetized election eligibility list containing the names and home addresses of all employees eligible to vote as of February 6, 2003.

The election shall be held on March 20, 2003.

Direction to Election Pursuant to Consent Election Agreement  
Case No. 02-REP-09-0178  
February 27, 2003  
Page 2

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon the representative of each party by certified mail, return receipt requested, this 27<sup>th</sup> day of FEBRUARY, 2003.

  
\_\_\_\_\_  
SANDRA A. M. IVERSEN  
ADMINISTRATIVE ASSISTANT

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

Fraternal Order of Police, Ohio Labor Council, Inc.,

Rival Employee Organization,

and

Ohio Patrolmen's Benevolent Association,

Incumbent Employee Organization,

and

Portage County Sheriff,

Employer.

Case Numbers: 02-REP-09-0181 ✓  
02-REP-09-0182

**DIRECTION TO ELECTIONS PURSUANT TO CONSENT ELECTION AGREEMENT**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich:  
February 27, 2003.

Pursuant to Ohio Revised Code § 4117.07(B) and Ohio Administrative Code Chapter 4117-5, the Board approves the Consent Election Agreement executed by the parties and directs that representation elections be conducted in accordance with the terms of the consent agreement or *at a date, time and place to be determined by the Representation Division in consultation with the parties.*

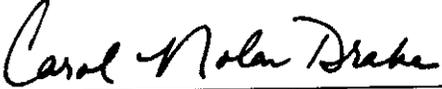
As required by Ohio Administrative Code Rule 4117-5-07(A), no later than March 9, 2003, the Portage County Sheriff shall serve on the Fraternal Order of Police, Ohio Labor Council, Inc. and the Ohio Patrolmen's Benevolent Association and shall file with the Board a separate numbered, alphabetized election eligibility list for each bargaining unit containing the names and home addresses of all employees eligible to vote as of February 4, 2003.

The election shall be held on April 7, 2003.

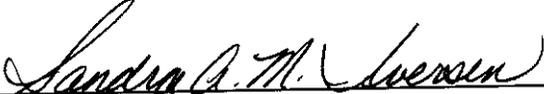
Direction to Elections Pursuant to Consent Election Agreement  
Case Nos. 02-REP-09-0181 and 02-REP-09-0182  
February 27, 2003  
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It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon the representative of each party by certified mail, return receipt requested, this 27<sup>th</sup> day of FEBRUARY, 2003.

  
\_\_\_\_\_  
SANDRA A. M. IVERSEN  
ADMINISTRATIVE ASSISTANT

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

Ohio Council 8, American Federation of State, County and Municipal Employees,  
AFL-CIO,

Employee Organization,

and

The Director of Environmental Services and Delaware County Commissioners,

Employer.

Case Number: 03-REP-02-0016

**AMENDMENT OF CERTIFICATION**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich:  
February 27, 2003.

Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO (Employee Organization) is the Board-certified exclusive representative of certain employees of the Delaware County Sanitary Engineer and Delaware County Commissioners (Employer). The Employee Organization and the Employer jointly filed a Petition for Amendment of Certification seeking to amend the certification to reflect new classifications and the Employer's name change. The Board approves the petition and amends the unit, which is now described as follows:

- Included: All full-time and regular part-time employees of the Delaware County Department of Environmental Services (formerly known as the Delaware County Sanitary Engineer's Office), including: Custodian, Inspector, Lab Technician, Lead Collection, Maintenance Mechanic, Maintenance Mechanic II, Operator, Operator-Chemist, Truck Driver and Truck Driver "A".
- Excluded: All management-level employees, confidential employees, supervisory employees as defined in the Act, including Director of Environmental Services, Sanitary Engineer, Superintendent and Secretary/Bookkeeper.

Amendment of Certification  
Case No. 03-REP-02-0016  
February 27, 2003  
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It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, this 6<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
SANDRA A. M. IVERSEN  
ADMINISTRATIVE SECRETARY

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

Ohio Council 8, American Federation of State, County and Municipal Employees,  
AFL-CIO,

Employee Organization,

and

Holmes County Sheriff,

Employer.

Case Number: 03-REP-02-0018

**AMENDMENT OF CERTIFICATION**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich:  
February 27, 2003.

Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO (Employee Organization) is the Board-certified exclusive representative of certain employees of the Holmes County Sheriff (Employer). The Employee Organization and the Employer jointly filed a Petition for Amendment of Certification seeking to amend the certification to revise the exclusion language. The Board approves the petition and amends the unit, which is now described as follows:

Included: All members of the Holmes County Sheriff's Department below the rank of Sergeant, including all road patrol officers and detectives.

Excluded: All management-level employees, professional employees, and supervisors as defined in the Code, all members of the Holmes County Sheriff's Department with the rank of Sergeant or above, and all other employees.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

Amendment of Certification  
Case No. 03-REP-02-0018  
February 27, 2003  
Page 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, this 6<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
SANDRA A. M. IVERSEN  
ADMINISTRATIVE SECRETARY

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

Ohio Council 8, American Federation of State, County and Municipal Employees,  
AFL-CIO,

Employee Organization,

and

Butler County Department of Job and Family Services,

Employer.

Case Number: 03-REP-02-0023

**AMENDMENT OF CERTIFICATION**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich:  
February 27, 2003.

Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO (Employee Organization) is the Board-certified exclusive representative of certain employees of the Butler County Department of Job and Family Services (Employer). The Employee Organization and the Employer jointly filed a Petition for Amendment of Certification seeking to amend the certification to reflect the inclusion of eight (8) classifications, the exclusion of eleven (11) classifications, and classification title changes. The Board approves the petition and amends the unit, which is now described as follows:

Included: All full-time, regular part-time, and intermittent employees of the Butler County Department of Human Services, including the following positions: Purchasing Assistant, Purchasing Assistant 2, Custodial Worker, Data Entry Operator 1, Data Entry Operator 2, Data Entry Operator 3, Account Clerk 1, Account Clerk 2, Telephone Operator, Clerical Specialist 1, Clerical Specialist 2, Clerical Specialist 3, Office Machine Operator 1, Office Machine Operator 2, Mail Clerk/Messenger, Unit Support Worker 1, Unit Support Worker 2, Social Services Worker 1, Social Services Worker 2, Investigator 1, Investigator 2, Investigator 3, Family Service Aide 1, Income Maintenance Aide 1, Income Maintenance Worker 1, Eligibility/Referral Specialist 1, Eligibility/Referral Specialist 2, Case Control Reviewer, Cashier 1, Cashier 2, Public Information Specialist, Employment Services Representative, Employment Services Interviewer, Participant Eligibility Career Counselor, Career Counselor II, Career Counselor III, One-Stop Clerical, Bookkeeper I, Bookkeeper II, Assistant Outreach Coordinator and Contract Evaluator.

Amendment of Certification  
Case No. 03-REP-02-0023  
February 27, 2003  
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Excluded: All management-level employees, confidential employees and supervisors as defined in the Act, including: Custodial Worker Supervisor, Investigator 4, Income Maintenance Supervisor 1, Social Services Supervisor 1, Account Clerk Supervisor, Income Maintenance Administrator, County Human Services Administrator 3, Program Section Chief Supervisor, Office Manager, Director of Butler County Department of Human Services, Clerical Supervisor, Investigator Supervisor, Administrative Assistant to the Director, Secretary 2 to the Director (confidential), Personnel Officer 1, Administrative Assistant 3 to the Director (confidential), Work Program Coordinator, Day Care Program Coordinator, Social Services Supervisor 2, Typist 2 who reports to the County Administrator 3 (confidential), Account Clerk reporting to the Director (confidential), Administrative Assistant to the Social Programs Director (confidential), Assistant Director (Workforce Development), Deputy Assistant Director (Workforce Development), Special Projects Manager (Welfare-to-Work), Assistant Projects Manager (Welfare-to-Work), Projects Administrator (Workforce Development), MIS Administrator (Workforce Development), Controller, Division Director (Finance), Division Director (Contracting and Special Projects), Human Resources Director, and Outreach Coordinator.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, this 6<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
SANDRA A. M. IVERSEN  
ADMINISTRATIVE SECRETARY

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

Ohio Association of Public School Employees Local 306,

Employee Organization,

and

Lima City Schools,

Employer.

Case Number: 02-REP-01-0003

**AMENDMENT OF CERTIFICATION**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich:  
February 27, 2003.

The Ohio Association of Public School Employees Local 306 (Employee Organization) is the deemed-certified exclusive representative of certain employees of the Lima City Schools (Employer). On August 15, 2002, the Board clarified the bargaining unit represented by the Employee Organization to exclude Payroll/Insurance Clerk and Bookkeeper/Purchasing Clerk. The Employee Organization filed a timely Motion for Reconsideration maintaining the Payroll/Insurance Clerk and Bookkeeper/Purchasing Clerk are simply new titles for bargaining unit positions and should not be excluded from the existing bargaining unit. The Board granted the Employee Organization's motion for reconsideration and directed the case to hearing to determine bargaining unit status of the employees in question. As a result of mediation efforts, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the certification to include Payroll/Insurance Clerk and Bookkeeper/Purchasing Clerk in the existing unit.

The Board approves the petition and amends the unit, which is now described as follows:

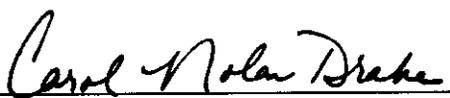
Included: 1. Maintenance and Custodial Staff, 2. Aides, Bus Aides, and Clerical Workers, 3. Secretarial and Clerical Staff, 4. Food Service Personnel, 5. Bus Drivers, 6. Crossing Guards, 7. Payroll/Insurance Clerk, 8. Bookkeeper/Purchasing Clerk.

Excluded: 1. Treasurer and Assistant Treasurer, 2. Executive Secretary to Superintendent, 3. Secretary to the Assistant Superintendent for Business Affairs, 4. Payroll Clerk, 5. Substitutes, 6. Supervisor of Custodial Services and Transportation, 7. Supervisor of Food Services, 10. All other confidential, supervisory and management level employees as defined in Section 4117.01 of the Ohio Revised Code.

Amendment of Certification  
Case No. 02-REP-01-0003  
February 27, 2003  
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It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, this 6<sup>th</sup> day of March, 2003.

  
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SANDRA A. M. IVERSEN  
ADMINISTRATIVE ASSISTANT

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of  
Fraternal Order of Police, Lodge 67,  
Employee Organization,  
and  
City of Maple Heights,  
Employer.

Case Number: 02-REP-07-0118

**DIRECTIVE GRANTING MOTION TO WITHDRAW**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich:  
February 27, 2003.

The Fraternal Order of Police, Lodge 67 (Employee Organization) is the Board-certified exclusive representative of certain employees of the City of Maple Heights (Employer). The Employee Organization filed a Petition for Amendment of Certification and has now filed a letter seeking to withdraw it.

The Board construes the Employee Organization's letter as a motion to withdraw the petition, grants the motion and dismisses without prejudice the Petition for Amendment of Certification.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

Directive Granting Motion to Withdraw  
Case No. 02-REP-07-0118  
February 27, 2003  
Page 2

I certify that this document was filed and a copy served upon the representative of each party by certified mail, return receipt requested, this 6<sup>th</sup> day of March, 2003.

  
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SANDRA A. M. IVERSEN  
ADMINISTRATIVE SECRETARY

DAM/jm/59w/02-27b/#7

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

Cincinnati Federation of Teachers, Local 1520, AFT,

Employee Organization,

and

Cincinnati Public Schools Board of Education,

Employer.

Case Number: 02-REP-10-0199

**DISMISSAL OF PETITION FOR CLARIFICATION OF BARGAINING UNIT**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich:  
February 27, 2003.

The Cincinnati Federation of Teachers, Local 1520, AFT (Employee Organization) is the deemed-certified exclusive representative of certain employees of the Cincinnati Public Schools Board of Education (Employer). The Employee Organization filed a Petition for Clarification of Bargaining Unit seeking to include School Community Coordinators, who perform duties that fall within the scope of duties performed by counselors, librarians and teachers who are included in the existing bargaining unit. The Employee Organization states the purpose of the petition is to determine whether School Community Coordinators should be included based on the unit description and the duties they perform.

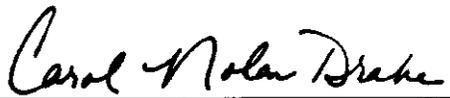
The bargaining unit description is very specific in that it spells out who is included in the unit. Including School Community Coordinators would alter the composition of the bargaining unit. Ohio Administrative Code 4117-5-01(E)(1) provides for amendment of certification to alter the composition of the bargaining unit by adding, deleting, or changing terminology of the bargaining unit description. Unit clarification does not alter the status quo, but rather maintains it.

The Board dismisses without prejudice the Petition for Clarification of Bargaining Unit.

Dismissal of Petition  
for Clarification of Bargaining Unit  
Case No. 02-REP-10-0199  
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It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

You are hereby notified that an appeal may be perfected, pursuant to Ohio Revised Code § 119.12, by filing a notice of appeal with the Board at 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, and with the Franklin County Common Pleas Court within fifteen days after the mailing of the Board's directive.

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, this 6<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
SANDRA A. M. IVERSEN  
ADMINISTRATIVE SECRETARY

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

Marion City School District Board of Education,

Respondent.

**Case No. 2002-ULP-08-0546**

**DIRECTIVE GRANTING MOTION TO DISMISS**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

On August 15, 2002, the Marion Education Association, OEA/NEA ("Charging Party") filed an unfair labor practice charge against the Marion City School District Board of Education ("Respondent"). On December 12, 2002, the State Employment Relations Board ("Board" or "Complainant") found probable cause to believe a violation had occurred, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to the unfair labor practice mediation process.

On February 5, 2003, the parties filed a settlement agreement that resolved the underlying issues. In the settlement, the parties requested that the Board construe the settlement agreement as a motion by the Charging Party to dismiss the unfair labor practice charge with prejudice.

The settlement agreement is approved and adopted, the settlement agreement is construed as a motion to dismiss, the motion is granted, the complaint is dismissed, and the unfair labor practice charge is dismissed with prejudice.

It is so ordered.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.



\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

I certify that a copy of this document was served upon each party's representative by regular U.S. Mail this 17th day of March, 2003.



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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO,

Respondent.

**Case No. 2002-ULP-05-0308**

**DIRECTIVE GRANTING MOTION TO DISMISS**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

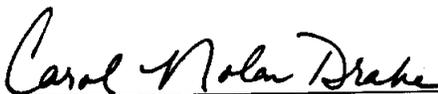
On May 3, 2002, Ms. Linda M. Hibbler ("Charging Party") filed an unfair labor practice charge against the Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO ("Respondent"). On October 24, 2002, the State Employment Relations Board ("Board" or "Complainant") found probable cause to believe a violation had occurred, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to the unfair labor practice mediation process.

On February 4, 2003, the Complainant filed a motion to dismiss the complaint as the result of a settlement agreement between the parties that resolved the underlying issues.

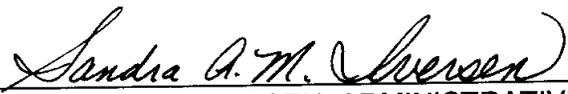
The motion to dismiss is granted, the complaint is dismissed, and the unfair labor practice charge is dismissed with prejudice.

It is so ordered.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

I certify that a copy of this document was served upon each party's representative by regular U.S. Mail this 17<sup>th</sup> day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

State of Ohio, Department of Rehabilitation and Correction, Grafton Correctional Institution,

Respondent.

**Case No. 2002-ULP-07-0486**

**DIRECTIVE GRANTING MOTION TO DISMISS**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

On July 15, 2002, the Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO ("Charging Party") filed an unfair labor practice charge against the State of Ohio, Department of Rehabilitation and Correction, Grafton Correctional Institution ("Respondent"). On December 12, 2002, the State Employment Relations Board ("Board" or "Complainant") found probable cause to believe a violation had occurred, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to the unfair labor practice mediation process.

On February 5, 2003, the parties filed a settlement agreement that resolved the underlying issues. In the settlement, the parties requested that the Board construe the settlement agreement as a motion to dismiss the complaint and the unfair labor practice charge with prejudice.

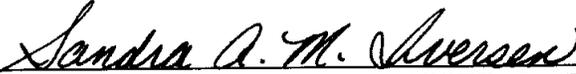
The settlement agreement is approved and adopted, the settlement agreement is construed as a motion to dismiss, the motion is granted, the complaint is dismissed, and the unfair labor practice charge is dismissed with prejudice.

It is so ordered.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

I certify that a copy of this document was served upon each party's representative by regular U.S. Mail this 17<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

United Electrical, Radio and Machine Workers of America, Local 741,

Respondent.

**Case No. 2002-ULP-09-0594**

**DIRECTIVE GRANTING MOTION TO DISMISS**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

On September 9, 2002, Mr. Terry W. Keen ("Charging Party") filed an unfair labor practice charge against the United Electrical, Radio and Machine Workers of America, Local 741 ("Respondent"). On November 26, 2002, the State Employment Relations Board ("Board" or "Complainant") found probable cause to believe a violation had occurred, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to the unfair labor practice mediation process.

On February 4, 2003, the parties filed a settlement agreement that resolved the underlying issues. In the settlement, the parties requested that the Board construe the settlement agreement as a motion to dismiss the complaint and the unfair labor practice charge with prejudice.

The settlement agreement is approved and adopted, the settlement agreement is construed as a motion to dismiss, the motion is granted, the complaint is dismissed, and the unfair labor practice charge is dismissed with prejudice.

It is so ordered.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.



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CAROL NOLAN DRAKE, CHAIRMAN

I certify that a copy of this document was served upon each party's representative by regular U.S. Mail this 11<sup>th</sup> day of March, 2003.



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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

State of Ohio, Department of Mental Health,

Respondent.

**Case No. 2002-ULP-07-0467**

**DIRECTIVE GRANTING MOTION TO DISMISS**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

On July 3, 2002, the Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO ("Charging Party") filed an unfair labor practice charge against the State of Ohio, Department of Mental Health ("Respondent"). On December 12, 2002, the State Employment Relations Board ("Board" or "Complainant") found probable cause to believe a violation had occurred, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to the unfair labor practice mediation process.

On February 3, 2003, the parties filed a settlement agreement that resolved the underlying issues. In the settlement, the parties requested that the Board construe the settlement agreement as a motion to dismiss the complaint and the unfair labor practice charge with prejudice.

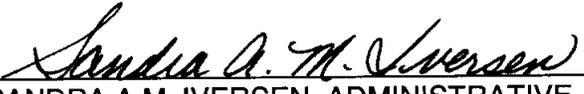
The settlement agreement is approved and adopted, the settlement agreement is construed as a motion to dismiss, the motion is granted, the complaint is dismissed, and the unfair labor practice charge is dismissed with prejudice.

It is so ordered.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

I certify that a copy of this document was served upon each party's representative by regular U.S. Mail this 11<sup>th</sup> day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

West Chester Professional Fire Fighters, IAFF Local 3518,

Employee Organization,

and

West Chester Township, Butler County,

Employer.

**Case No. 2002-REP-04-0074**

**DIRECTIVE GRANTING REQUEST FOR ORAL ARGUMENT**

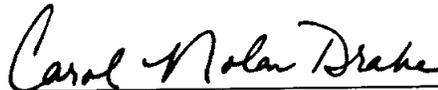
Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

This representation case comes before the State Employment Relations Board ("Board") upon the issuance of a Recommended Determination on December 13, 2002. On December 24, 2003, West Chester Township, Butler County ("Employer") filed exceptions and a request for oral argument. On December 30, 2002, West Chester Professional Firefighters IAFF, Local 3518 ("Employee Organization") filed a response to the exceptions.

The request for oral argument is granted. The argument shall be held in the Board's offices in Columbus and shall be scheduled at a date and time to be determined by the Board's General Counsel in consultation with the parties.

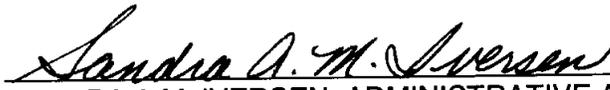
It is so ordered.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.



CAROL NOLAN DRAKE, CHAIRMAN

I certify that a copy of this document was served upon each party's representative by regular U.S. Mail this 17th day of March, 2003.



SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

**STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

Ohio Patrolmen's Benevolent Association,

Rival Employee Organization,

and

United Auto Workers-Region 2, Local 70,

Incumbent Employee Organization,

and

Cuyahoga County Sheriff's Department,

Employer.

Case No. 2002-REP-03-0062

**DIRECTIVE SUSTAINING ELECTION OBJECTIONS, SETTING ASIDE ELECTION  
RESULTS, AND DIRECTING RERUN ELECTION**  
**(OPINION ATTACHED)**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich:  
February 27, 2003.

On March 28, 2002, the Ohio Patrolmen's Benevolent Association ("OPBA") filed a Petition for Representation Election – Employee Organization with the State Employment Relations Board ("Board") seeking to displace the incumbent employee organization, United Auto Workers-Region 2, Local 70 ("UAW") as the exclusive representative for a bargaining unit consisting of "All Corrections Corporals" employed by the Cuyahoga County Sheriff's Department ("Employer"). On May 23, 2002, the Board issued a Direction to Election to the parties that included a requirement that the Employer, no later than June 3, 2002, serve on each Employee Organization and file with the Board a numbered, alphabetized election eligibility list setting forth the names and home addresses of all employees eligible to vote as of May 23, 2002. The Employer did not file with the Board or serve on all parties an alphabetized election eligibility list containing the names and home addresses of all employees eligible to vote as of May 23, 2002. Pursuant to Ohio Administrative Code Rule 4117-5-07(E), an alphabetized list containing names only was used as the eligibility list for the election. On July 23, 2002, the Board conducted the secret ballot election. Of thirty-six eligible voters, twenty ballots were cast. The OPBA received four votes, the UAW received fifteen votes, and No Representative received one vote.

The OPBA filed post-election objections maintaining collusion between the Employer and the UAW. The OPBA challenged the election results because the election eligibility list it was provided did not contain the home addresses of the employees in the bargaining unit. On September 5, 2002, the Board directed the post-election objections to an evidentiary hearing and coordinated the representation proceeding with the unfair labor practice case. The parties waived a hearing and, instead, submitted the case on joint stipulations and briefs. On January 9, 2003, a Recommended Determination was issued by the Administrative Law Judge, recommending that the Board find that the OPBA's objections to the July 23, 2002 election have merit and warrant setting aside the election results and conducting a rerun election in accordance with Ohio Administrative Code Rule 4117-5-10(B). No exceptions were filed to the Recommended Determination.

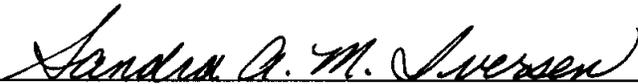
After reviewing the record, the Recommended Determination, and all other filings in this case, the Board adopts the Findings of Fact, Analysis and Discussion, and Conclusions of Law in the Recommended Determination, incorporated by reference; sustains the objections filed by the Ohio Patrolmen's Benevolent Association; sets aside the results of the July 23, 2002 election; directs that a rerun election be conducted, in accordance with Ohio Administrative Code Rule 4117-5-10(B), in the bargaining unit at a time and place to be determined by the Labor Relations Section Administrator in consultation with the parties; and directs the Cuyahoga County Sheriff's Department to serve on each of the employee organizations and file with the Board a numbered, alphabetized election eligibility list setting forth the names and home addresses of all employees eligible to vote as of May 23, 2002.

It is so ordered.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member,  
concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

I certify that a copy of this document was served upon each party's representative by certified mail, return receipt requested, this 17<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

**STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

<b>OHIO PATROLMEN'S BENEVOLENT ASSOCIATION,</b>	:	<b>CASE NO. 02-REP-03-0062</b>
	:	
<b>Rival Employee Organization,</b>	:	
	:	
<b>and</b>	:	
	:	
<b>UNITED AUTO WORKERS-REGION 2, LOCAL 70,</b>	:	<b>BETH C. SHILLINGTON</b>
	:	<b>ADMINISTRATIVE LAW JUDGE</b>
	:	
<b>Incumbent Employee Organization,</b>	:	
	:	
<b>and</b>	:	
	:	
<b>CUYAHOGA COUNTY SHERIFF'S DEPARTMENT,</b>	:	
	:	<b><u>RECOMMENDED DETERMINATION</u></b>
	:	
<b>Employer.</b>	:	

**I. INTRODUCTION**

On March 28, 2002, the Ohio Patrolmen's Benevolent Association ("OPBA") filed a Petition for Representation Election – Employee Organization with the State Employment Relations Board ("SERB") seeking to displace the incumbent employee organization, United Auto Workers-Region 2, Local 70 ("UAW") as the exclusive representative for a bargaining unit consisting of "All Corrections Corporals" employed by the Cuyahoga County Sheriff's Department ("Employer"). On May 23, 2002, SERB issued a Direction to Election to the parties that included a requirement that the Employer, no later than June 3, 2002, serve on each Employee Organization and file with SERB a numbered, alphabetized election eligibility list setting forth the names and home addresses of all employees eligible to vote as of May 23, 2002.

The Employer did not file with SERB or serve on all parties an alphabetized election eligibility list containing the names and home addresses of all employees eligible to vote as of May 23, 2002. Pursuant to Ohio Administrative Code Rule 4117-5-07(E), an alphabetized list containing names only was used as the eligibility list for the election.<sup>1</sup>

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<sup>1</sup>All references to statutes are to the Ohio Revised Code, Chapter 4117, and all references to administrative code rules are to the Ohio Administrative Code, Chapter 4117.

On July 23, 2002, SERB conducted the secret ballot election. Of thirty-six (36) eligible voters, twenty (20) ballots were cast. The OPBA received four (4) votes, the UAW received fifteen (15) votes, and No Representative received one (1) vote.

The OPBA filed post-election objections maintaining collusion between the Employer and the UAW. The OPBA challenged the election results because the election eligibility list it was provided did not contain the home addresses of the employees in the bargaining unit. The OPBA maintains that, through its actions, the Employer was determined to prevent a fair election.

The OPBA also filed Case No. 02-ULP-06-0453 alleging that the Employer violated §§ 4117.11(A)(1) and (2) by refusing to provide the alphabetized election eligibility list containing names and home addresses. On August 15, 2002, SERB found probable cause to believe an unfair labor practice had been committed and directed the case to hearing. SERB has coordinated these proceedings.

## **II. ISSUE**

Whether SERB should sustain the OPBA's election objections, set aside the July 23, 2002 election, and direct a rerun election?

## **III. FINDINGS OF FACT<sup>2</sup>**

1. The Cuyahoga County Sheriff's Department is a "public employer" as defined by § 4117.01(B). (S. 1)
2. The Ohio Patrolmen's Benevolent Association is an "employee organization" as defined by § 4117.01(D). (S. 2)
3. The United Auto Workers-Region 2, Local 70 is an "employee organization" as defined by § 4117.01(D). (Complaint, ¶ 5; Answer, ¶ 5)
4. On March 23, 2002, the OPBA filed a Petition for Representation Election – Employee Organization ("Petition") with the State Employment Relations Board ("SERB"), seeking to represent a bargaining unit of the Employer's Corrections

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<sup>2</sup> All references to the Stipulations of Fact are indicated parenthetically by "S.," followed by the stipulation number. All references to the Joint Exhibits are indicated parenthetically by "Jt. Exh.," followed by the exhibit number. References to the stipulations and exhibits in the Findings of Fact are intended for convenience only and are not intended to suggest that such references are the sole support in the record for that related finding of fact.

Corporals. The UAW is the incumbent exclusive representative for this bargaining unit. (Complaint, ¶ 5; Answer, ¶ 5; S.3; Jt. Exh. A)

5. SERB notified the Employer of the Petition through correspondence dated April 3, 2002. The correspondence requested that not later than April 17, 2002, the Employer provide an alphabetized, numbered list of employees in the proposed bargaining unit to SERB and the other parties pursuant to Rule 4117-5-04(C). On April 15, 2002, an alphabetized, numbered list of Corrections Corporals was transmitted to SERB, the OPBA, and the UAW. (S. 4-7; Jt. Exhs. B, C)
6. On April 30, 2002, SERB transmitted a Consent Election Agreement to the parties, asking that it be returned by May 7, 2002. Paragraph 3 of the Consent Election Agreement states as follows:

Pursuant to Ohio Administrative Code Rule 4117-5-07, the employer shall file with the Board and serve on the parties an accurate alphabetized, numbered list of eligible voters' names and home addresses. The list shall be filed by the earlier of these two dates: (1) ten days after the Board issues the direction to election, or (2) ten days prior to the election.

(S. 8; Jt. Exh. D)

7. The Employer and the UAW negotiated a successor collective bargaining agreement that was executed on May 7, 2002. (Complaint, ¶ 6; Answer, ¶ 6)
8. On May 23, 2002, SERB issued and served on the parties a Direction to Election, and on June 4, 2002, SERB issued and served on the parties a corrected Direction to Election. Each document stated, in relevant part, as follows:

The election shall be held at a date, time, and place to be determined by the Representation Section in consultation with the parties. No later than June 3, 2002, the Employer shall serve on each Employee Organization and file with the Board a numbered, alphabetized election eligibility list setting forth the names and home addresses of all employees eligible to vote as of May 23, 2002.

(S. 9-10; Jt. Exhs. E, F)

9. On June 6, 2002, SERB mailed the Employer's attorney a letter stating, in part, as follows:

The directive states that the Employer shall serve on each Employee Organization and file with us a numbered alphabetized election eligibility list no later than June 3, 2002. We have not received the list. You must file the list no later than June 14, 2002.

(S. 11; Jt. Exh. G)

10. On June 24, 2002, SERB notified all parties that the election would be held on July 11, 2002. The correspondence from SERB indicated that SERB would use "the alphabetized list of employees as provided by the Employer dated April 15, 2002." (S. 12-13; Jt. Exh. H)
11. On June 25, 2002, the OPBA filed an unfair labor practice charge with SERB. The charge concerned the Employer's failure to file and serve an eligibility list containing an alphabetized list of names and home addresses of those eligible to vote in the election. (S. 14; SERB Case No. 02-ULP-06-0453)
12. On June 26, 2002, the Employer's counsel wrote a letter to SERB outlining the Employer's objections to the upcoming election. (S. 15; Jt. Exh. I)
13. On July 10, 2002, SERB notified the parties that the July 11, 2002 election was postponed. (S. 16; Jt. Exh. J)
14. On July 11, 2002, SERB notified the parties that the election was rescheduled to July 23, 2002, and that SERB would use "the alphabetized list of employees as provided by the Employer dated April 15, 2002." (S. 17; Jt. Exh. K)
15. The election was held on July 23, 2002. Of thirty-six (36) eligible voters, twenty (20) ballots were cast. The OPBA received four (4) votes, the UAW received fifteen (15) votes, and No Representative received one (1) vote. (S.18)
16. On July 25, 2002, the OPBA timely and properly filed post-election objections. (S.19)
17. On September 5, 2002, SERB directed the post-election objections to an evidentiary hearing and coordinated the representation proceeding with the unfair labor practice case. (S. 20)

#### **IV. ANALYSIS AND DISCUSSION**

Rule 4117-5-07 provides as follows:

- (A) After the board directs an election, the employer shall file with the board and serve upon each party to the election an alphabetized numbered election eligibility list containing the names and home addresses of all eligible voters. Unless otherwise directed by the board, the eligibility list must be filed and served by the earlier of these two dates:
  - (1) Ten days after the board issues the direction of election; or
  - (2) Ten days prior to the commencement of the election.
- (B) The board may require the employer to arrange the list according to polling sites or in any other manner which it deems appropriate.
- (C) Failure to object in writing to the board to the form or content of the election eligibility list prior to the commencement of an election shall constitute a waiver of the objection if the objecting party knew of the defect prior to the election, or through the exercise of reasonable diligence should have known.
- (D) At any time prior to or during the pre-election conference, the parties may jointly agree in writing to additions to or deletions from the eligibility list.
- (E) If the employer fails to timely file a proper eligibility list, the board may, at it [sic] discretion, compile a list from any sources available to it.

The parties do not dispute that the Employer never produced an alphabetized numbered election eligibility list containing the names and home addresses of all eligible voters, as required by Rule 4117-5-07(A). The Employer's refusal to produce this list cannot be attributed to inadvertence. SERB provided the Employer with written notice of this requirement on four separate occasions: (1) the Consent Election Agreement (Jt. Exh. D); (2) the Direction to Election (Jt. Exh. E); (3) the Corrected Direction to Election (Jt. Exh. F); and (4) SERB's June 6, 2002 letter to the Employer's legal counsel (Jt. Exh. G). Moreover, the OPBA objected in writing, as contemplated by Rule 4117-5-07(C), to the Employer's refusal to provide the election eligibility list when the OPBA filed an unfair labor practice with SERB on June 27, 2002.

Rule 4117-5-10(B) provides in relevant part as follows:

If post-election objections are filed or if challenged ballots are sufficient in number to affect the results of the election, the board shall investigate such objections or challenges. Position statements on challenged ballots must be filed within ten days of the service of the tally of ballots. The board shall issue a directive resolving relevant issues based upon the investigation; provided, however, that disputed issues of material fact may be determined upon an evidential hearing. The board may dismiss the post-election objections or challenges, direct the counting of some or all of the challenged ballots, or where warranted, set aside the previous election and direct another election.

The official Notice of Election that SERB requires the Employer to post to give notice to the affected employees states in relevant part as follows:

Every effort will be made to protect your right to a free choice. Improper conduct will not be permitted. All parties are expected to cooperate fully with the Board in upholding the basic principles of a fair election. If agents of either the employee organization or the employer interfere with your rights to a free election, the election may be set aside by the Board.

The question presented in this representation proceeding is whether setting aside the previous election and directing another election is warranted. In In re Lake County Engineer, SERB 86-046 (11-20-86) ("Lake County"), 1984-86 SERB 343, SERB addressed the issue of whether an employer's refusal to provide an election eligibility list to the incumbent employee organization before a decertification election warranted setting aside the election. In setting aside the election and directing a rerun election, SERB stated in relevant part as follows:

The Employer admits that no eligibility list was served on the Employee Organization, but contended that this failure was not prejudicial to the Employee Organization because it was the incumbent exclusive representative and knew the names and addresses of all the eligible employees in the bargaining unit. \* \* \*

The obligation imposed on the Employer by Ohio Administrative Code Rule 4117-5-07(A) to furnish each party an alphabetized election eligibility list is explicit. It provides for no exemptions or exceptions and is not dependent on the showing of an Employee Organization's need for such information. The Employer's reliance on the assumption that the Employee Organization knew the names and addresses of all eligible employees was wrong. If any assumption is to be made, it is that every name and every address on the

roster of eligible employees is not necessarily known to the Employee Organization. *The eligibility list is an integral part of the elections process and the purpose of the list is to facilitate that process. It is essential to the fair conduct of the election procedure.* The Employer erred by ignoring the requirement of Ohio Administrative Code Rule 4117-5-07(A).

Lake County, supra at 344 (emphasis added).

The concerns identified by SERB in Lake County apply with even more force here, in an election involving a rival employee organization, an outsider, in addition to an incumbent employee organization. The arguments advanced by the Employer in its post-hearing brief, and by the UAW in its post-hearing brief, are without merit.

The Employer's primary argument is that it was excused from furnishing a proper election eligibility list because, notwithstanding the lack of such a list, SERB held the election. In so doing, SERB exercised the discretion afforded it under Rule 4117-5-07(E) and "compile[d] a list from any sources available to it," specifically, the alphabetized, numbered list the Employer furnished to SERB when SERB undertook its initial investigation of the OPBA's petition.<sup>3</sup> But SERB's exercise of its discretion can in no way be considered an excusal of the Employer's failure to follow the rules, a waiver of the OPBA's right to object to the Employer's failure to furnish the list required by Rule 4117-5-07(A), or a waiver of the OPBA's right to request that the election results be set aside. In addition, the record does not demonstrate that the OPBA ever agreed or acquiesced to the use of the SERB list. Put simply, the Employer acted at its peril in failing to furnish the required election eligibility list.

Additionally, SERB's Lake County decision calling for strict enforcement of the rule requiring a proper election eligibility list is supported by an analysis of the underlying reason for the rule: ensuring that the affected employees are provided with information necessary for free and fully informed exercise of their statutory rights. The National Labor Relations Board ("NLRB") has an analogous rule, which has been upheld and enforced by the United States Supreme Court. NLRB v. Wyman-Gordon Co. (1969), 394 U.S. 759. In North Macon Health Care Facility (1994), 147 L.R.R.M. 1185 ("North Macon"), the NLRB reviewed the significant policy concerns underlying this requirement.

The NLRB has the responsibility to ensure that elections are conducted free from interference, restraint, or coercion, or any other elements that prevent or impede a free and

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<sup>3</sup> The April 15, 2002 list of employees was filed by the Employer pursuant to, and to comply with, Rule 4117-5-04(C). SERB uses this alphabetized, numbered payroll list to determine whether the petitioner's showing of interest is sufficient and whether a question concerning representation exists. Since this list lacks the employees' addresses and the names of all of the employees eligible to vote as of May 23, 2002, pursuant to the Direction to Election, it does not satisfy the Employer's obligations under Rule 4117-5-07(A).

reasoned choice. Among the factors that undoubtedly tend to impede such a choice is lack of information about one of the choices available. "An employee who has had an effective opportunity to hear the arguments concerning representation is in a better position to make a more fully informed and reasonable choice." North Macon, 147 L.R.R.M. at 1186 (quoting Excelsior Underwear, Inc. (1966), 156 N.L.R.B. 1236, 1241 ("Excelsior"). Second, the election eligibility list provides employee organizations with the ability to reach all employees with its arguments in favor of representation. "This is not, of course, to deny the existence of various means by which a party *might* be able to communicate with a substantial portion of the electorate even without possessing their names and addresses. It is rather to say what seems to us obvious--that the access of *all* employees to such communications can be insured only if all parties have the names and addresses of all the voters." North Macon, supra at 1187 (quoting Excelsior) (emphasis in original).

The UAW's argument that the OPBA could have accessed the employees by other means is without merit. The election eligibility list is the means by which SERB ensures that *all* parties have access to *all* eligible employees. Both SERB, in Lake County, supra, and the NLRB have recognized that the rule is prophylactic, so that evidence of bad faith and actual prejudice is unnecessary. "[A]n employer's failure to provide a complete and accurate list of eligible voters is an injury to *employees*, not just to [employee organizations]: an incomplete or inaccurate list can effectively prevent employees from obtaining information necessary for the free and fully informed exercise of their [statutory] rights.... '[T]he potential harm from list omissions is deemed sufficiently great to warrant a strict rule that encourages conscientious efforts to comply.'" North Macon, 147 L.R.R.M. at 1187 (emphasis in original) (quoting Excelsior, 156 N.L.R.B. at 1244).

The OPBA's objections to the July 23, 2002 election have merit and warrant setting aside the election results and conducting a rerun election.

## **V. CONCLUSIONS OF LAW**

1. The Cuyahoga County Sheriff is a "public employer" as defined by § 4117.01(B).
2. The Ohio Patrolmen's Benevolent Association is an "employee organization" as defined by § 4117.01(D).
3. The United Auto Workers-Region 2, Local 70 is an "employee organization" as defined by § 4117.01(D).
4. The Ohio Patrolmen's Benevolent Association's objections to the July 23, 2002 election have merit and warrant setting aside the election results and conducting a rerun election in accordance with Rule 4117-5-10(B).

## **VI. RECOMMENDATIONS**

It is respectfully recommended that:

1. The State Employment Relations Board adopt the Findings of Fact and Conclusions of Law set forth above.
2. The State Employment Relations Board sustain the objections filed by the Ohio Patrolmen's Benevolent Association and issue a **DIRECTIVE** setting aside the results of the July 23, 2002 election and directing a rerun election in the bargaining unit described below:

**INCLUDED:** All Corrections Corporals.

**EXCLUDED:** All others.

**STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

Cuyahoga County Sheriff's Department,

Employer.

Case No. 2002-ULP-06-0453

**ORDER**  
**(OPINION ATTACHED)**

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich:  
February 27, 2003.

On June 27, 2002, the Ohio Patrolmen's Benevolent Association ("OPBA") filed an unfair labor practice charge with the State Employment Relations Board ("Board" or "Complainant") alleging that the Cuyahoga County Sheriff's Department ("Respondent") violated Ohio Revised Code Sections 4117.11(A)(1) and (2). On August 15, 2002, the Board found probable cause to believe an unfair labor practice had been committed and directed the unfair labor practice case to hearing.

On October 24, 2002, the parties waived a hearing and submitted the case on joint stipulations and briefs. On January 9, 2003, a Proposed Order was issued by the Administrative Law Judge, recommending that the Board find that the Respondent violated Ohio Revised Code Sections 4117.11(A)(1) and (2) by refusing to provide a numbered alphabetized list of the names and home addresses for the employees who are eligible to vote in a pending representation election. No exceptions were filed to the Proposed Order.

After reviewing the record, the Proposed Order, and all other filings in this case, the Board adopts the Findings of Fact, Analysis and Discussion, and Conclusions of Law in the Proposed Order, incorporated by reference; issue an order, with a Notice to Employees, to the Cuyahoga County Sheriff's Department to cease and desist from interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117, and from initiating, creating, dominating, or interfering with the formation or administration of an employee organization, by refusing to provide a numbered, alphabetized list of the names and home addresses for the employees who are eligible to vote in a pending representation election, and from otherwise violating Ohio Revised Code Sections 4117.11(A)(1) and (A)(2); and order the Cuyahoga County Sheriff's

Order  
Case No. 2002-ULP-06-0453  
February 27, 2003  
Page 2 of 2

Department to post for sixty days, in all the usual and normal posting locations where bargaining-unit employees work, the Notice to Employees furnished by the State Employment Relations Board and to notify the State Employment Relations Board in writing within twenty calendar days from the date the Order becomes final of the steps that have been taken to comply therewith.

It is so ordered.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

You are hereby notified that an appeal may be perfected, pursuant to Ohio Revised Code Section 4117.13(D) by filing a notice of appeal with the State Employment Relations Board at 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, and with the court of common pleas in the county where the unfair labor practice in question was alleged to have been engaged in, or where the person resides or transacts business, within fifteen days after the mailing of the State Employment Relations Board's order.

I certify that a copy of this document was served upon each party's representative by certified mail, return receipt requested, this 11<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT



# NOTICE TO EMPLOYEES

## FROM THE STATE EMPLOYMENT RELATIONS BOARD

POSTED PURSUANT TO AN ORDER OF THE STATE EMPLOYMENT  
RELATIONS BOARD AN AGENCY OF THE STATE OF OHIO

After a hearing in which all parties had an opportunity to present evidence, the State Employment Relations Board has determined that we have violated the law and has ordered us to post this Notice. We intend to carry out the order of the State Employment Relations Board and abide by the following:

The Cuyahoga County Sheriff's Department is hereby ordered to:

- A. Cease and desist from:
1. Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by refusing to provide a numbered alphabetized list of the names and home addresses for the employees who are eligible for a pending representation election, and from otherwise violating Ohio Revised Code Section 4117.11(A)(1); and
  2. Initiating, creating, dominating, or interfering with the formation or administration of an employee organization by refusing to provide a numbered alphabetized list of the names and home addresses for the employees who are eligible for a pending representation election, and from otherwise violating Ohio Revised Code Section 4117.11(A)(2).
- B. Take the following affirmative action:
1. Post for sixty days in all the usual and normal posting locations where bargaining-unit employees work, the Notice to Employees furnished by the State Employment Relations Board stating that the Cuyahoga County Sheriff's Department shall cease and desist from actions set forth in paragraph (A) and shall take the affirmative action set forth in paragraph (B); and
  2. Notify the State Employment Relations Board in writing twenty calendar days from the date the Order becomes final of the steps that have been taken to comply therewith.

***SERB v. Cuyahoga County Sheriff's Department, Case No. 2002-ULP-06-0453***

\_\_\_\_\_  
BY

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED**

This Notice must remain posted for sixty consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this Notice or compliance with its provisions may be directed to the State Employment Relations Board.

**STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

<b>STATE EMPLOYMENT RELATIONS BOARD,</b>	:	
	:	<b>CASE NO. 02-ULP-06-0453</b>
<b>Complainant,</b>	:	
	:	
<b>and</b>	:	
	:	
<b>OHIO PATROLMEN'S BENEVOLENT ASSOCIATION,</b>	:	
	:	<b>BETH C. SHILLINGTON</b>
	:	<b>ADMINISTRATIVE LAW JUDGE</b>
<b>Intervenor,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>CUYAHOGA COUNTY SHERIFF'S DEPARTMENT,</b>	:	
	:	
<b>Respondent.</b>	:	<b><u>PROPOSED ORDER</u></b>

**I.     INTRODUCTION**

On June 27, 2002, the Ohio Patrolmen's Benevolent Association ("OPBA") filed an unfair labor practice charge with the State Employment Relations Board ("SERB") alleging that the Cuyahoga County Sheriff's Department ("Employer") violated Ohio Revised Code §§ 4117.11(A)(1) and (2) by refusing to provide the alphabetized election eligibility list containing names and home addresses.<sup>1</sup> On August 15, 2002, SERB found probable cause to believe an unfair labor practice had been committed and directed the unfair labor practice case to hearing.

On July 23, 2002, SERB conducted a secret ballot election for certain employees of the Employer. On July 26, 2002, the OPBA filed post-election objections in Case No. 02-REP-03-0062. On September 4, 2002, SERB directed the election objections to hearing, coordinated the representation and unfair labor practice cases, and expedited the proceedings.

On October 24, 2002, the parties submitted both cases on Stipulations of Fact and Exhibits. Subsequently, all parties filed post-hearing briefs.

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<sup>1</sup>All references to statutes are to the Ohio Revised Code, Chapter 4117, and all references to administrative code rules are to the Ohio Administrative Code, Chapter 4117.

## **II. ISSUES**

1. Whether, by refusing to provide a numbered alphabetized list of the names and home addresses of employees who are eligible for a pending representation election, through the acts and conduct described above, the Employer is interfering with, restraining, or coercing employees in the exercise of their rights guaranteed by Chapter 4117, in violation of § 4117.11(A)(1).
2. Whether, by refusing to provide a numbered alphabetized list of the names and home addresses of employees who are eligible for a pending representation election, through the acts and conduct described above, the Employer is initiating, creating, dominating, or interfering with the formation or administration of an employee organization in violation of § 4117.11(A)(2).

## **III. FINDINGS OF FACT**<sup>2</sup>

1. The Cuyahoga County Sheriff's Department is a "public employer" as defined by § 4117.01(B). (S. 1)
2. The Ohio Patrolmen's Benevolent Association is an "employee organization" as defined by § 4117.01(D). (S. 2)
3. The United Auto Workers-Region 2, Local 70 ("UAW") is an "employee organization" as defined by § 4117.01(D). (Complaint, ¶ 5; Answer, ¶ 5)
4. On March 23, 2002, the OPBA filed a Petition for Representation Election – Employee Organization ("Petition") with SERB, seeking to replace the incumbent employee organization, UAW, as the exclusive representative for the bargaining unit of the Employer's Corrections Corporals. (Complaint, ¶ 5; Answer, ¶ 5; S. 3; Jt. Exh. A)
5. SERB notified the Employer of the Petition through correspondence dated April 3, 2002. The correspondence requested that not later than April 17, 2002, the

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<sup>2</sup> All references to the Stipulations of Fact are indicated parenthetically by "S.," followed by the stipulation number. All references to the Joint Exhibits are indicated parenthetically by "Jt. Exh.," followed by the exhibit number. References to the stipulations and/or exhibits in the Findings of Fact are intended for convenience only and are not intended to suggest that such references are the sole support in the record for that related finding of fact.

Employer provide an alphabetized, numbered list of employees in the proposed bargaining unit to SERB and the other parties pursuant to Rule 4117-5-04(C). On April 15, 2002, an alphabetized, numbered list of Corrections Corporals was transmitted to SERB, the OPBA, and the UAW. (S. 4-7; Jt. Exhs. B, C)

6. On April 30, 2002, SERB transmitted a Consent Election Agreement to the parties, asking that it be returned by May 7, 2002. Paragraph 3 of the Consent Election Agreement states as follows:

Pursuant to Ohio Administrative Code Rule 4117-5-07, the employer shall file with the Board and serve on the parties an accurate alphabetized, numbered list of eligible voters' names and home addresses. The list shall be filed by the earlier of these two dates: (1) ten days after the Board issues the direction to election, or (2) ten days prior to the election.

(S. 8; Jt. Exh. D)

7. The Employer and the UAW negotiated a successor collective bargaining agreement that was executed on May 7, 2002. (Complaint, ¶ 6; Answer, ¶ 6)
8. On May 23, 2002, SERB issued and served on the parties a Direction to Election, and on June 4, 2002, SERB issued and served on the parties a corrected Direction to Election. Each document stated, in relevant part, as follows:

The election shall be held at a date, time, and place to be determined by the Representation Section in consultation with the parties. No later than June 3, 2002, the Employer shall serve on each Employee Organization and file with the Board a numbered, alphabetized election eligibility list setting forth the names and home addresses of all employees eligible to vote as of May 23, 2002.

(S. 9-10; Jt. Exhs. E, F)

9. On June 6, 2002, SERB mailed the Employer's attorney a letter stating, in part, as follows:

The directive states that the Employer shall serve on each Employee Organization and file with us a numbered alphabetized election eligibility list no later than June 3, 2002. We have not received the list. You must file the list no later than June 14, 2002.

(S. 11; Jt. Exh. G)

10. On June 24, 2002, SERB notified all parties that the election would be held on July 11, 2002. The correspondence from SERB indicated that SERB would use "the alphabetized list of employees as provided by the Employer dated April 15, 2002." (S. 12-13; Jt. Exh. H)
11. On June 25, 2002, the OPBA filed an unfair labor practice charge with SERB. The charge concerned the Employer's failure to file and serve an eligibility list containing an alphabetized list of names and home addresses of those eligible to vote in the election. (S. 14; SERB Case No. 02-ULP-06-0453)
12. On June 26, 2002, the Employer's counsel wrote a letter to SERB outlining the Employer's objections to the upcoming election. (S. 15; Jt. Exh. I)
13. On July 10, 2002, SERB notified the parties that the July 11, 2002 election was postponed. (S. 16; Jt. Exh. J)
14. On July 11, 2002, SERB notified the parties that the election was rescheduled to July 23, 2002, and that SERB would use "the alphabetized list of employees as provided by the Employer dated April 15, 2002." (S. 17; Jt. Exh. K)
15. The election was held on July 23, 2002. Of thirty-six (36) eligible voters, twenty (20) ballots were cast. The OPBA received four (4) votes, the UAW received fifteen (15) votes, and No Representative received one (1) vote. (S.18)
16. On July 25, 2002, the OPBA timely and properly filed post-election objections. (S. 19)
17. On September 5, 2002, SERB directed the post-election objections to an evidentiary hearing and coordinated the representation proceeding with the unfair labor practice case. (S. 20)

#### **IV. ANALYSIS AND DISCUSSION**

Section 4117.11 provides in relevant part 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 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[.]

When a violation of § 4117.11(A)(1) is alleged, the appropriate inquiry is an objective rather than subjective one. SERB must determine whether, under all the facts and circumstances, one could reasonably conclude that employees were restrained or coerced, or that their rights under § 4117.03 had been interfered with, by the Respondent's conduct. This objective inquiry is used whether the alleged misconduct is a change in status quo, interrogation about union activity, or some other alleged interference with rights protected under Chapter 4117. Proper consideration of any § 4117.11(A)(1) allegation must necessarily entail a thorough review of the circumstances under which the alleged misconduct occurred and its likely effect on the guaranteed rights of employees. In re Pickaway County Human Services Dept., SERB 93-001 (3-24-93).

The question presented is whether the Employer violated § 4117.11(A)(1) when it failed to provide the election eligibility list required by SERB's administrative rules governing elections. Rule 4117-5-07 provides as follows:

- (A) After the board directs an election, the employer shall file with the board and serve upon each party to the election an alphabetized numbered election eligibility list containing the names and home addresses of all eligible voters. Unless otherwise directed by the board, the eligibility list must be filed and served by the earlier of these two dates:
  - (1) Ten days after the board issues the direction of election; or
  - (2) Ten days prior to the commencement of the election.
- (B) The board may require the employer to arrange the list according to polling sites or in any other manner which it deems appropriate.
- (C) Failure to object in writing to the board to the form or content of the election eligibility list prior to the commencement of an election shall

constitute a waiver of the objection if the objecting party knew of the defect prior to the election, or through the exercise of reasonable diligence should have known.

- (D) At any time prior to or during the pre-election conference, the parties may jointly agree in writing to additions to or deletions from the eligibility list.
- (E) If the employer fails to timely file a proper eligibility list, the board may, at its [sic] discretion, compile a list from any sources available to it.

The parties do not dispute that the Employer never produced a numbered alphabetized election eligibility list containing the names and home addresses of all eligible voters. The Employer's refusal to produce this list cannot be attributed to inadvertence. SERB provided the Employer with written notice of this requirement on four separate occasions: (1) the Consent Election Agreement (Jt. Exh. D); (2) the Direction to Election (Jt. Exh. E); (3) the Corrected Direction to Election (Jt. Exh. F); and (4) SERB's June 6, 2002 letter to the Employer's legal counsel (Jt. Exh. G). Moreover, the OPBA objected in writing, as contemplated by Rule 4117-5-07(C), to the Employer's refusal to provide the election eligibility list when the OPBA filed this unfair labor practice charge with SERB on June 27, 2002.

In In re Lake County Engineer, SERB 86-046 (11-20-86) ("Lake County"), 1984-86 SERB 343, SERB addressed the issue of whether an employer's refusal to provide an election eligibility list to the incumbent employee organization before a decertification election warranted setting aside the election. In setting aside the election and directing a rerun election, SERB stated in relevant part as follows (emphasis added):

The Employer admits that no eligibility list was served on the Employee Organization, but contended that this failure was not prejudicial to the Employee Organization because it was the incumbent exclusive representative and knew the names and addresses of all the eligible employees in the bargaining unit. \* \* \*

The obligation imposed on the Employer by Ohio Administrative Code Rule 4117-5-07(A) to furnish each party an alphabetized election eligibility list is explicit. It provides for no exemptions or exceptions and is not dependent on the showing of an Employee Organization's need for such information. The Employer's reliance on the assumption that the Employee Organization knew the names and addresses of all eligible employees was wrong. If any assumption is to be made, it is that every name and every address on the roster of eligible employees is not necessarily known to the

Employee Organization. *The eligibility list is an integral part of the elections process and the purpose of the list is to facilitate that process. It is essential to the fair conduct of the election procedure.* The Employer erred by ignoring the requirement of Ohio Administrative Code Rule 4117-5-07(A).

Lake County, supra at 344 (emphasis added).

The Employer's primary argument is that it was excused from furnishing a proper election eligibility list because, notwithstanding the lack of such a list, SERB held the election. In so doing, SERB exercised the discretion afforded it under Rule 4117-5-07(E) and "compile[d] a list from any sources available to it," specifically, the alphabetized, numbered list the Employer furnished to SERB when SERB undertook its initial investigation of the OPBA's Petition. But SERB's exercise of its discretion can in no way be considered an excusal of the Employer's failure to follow the rules. SERB's Lake County decision strictly enforcing the requirement that a proper election eligibility list be furnished is supported by an analysis of the underlying reason for the requirement: ensuring that the affected employees are provided with information necessary for free and fully informed exercise of their statutory right to vote. The National Labor Relations Board ("NLRB") has an analogous requirement, which has been upheld and enforced by the United States Supreme Court. NLRB v. Wyman-Gordon Co. (1969), 394 U.S. 759. In North Macon Health Care Facility (1994), 147 L.R.R.M. 1185 ("North Macon"), the NLRB reviewed the significant policy concerns underlying this requirement.

The NLRB, like SERB, has the responsibility to ensure that elections are conducted free from interference, restraint, or coercion, or any other elements that prevent or impede a free and reasoned choice. Among the factors that undoubtedly tend to impede such a choice is lack of information about one of the choices available. "An employee who has had an effective opportunity to hear the arguments concerning representation is in a better position to make a more fully informed and reasonable choice." North Macon, 147 L.R.R.M. at 1186 (quoting Excelsior Underwear, Inc. (1966), 156 N.L.R.B. 1236, 1241 ("Excelsior"). The election eligibility list provides employee organizations with the ability to reach all employees with its arguments in favor of representation. "This is not, of course, to deny the existence of various means by which a party *might* be able to communicate with a substantial portion of the electorate even without possessing their names and addresses. It is rather to say what seems to us obvious--that the access of *all* employees to such communications can be insured only if all parties have the names and addresses of all the voters." North Macon, supra at 1187 (quoting Excelsior) (emphasis in original).

SERB has already discussed the importance of the eligibility list. "The eligibility list is an integral part of the elections process and the purpose of the list is to facilitate that process. It is essential to the fair conduct of the election process." Lake County, supra. The NLRB has held that "an employer's failure to provide a complete and accurate list of

eligible voters is an injury to *employees*, not just to [employee organizations]: an incomplete or inaccurate list can effectively prevent employees from obtaining information necessary for the free and fully informed exercise of their [statutory] rights.... “[T]he potential harm from list omissions is deemed sufficiently great to warrant a strict rule that encourages conscientious efforts to comply.” North Macon, *supra* (emphasis in original) (quoting Excelsior, 156 N.L.R.B. at 1244).

Viewed objectively in accordance with the foregoing factual and legal circumstances, it can only be concluded that the Employer violated § 4117.11(A)(1) when it refused to furnish the election eligibility list. The employees’ rights under Chapter 4117 were interfered with and restrained when they were denied an effective opportunity to hear the OPBA’s reasons for representation and, thus, to cast informed ballots in the representation election. The Employer also violated § 4117.11(A)(2) by interfering with the OPBA’s efforts to contact the affected employees about forming an OPBA-affiliated employee organization.

#### **V. CONCLUSIONS OF LAW**

1. The Cuyahoga County Sheriff’s Department is a “public employer” as defined by § 4117.01(B).
2. The Ohio Patrolmen’s Benevolent Association is an “employee organization” as defined by § 4117.01(D).
3. The United Auto Workers-Region 2, Local 70 is an “employee organization” as defined by § 4117.01(D).
4. By refusing to provide a numbered alphabetized list of the names and home addresses for the employees who are eligible to vote in a pending representation election, through the acts and conduct described above, the Cuyahoga County Sheriff’s Department is interfering with, restraining, or coercing employees in the exercise of their rights guaranteed by Chapter 4117, in violation of § 4117.11(A)(1).
5. By refusing to provide a numbered alphabetized list of the names and home addresses for the employees who are eligible to vote in a pending representation election, through the acts and conduct described above, the Cuyahoga County Sheriff’s Department is initiating, creating, dominating, or interfering with the formation or administration of an employee organization in violation of § 4117.11(A)(2).

## **VI. RECOMMENDATIONS**

It is respectfully recommended that:

1. The State Employment Relations Board adopt the Findings of Fact and Conclusions of Law set forth above.
2. The State Employment Relations Board issue an **ORDER** pursuant to § 4117.12(B), requiring the Cuyahoga County Sheriff's Department to do the following:

### **A. CEASE AND DESIST FROM:**

- (1) Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by refusing to provide a numbered alphabetized list of the names and home addresses for the employees who are eligible for a pending representation election, and from otherwise violating Ohio Revised Code Section 4117.11(A)(1); and
- (2) Initiating, creating, dominating, or interfering with the formation or administration of an employee organization by refusing to provide a numbered alphabetized list of the names and home addresses for the employees who are eligible for a pending representation election, and from otherwise violating Ohio Revised Code Section 4117.11(A)(2).

### **B. TAKE THE FOLLOWING AFFIRMATIVE ACTION:**

- (1) Post for sixty days in all the usual and normal posting locations where bargaining-unit employees work, the Notice to Employees furnished by the State Employment Relations Board stating that the Cuyahoga County Sheriff's Department shall cease and desist from actions set forth in paragraph (A) and shall take the affirmative action set forth in paragraph (B); and
- (2) Notify the State Employment Relations Board in writing within twenty calendar days from the date the **ORDER** becomes final of the steps that have been taken to comply therewith.



# NOTICE TO EMPLOYEES

## FROM THE STATE EMPLOYMENT RELATIONS BOARD

POSTED PURSUANT TO AN ORDER OF THE STATE EMPLOYMENT  
RELATIONS BOARD AN AGENCY OF THE STATE OF OHIO

After a hearing in which all parties had an opportunity to present evidence, the State Employment Relations Board has determined that we have violated the law and has ordered us to post this Notice. We intend to carry out the order of the State Employment Relations Board and abide by the following:

The Cuyahoga County Sheriff's Department is hereby ordered to:

- A. Cease and desist from:
1. Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by refusing to provide a numbered alphabetized list of the names and home addresses for the employees who are eligible for a pending representation election, and from otherwise violating Ohio Revised Code Section 4117.11(A)(1); and
  2. Initiating, creating, dominating, or interfering with the formation or administration of an employee organization by refusing to provide a numbered alphabetized list of the names and home addresses for the employees who are eligible for a pending representation election, and from otherwise violating Ohio Revised Code Section 4117.11(A)(2).
- B. Take the following affirmative action:
1. Post for sixty days in all the usual and normal posting locations where bargaining-unit employees work, the Notice to Employees furnished by the State Employment Relations Board stating that the Cuyahoga County Sheriff's Department shall cease and desist from actions set forth in paragraph (A) and shall take the affirmative action set forth in paragraph (B); and
  2. Notify the State Employment Relations Board in writing twenty calendar days from the date the Order becomes final of the steps that have been taken to comply therewith.

***SERB v. Cuyahoga County Sheriff's Department, Case No. 2002-ULP-06-0453***

\_\_\_\_\_  
BY

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED**

This Notice must remain posted for sixty consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this Notice or compliance with its provisions may be directed to the State Employment Relations Board.

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Diane Barnes,

Charging Party,

v.

State of Ohio, Department of Rehabilitation and Correction, Noble Correctional Institution,  
Lanny Sacco, Rich Kampmeier, and Jeff Wolfe,

Charged Parties.

Case Number: 02-UPL-11-0753

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27,  
2003.

Diane Barnes (Charging Party) filed an unfair labor practice charge against the State of Ohio, Department of Rehabilitation and Correction, Noble Correctional Institution, Lanny Sacco, Rich Kampmeier, and Jeff Wolfe (Charged Parties). The charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by denying the Charging Party bereavement leave because she exercised guaranteed rights.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Parties have violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the bereavement leave was denied for reasons other than the Charging Party exercising guaranteed rights. Additionally, the Charging Party failed to show an Ohio Revised Code § 4117.11(A)(4) violation occurred. Accordingly, the charge is dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.



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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Case No. 02-ULP-11-0753

February 27, 2003

Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Randolph M. Burley,

Charging Party,

v.

State of Ohio, Department of Commerce,

Charged Party.

Case Number: 02-ULP-10-0670

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Randolph M. Burley (Charging Party) filed an unfair labor practice charge against the State of Ohio, Department of Commerce (Charged Party) on October 11, 2002. The charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), (5), (6), and (8) by delaying the arbitration of one grievance so it would be rendered moot; terminating the Charging Party's employment and refusing to reinstate him because of his protected activities; interfering with the Charging Party's representation by introducing new information at arbitration; unilaterally implementing new policies or interpretations of existing policies; using rulings it agreed would not be precedent setting; refusing to provide requested grievance information; and denying the Charging Party his pre-disciplinary meeting and Step 3 grievance meeting rights.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the Charged Party has processed and is processing the Charging Party's grievances. According to Ohio Administrative Code Rule 4117-7-01(B), the Charging Party has also failed to provide a clear and concise statement of the facts constituting the alleged violation. Additionally, the allegations prior to July 14, 2001, occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances exist that warrant equitable tolling of the statute of limitations. Accordingly, the Board dismisses the charge with prejudice due to the Charging Party's failure to provide a clear and concise statement of the facts, for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party, and as untimely filed for events prior to July 14, 2001.

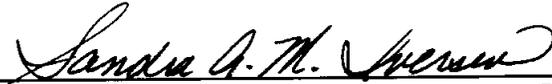
DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-10-0670  
February 27, 2003  
Page 2 of 2

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10th day of March, 2003.

  
\_\_\_\_\_  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

dm&uf/020670:22703:2

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Hocking College Education Association, OEA/NEA,

Charging Party,

v.

Hocking Technical College,

Charged Party.

Case Number: 02-ULP-10-0647

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

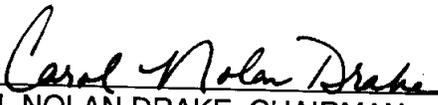
Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The Hocking College Education Association, OEA/NEA (Charging Party) filed an unfair labor practice charge against the Hocking Technical College (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally altering a provision of the collective bargaining agreement.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the issues raised appear to involve contract interpretation and would be best addressed through the parties' grievance-arbitration process. Accordingly, the charge is dismissed with prejudice.

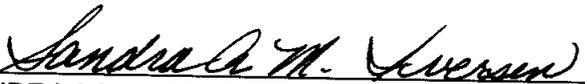
It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-10-0647  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059b.bo/020647:22703:3

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Ohio Patrolmen's Benevolent Association,

Charging Party,

v.

City of Sheffield Lake,

Charged Party.

Case Number: 02-ULP-11-0751

FINDING OF PROBABLE CAUSE AND DIRECTION TO HEARING

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals that probable cause exists for believing a violation occurred. The Board authorizes the issuance of a complaint and directs that a hearing be held to determine whether the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to execute a successor collective bargaining agreement that reflects all of the terms agreed upon.

A complaint will be forthcoming. The hearing will be conducted within 30 to 40 days from issuance of the complaint. Pursuant to Ohio Revised Code § 4117.12(B), if a party seeks to exercise its right to have the hearing conducted within 10 days of the issuance of the complaint, the party or its representative must give written notification to the Executive Director's office within 10 days of receipt of this directive. The administrative law judge reserves the right to reschedule the hearing beyond this time for good cause shown pursuant to the Board's rules.

The Board directs the parties to the unfair labor practice mediation process prior to the prehearing in this matter. A Board mediator will immediately contact the parties. All parties needed to resolve this matter shall be present at the mediation.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

FINDING OF PROBABLE CAUSE AND DIRECTION TO HEARING  
Case No. 02-ULP-11-0751  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 16<sup>th</sup> day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 546,  
Charging Parties,

v.

Martins Ferry City School District Board of Education,  
Charged Party.

Case Number: 02-ULP-11-0759

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and its Local 546 (Charging Parties) filed an unfair labor practice charge against the Martins Ferry City School District Board of Education (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by modifying the health insurance coverage of bargaining-unit employees.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the changes were due to the insurance plans. The issue appears to involve contract interpretation and is being pursued through the parties' grievance-arbitration process. Accordingly, the charge is dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Case No. 02-ULP-11-0759

February 27, 2003

Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059b.bo/020759:22703:5

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 41,

Charging Parties,

v.

Switzerland of Ohio Local School District Board of Education,

Charged Party.

Case Number: 02-ULP-11-0768

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and its Local 41 (Charging Parties) filed an unfair labor practice charge against the Switzerland of Ohio Local School District Board of Education (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by ceasing a past practice of permitting bus drivers to submit additional time to cover duties.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the Charging Parties failed to demonstrate a change occurred. Additionally, the Charging Parties failed to show an Ohio Revised Code § 4117.11(A)(3) violation occurred. Accordingly, the charge is dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-11-0768  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 16~~th~~ day of

March, 2003.

Sandra A.M. Iversen  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Diane Barnes,

Charging Party,

v.

State of Ohio, Department of Rehabilitation and Correction, Noble Correctional Institution,

Charged Party.

Case Number: 02-ULP-11-0770

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Diane Barnes (Charging Party) filed an unfair labor practice charge against the State of Ohio, Department of Rehabilitation and Correction, Noble Correctional Institution (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against the Charging Party for exercising guaranteed rights.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the Charging Party suffered no harm, and was denied flex time based upon operational needs. Additionally, the Charged Party has not interfered with, restrained, or coerced the Charging Party's exercise of guaranteed rights. Accordingly, the charge is dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.



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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

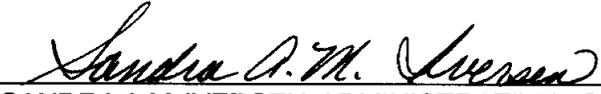
Case No. 02-ULP-11-0770

February 27, 2003

Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of

March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Fraternal Order of Police, Capital City Lodge No. 9,  
Charging Party,  
v.  
City of Columbus,  
Charged Party.

Case Number: 02-ULP-10-0657

FINDING OF PROBABLE CAUSE AND DIRECTION TO HEARING

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

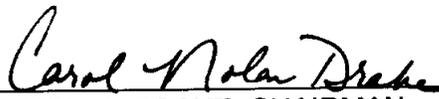
Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals that probable cause exists for believing a violation occurred. The Board authorizes the issuance of a complaint and directs that a hearing be held to determine whether the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by denying Officer Greg Stevens representation during a polygraph examination.

A complaint will be forthcoming. The hearing will be conducted within 30 to 40 days from issuance of the complaint. Pursuant to Ohio Revised Code § 4117.12(B), if a party seeks to exercise its right to have the hearing conducted within 10 days of the issuance of the complaint, the party or its representative must give written notification to the Executive Director's office within 10 days of receipt of this directive. The administrative law judge reserves the right to reschedule the hearing beyond this time for good cause shown pursuant to the Board's rules.

The Board directs the parties to the unfair labor practice mediation process prior to the prehearing in this matter. A Board mediator will immediately contact the parties. All parties needed to resolve this matter shall be present at the mediation.

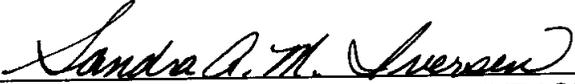
It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
CAROL NOLAN DRAKE, CHAIRMAN

FINDING OF PROBABLE CAUSE AND DIRECTION TO HEARING  
Case No. 02-ULP-10-0657  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059c.bo/020657:22703:8

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Ohio Patrolmen's Benevolent Association,

Charging Party,

v.

City of Seven Hills,

Charged Party.

Case Number: 02-ULP-10-0679

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The Ohio Patrolmen's Benevolent Association (Charging Party) filed an unfair labor practice charge against the City of Seven Hills (Charged Party) on October 17, 2002. The charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (5) by requiring officers to execute an agreement that unilaterally implements physical fitness requirements.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the Charging Party waived its rights to bargain the physical fitness requirements. The Charging Party failed to show an Ohio Revised Code § 4117.11(A)(2) violation occurred. Additionally, knowledge of the alleged violation occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances exist that warrant equitable tolling of the statute of limitations. Accordingly, the charge is dismissed with prejudice for lack of probable cause to believe the statute has been violated and as untimely filed.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

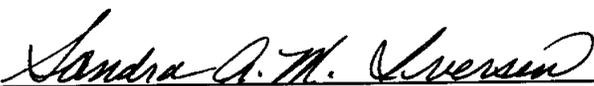


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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-10-0679  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 16<sup>th</sup> day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

dm&uf/020679:22703:9

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Queen City Lodge No. 69, Fraternal Order of Police,

Charging Party,

v.

City of Cincinnati,

Charged Party.

Case Number: 02-ULP-10-0677

FINDING OF PROBABLE CAUSE AND DIRECTION TO HEARING

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals that probable cause exists for believing a violation occurred. The Board authorizes the issuance of a complaint and directs that a hearing be held to determine whether the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by changing the terms and conditions of employment for assistant police chiefs.

A complaint will be forthcoming. The hearing will be conducted within 30 to 40 days from issuance of the complaint. Pursuant to Ohio Revised Code § 4117.12(B), if a party seeks to exercise its right to have the hearing conducted within 10 days of the issuance of the complaint, the party or its representative must give written notification to the Executive Director's office within 10 days of receipt of this directive. The administrative law judge reserves the right to reschedule the hearing beyond this time for good cause shown pursuant to the Board's rules.

The Board directs the parties to the unfair labor practice mediation process prior to the prehearing in this matter. A Board mediator will immediately contact the parties. All parties needed to resolve this matter shall be present at the mediation.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

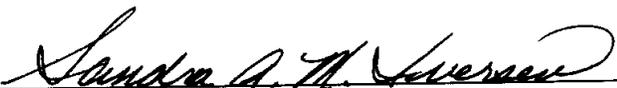


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CAROL NOLAN DRAKE, CHAIRMAN

FINDING OF PROBABLE CAUSE AND DIRECTION TO HEARING  
Case No. 02-ULP-10-0677  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059c.bo/020677:22703:10

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Marilyn McQuater,  
Charging Party,

v.

Cleveland State University,  
Charged Party.

Case Number: 02-ULP-11-0749

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Marilyn McQuater (Charging Party) filed an unfair labor practice charge against Cleveland State University (Charged Party) on November 15, 2002. The charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (8) by deducting union dues from the Charging Party's pay although she alleges she is a nonbargaining-unit employee.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the Charging Party's position has always been in the bargaining unit. Additionally, knowledge of the alleged violation occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances exist that warrant equitable tolling of the statute of limitations. Accordingly, the charge is dismissed with prejudice for lack of probable cause to believe the statute has been violated and as untimely filed.

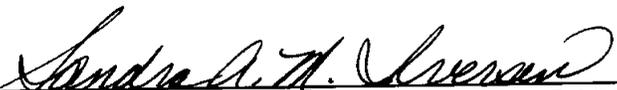
It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-11-0749  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Marilyn McQuater,  
Charging Party,

v.

Communications Workers of America, Local 4309,  
Charged Party.

Case Number: 02-ULP-11-0750

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Marilyn McQuater (Charging Party) filed an unfair labor practice charge against the Communications Workers of America, Local 4309 (Charged Party) on November 15, 2002. The charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by deducting union dues from the Charging Party's pay and failing to represent her position, Records Management Officer.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the Charging Party's position is covered under the terms of the collective bargaining agreement with regard to wages and other conditions of employment. Ohio Revised Code Section 4117.09 permits the deduction of a fair-share fee. Additionally, knowledge of the alleged violation occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances exist that warrant equitable tolling of the statute of limitations. Accordingly, the charge is dismissed with prejudice for lack of probable cause to believe the statute has been violated and as untimely filed.

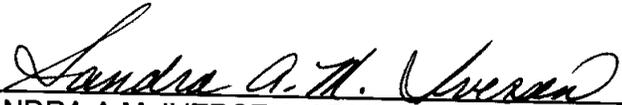
It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-11-0750  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Ohio Patrolmen's Benevolent Association,

Charging Party,

v.

Portage County Sheriff,

Charged Party.

Case Number: 02-ULP-09-0646

FINDING OF PROBABLE CAUSE AND DIRECTION TO HEARING

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals that probable cause exists for believing a violation occurred. The Board authorizes the issuance of a complaint and directs that a hearing be held to determine whether the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (6) by establishing a pattern of repeated failures to timely process grievances and interfering with the Union's administration of the grievance process.

A complaint will be forthcoming. The hearing will be conducted within 30 to 40 days from issuance of the complaint. Pursuant to Ohio Revised Code § 4117.12(B), if a party seeks to exercise its right to have the hearing conducted within 10 days of the issuance of the complaint, the party or its representative must give written notification to the Executive Director's office within 10 days of receipt of this directive. The administrative law judge reserves the right to reschedule the hearing beyond this time for good cause shown pursuant to the Board's rules.

The Board directs the parties to the unfair labor practice mediation process prior to the prehearing in this matter. A Board mediator will immediately contact the parties. All parties needed to resolve this matter shall be present at the mediation.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

FINDING OF PROBABLE CAUSE AND DIRECTION TO HEARING  
Case No. 02-ULP-09-0646  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Ohio Patrolmen's Benevolent Association,

Charging Party,

v.

Huron County Sheriff,

Charged Party.

Case Number: 02-ULP-10-0673

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The Ohio Patrolmen's Benevolent Association (Charging Party) filed an unfair labor practice charge against the Huron County Sheriff (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally eliminating the traditional health plan option for employees.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the County Commissioners, and not the Charged Party, made the changes. Accordingly, the charge is dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Case No. 02-ULP-10-0673

February 27, 2003

Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

East Cleveland Fire Fighters Association, Local 500, IAFF,

Charging Party,

v.

City of East Cleveland,

Charged Party.

Case Number: 02-ULP-10-0650

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The East Cleveland Fire Fighters Association, Local 500, IAFF (Charging Party) filed an unfair labor practice charge against the City of East Cleveland (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (6) by violating a minimum safety manning requirement while a grievance over the issue is pending.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the grievance, over the matter, is pending arbitration. Additionally, the Charging Party failed to show an Ohio Revised Code § 4117.11(A)(6) violation occurred. Accordingly, the charge is dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

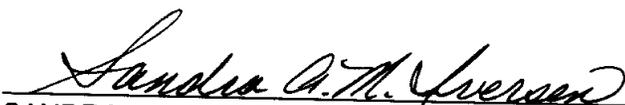


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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-10-0650  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059b.bo/020650:22703:14

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

East Cleveland Fire Fighters Association, Local 500, IAFF,

Charging Party,

v.

City of East Cleveland and Douglas Zook,

Charged Parties.

Case Number: 02-ULP-11-0766

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

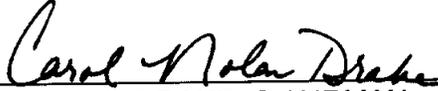
Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The East Cleveland Fire Fighters Association, Local 500, IAFF (Charging Party) filed an unfair labor practice charge against the City of East Cleveland and Douglas Zook (Charged Parties). The charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) by threatening to lay off or terminate an employee who was directed to perform duties unrelated to his job classification or job description.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Parties have violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the comments do not rise to the level of a violation of the statute. Mr. Zook's statement appears to be based on his opinion and not the City's policy or a threat to the employee's employment. Accordingly, the charge is dismissed with prejudice.

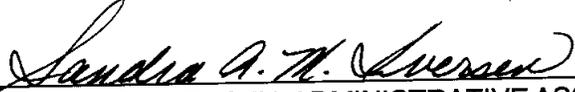
It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-11-0766  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059b.bo/020766:22703:15

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Willie J. Smith,

Charging Party,

v.

City of Cincinnati,

Charged Party.

Case Number: 02-ULP-11-0767

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

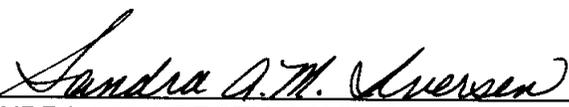
On November 25, 2002, Willie J. Smith filed an unfair labor practice charge against the City of Cincinnati. The events giving rise to the charge occurred more than 90 days before the filing of the charge with the Board. No mitigating circumstances exist that warrant equitable tolling of the statute of limitations. Pursuant to Ohio Revised Code § 4117.12 and Ohio Administrative Code Rule 4117-7-01(A), the charge is dismissed with prejudice as untimely filed.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10th day of March, 2003.

  
\_\_\_\_\_  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Allison M. Mallow, Nancy Woolweaver, and Bill Galbreath,

Charging Parties,

v.

Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 5041,

Charged Party.

Case Number: 02-ULP-11-0771

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Allison M. Mallow, Nancy Woolweaver, and Bill Galbreath (Charging Parties) filed an unfair labor practice charge against the Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 5041 (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Parties.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the Charging Parties never filed a grievance for the Charged Party to process. Additionally, the Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Accordingly, the charge is dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

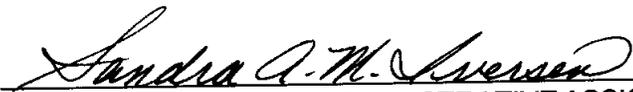


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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-11-0771  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059b.bo/020771:22703:17

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

International Union of Police Associations, Locals 63 and 76,  
Charging Parties,

v.

Hancock County Sheriff's Office,  
Charged Party.

Case Numbers: 02-ULP-12-0809 ✓  
02-ULP-12-0810

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGES

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The International Union of Police Associations, Locals 63 and 76 (Charging Parties) filed unfair labor practice charges against the Hancock County Sheriff's Office (Charged Party). The charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing a new flex-time policy.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of these charges. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals no change to compensatory time has been implemented. The language on compensatory time was negotiated in the contract. Additionally, the Charging Parties failed to show how flex time changed the terms or conditions of employment. Accordingly, the charges are dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.



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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGES

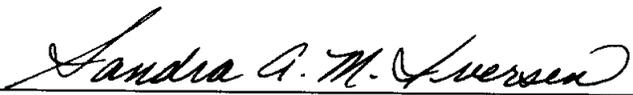
Case Nos. 02-ULP-12-0809

02-ULP-12-0810

February 27, 2003

Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059b.bo/0208090810:22703:18

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

International Brotherhood of Teamsters, Local 377,

Charging Party,

v.

Canfield Township Trustees, Montgomery County,

Charged Party.

Case Number: 03-ULP-01-0008

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The International Brotherhood of Teamsters, Local 377 (Charging Party) filed an unfair labor practice charge against the Canfield Township Trustees, Montgomery County (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by approving the collective bargaining agreement, then refusing to execute or implement it.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the contract was accepted by the majority and implemented. Accordingly, the charge is dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

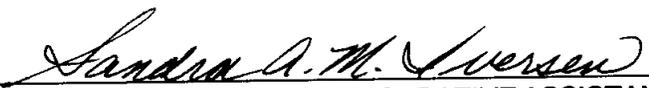


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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 03-ULP-01-0008  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059b.bo/03008:22703:19

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Jarrold A. Blanc, Robert J. First, Brian S. Pittman, James A. Stevic, and Allen L. Tyson,  
Charging Parties,

v.

Ohio Council of Police and Safety Associations, IUPA/AFL-CIO,  
Charged Party.

Case Numbers: 03-ULP-01-0003 ✓  
03-ULP-01-0004  
03-ULP-01-0005  
03-ULP-01-0006  
03-ULP-01-0007

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGES

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Jarrold A. Blanc, Robert J. First, Brian S. Pittman, James A. Stevic, and Allen L. Tyson (Charging Parties) filed unfair labor practice charges against Ohio Council of Police and Safety Associations, IUPA/AFL-CIO (Charged Party). The charges allege the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by refusing to file grievances and otherwise represent the Charging Parties concerning lay offs.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of these charges. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the Charged Party negotiated a Memorandum of Understanding to clarify the lay-off provisions. The Charging Parties had not been laid off when they originally wanted to file grievances. Additionally, the Memorandum of Understanding precludes the Charged Party from initiating or supporting grievances on the issue. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Accordingly, the charges are dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

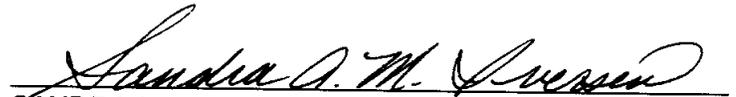
DISMISSAL OF UNFAIR LABOR PRACTICE CHARGES

Case Nos. 03-ULP-01-0003  
03-ULP-01-0004  
03-ULP-01-0005  
03-ULP-01-0006  
03-ULP-01-0007

February 27, 2003

Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Ohio Patrolmen's Benevolent Association,

Charging Party,

v.

City of Norwalk,

Charged Party.

Case Number: 02-ULP-11-0727

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The Ohio Patrolmen's Benevolent Association (Charging Party) filed an unfair labor practice charge against the City of Norwalk (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by refusing to recognize certain employees as members of the bargaining unit.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation revealed the issue calls for clarification of the bargaining unit. Determination of whether or not the interim officer is in the bargaining unit would be best addressed through a Petition for Clarification of Bargaining Unit. Additionally, the Charging Party failed to show an Ohio Revised Code § 4117.11(A)(3) violation occurred. Accordingly, the charge is dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-11-0727  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059b.bo/020727:22703:21

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Tino Valjean and Robert Folk,

Charging Parties,

v.

City of Painesville,

Charged Party.

Case Number: 02-ULP-10-0651

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

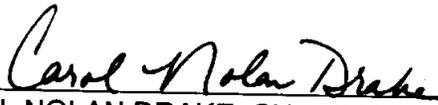
Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Tino Valjean and Robert Folk (Charging Parties) filed an unfair labor practice charge against the City of Painesville (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (4) by harassing and retaliating against the Charging Parties for filing a previous unfair labor practice charge.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the discipline was for reasons other than filing a previous unfair labor practice charge. Additionally, the delay in issuing the discipline appears to have been due to further investigation by the Charged Party into the defense offered by the Charging Parties for their actions, and a second similar incident that occurred on June 6, 2002. Accordingly, the charge is dismissed with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-10-0651  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059b.bo/020651:22703:22

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Lorain Education Association, OEA/NEA and Margaret Welcome,

Charging Parties,

v.

Lorain City School District Board of Education and Loretta Jones,

Charged Parties.

Case Number: 02-ULP-10-0710

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The Lorain Education Association, OEA/NEA and Margaret Welcome (Charging Parties) filed an unfair labor practice charge against the Lorain City School District Board of Education and Loretta Jones (Charged Parties). The charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against Ms. Welcome for engaging in protected activities.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Parties have violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the Charged Parties' actions were for reasons other than Ms. Welcome engaging in protected activities. Accordingly, the charge is dismissed with prejudice.

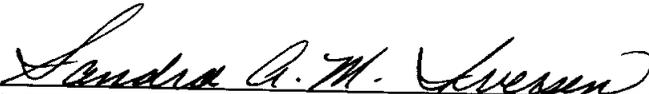
It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
\_\_\_\_\_  
CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-10-0710  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

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STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

East Cleveland Fire Fighters Association, Local 500, IAFF,

Charging Party,

v.

City of East Cleveland,

Charged Party.

Case Number: 02-ULP-10-0671

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 23, 2003.

The East Cleveland Fire Fighters Association, Local 500, IAFF (Charging Party) filed an unfair labor practice charge against the City of East Cleveland (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by announcing its proposal to merge its fire department with emergency medical services (EMS) without bargaining. The Charging Party filed a motion seeking injunctive relief.

Pursuant to Ohio Revised Code § 4117.12, the Board has conducted an investigation of this charge. The investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the merger has not taken place, and the parties continue to negotiate over the planned merger. Accordingly, the Board dismisses the charge with prejudice for lack of probable cause and denies the Charging Party's motion for injunctive relief.

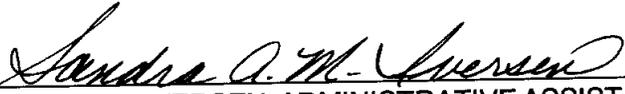
It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE  
Case No. 02-ULP-10-0671  
February 27, 2003  
Page 2 of 2

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

0059b.bo/020671:22703:24

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Peggy Ann Frazer,  
Charging Party,

v.

The Ohio State University - Mahoning County Extension,  
Charged Party.

Case Number: 02-UPL-12-0830

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Peggy Ann Frazer (Charging Party) filed an unfair labor practice charge against The Ohio State University - Mahoning County Extension (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11.

Pursuant to the Board's investigation under Ohio Revised Code § 4117.12, information was requested from the Charging Party. The Charging Party did not respond to the requests for information. Accordingly, the charge is dismissed with prejudice for failure of the Charging Party to pursue the matter.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.



CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 10th  
day of March, 2003.



SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Christopher Hornback,  
Charging Party,

v.

State of Ohio, Capital Square Review and Advisory Board,  
Charged Party.

Case Number: 02-ULP-12-0820

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Christopher Hornback (Charging Party) filed an unfair labor practice charge against the State of Ohio, Capital Square Review and Advisory Board (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11.

Pursuant to the Board's investigation under Ohio Revised Code § 4117.12, information was requested from the Charging Party. The Charging Party did not respond to the requests for information. Accordingly, the charge is dismissed with prejudice for failure of the Charging Party to pursue the matter.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.



CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 10th  
day of March, 2003.



SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Patrick McCleery,  
Charging Party,  
v.  
City of Warren,  
Charged Party.

Case Number: 02-ULP-12-0831

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGE

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

Patrick McCleery (Charging Party) filed an unfair labor practice charge against the City of Warren (Charged Party). The charge alleges the Charged Party violated Ohio Revised Code § 4117.11.

Pursuant to the Board's investigation under Ohio Revised Code § 4117.12, information was requested from the Charging Party. The Charging Party did not respond to the requests for information. Accordingly, the charge is dismissed with prejudice for failure of the Charging Party to pursue the matter.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 10th  
day of March, 2003.

  
\_\_\_\_\_  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Rhonda Hart, et al.,

Charging Parties,

v.

Stow Munroe Falls Classified Employees Association,

Charged Party.

Case Number: 02-ULP-09-0608

DENIAL OF MOTION FOR RECONSIDERATION

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

On December 12, 2002, the Board dismissed the referenced unfair labor practice charge as untimely filed. The charge alleged that the Charged Party violated Ohio Revised Code § 4117.11.

On January 29, 2003, the Charging Parties filed a letter requesting reconsideration of the Board's decision. A review of the original investigation reveals that the Charging Parties have failed to raise issues warranting reversal of the dismissal. Accordingly, the Board construes the Charging Parties' letter requesting reconsideration as a motion for reconsideration, and denies the motion with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 16th day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Anderson Township Professional Firefighters, Local 3111, IAFF,

Charging Party,

v.

Anderson Township, Hamilton County,

Charged Party.

Case Number: 02-ULP-08-0539

DENIAL OF MOTION FOR RECONSIDERATION

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

On December 12, 2002, the Board dismissed the referenced unfair labor practice charge as untimely filed. The charge alleged that the Charged Party violated Ohio Revised Code § 4117.11.

On January 29, 2003, the Charging Party filed a request for reconsideration of the Board's decision. A review of the original investigation reveals that the Charging Party has failed to raise issues warranting reversal of the dismissal. Accordingly, the Board construes the Charging Party's request for reconsideration as a motion for reconsideration, and denies the motion with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Deanna Howell,

Charging Party,

v.

State of Ohio, Department of Youth Services,

Charged Party.

Case Number: 02-ULP-10-0681

DENIAL OF MOTION FOR RECONSIDERATION

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

On January 16, 2003, the Board dismissed the referenced unfair labor practice charge for lack of probable cause and as untimely filed. The charge alleged that the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by entering into a memorandum of understanding, and by violating the contract by abolishing seven positions instead of laying off employees.

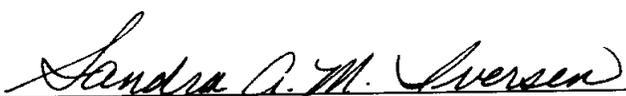
On February 6, 2003, the Charging Party filed a letter requesting reconsideration of the Board's decision. A review of the original investigation reveals that the Charging Party has failed to raise issues warranting reversal of the dismissal. Accordingly, the Board construes the Charging Party's letter requesting reconsideration as a motion for reconsideration, and denies the motion with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10<sup>th</sup> day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Deanna Howell,

Charging Party,

v.

Service Employees International Union, District 1199,

Charged Party.

Case Number: 02-ULP-10-0682

DENIAL OF MOTION FOR RECONSIDERATION

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

On January 16, 2003, the Board dismissed the referenced unfair labor practice charge for lack of probable cause and as untimely filed. The charge alleged that the Charged Party violated Ohio Revised Code § 4117.11(B)(3) and (6) by entering into a memorandum of understanding, and by violating the contract by agreeing with the abolishment of seven positions instead of laying off employees.

On February 6, 2003, the Charging Party filed a letter requesting reconsideration of the Board's decision. A review of the original investigation reveals that the Charging Party has failed to raise issues warranting reversal of the dismissal. Accordingly, the Board construes the Charging Party's letter requesting reconsideration as a motion for reconsideration, and denies the motion with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.



CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party and the representative of each party by certified mail, return receipt requested, on this 10th day of

March, 2003.

  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

National Production Workers Union, Local 707 of Cleveland,

Charging Party,

v.

City of Aurora,

Charged Party.

Case Numbers: 03-ULP-01-0017✓  
03-ULP-01-0018

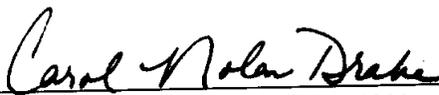
DIRECTIVE GRANTING MOTION TO WITHDRAW

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The National Production Workers Union, Local 707 of Cleveland has filed a letter requesting withdrawal of the referenced unfair labor practice charges. The Board construes the letter as a motion to withdraw and grants the motion with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party by regular U.S. mail, this 10th day of March, 2003.

  
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SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Service Employees International Union, Local 47,

Charging Party,

v.

Cuyahoga County Commissioners,

Charged Party.

Case Number: 02-ULP-12-0816

DIRECTIVE GRANTING MOTION TO WITHDRAW

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The Service Employees International Union, Local 47 has filed a letter requesting withdrawal of the referenced unfair labor practice charge. The Board construes the letter as a motion to withdraw and grants the motion with prejudice.

It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.

  
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CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party by regular U.S. mail, this 10th day of March, 2003.

  
\_\_\_\_\_  
SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Fraternal Order of Police, Lodge No. 23,

Charging Party,

v.

City of Shaker Heights,

Charged Party.

Case Number: 01-ULP-11-0660

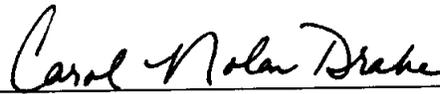
DIRECTIVE GRANTING MOTION TO WITHDRAW

Before Chairman Drake, Vice Chairman Gillmor, and Board Member Verich: February 27, 2003.

The Fraternal Order of Police, Lodge No. 23 has filed a letter requesting withdrawal of the referenced unfair labor practice charge. The Board construes the letter as a motion to withdraw and grants the motion with prejudice.

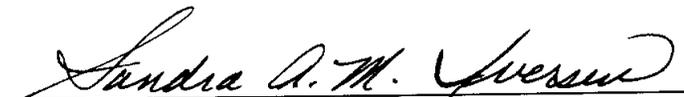
It is so directed.

DRAKE, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member, concur.



CAROL NOLAN DRAKE, CHAIRMAN

I certify that this document was filed and a copy served upon each party by regular U.S. mail, this 10th day of March, 2003.



SANDRA A.M. IVERSEN, ADMINISTRATIVE ASSISTANT