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Employee Organization in Case No. 03-REP-02-0026. Therefore, consolidating the cases and directing an election is appropriate. Board Member Verich moved that the Board consolidate Cases 03-REP-02-0026 and 03-REP-02-0032, and direct an election at a date, time, and place to be determined by the Representation Division 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 \_\_

- 5. Case 03-REP-03-0049                      Ashtabula County Employees Association for the Mentally Handicapped, OEA/NEA and Ashtabula County Board of Mental Retardation and Developmental Disabilities
- 6. Case 03-REP-03-0052                      Southeast School Support Personnel Association and Southeast Local Board of Education
- 7. Case 03-REP-03-0050                      Cuyahoga Heights Association of Teachers, OEA/NEA and Cuyahoga Heights Local Board of Education
- 8. Case 03-REP-03-0059                      Ohio Patrolmen's Benevolent Association and Lake County Narcotics Agency

The Employee Organizations are the deemed and Board certified exclusive representatives of certain employees of the respective Employers. In Case 03-REP-03-0049, the parties jointly filed a Petition for Amendment of Certification seeking to amend the certification pursuant to Ohio Revised Code § 5126.15(A) to create a separate bargaining unit for Community Service Coordinators to be represented by Ashtabula County Professional Association of Community Service Coordinators-OEA/NEA. In Case 03-REP-03-0052, the parties are jointly seeking to amend the certification to reflect current contract language and to change the Employee Organization's name. In Case 03-REP-03-0050, the parties are seeking to amend the certification to reflect a change in the inclusion description from "Certificated" to "certificated/licensed" and the exclusion of Co-Curricular Activities Director. In Case 03-REP-03-0059, the parties are seeking to amend the certification to reflect the inclusion of Pharmacy Investigators in the existing unit. Vice Chairman Gillmor moved that the Board approve the jointly filed petitions and amend the units accordingly. 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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9. Case 02-REP-09-0178 Ohio Patrolmen's Benevolent Association and Mayfield Heights Communication Association and City of Mayfield Heights
- There were 5 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 vote
  - Mayfield Heights Communication Association received 0 votes
  - Ohio Patrolmen=s Benevolent Association received 5 votes and has prevailed in this election.
10. Case 02-REP-11-0231 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Huron County Commissioners
- There were 14 ballots cast
  - There were 0 challenged ballots
  - No Representative received 4 votes
  - Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 10 votes and has prevailed in this election.
11. Case 02-REP-12-0248 Ohio Patrolmen's Benevolent Association and Delaware County Board of Commissioners
- There were 12 ballots cast
  - There were 0 challenged ballots
  - Ohio Patrolmen=s Benevolent Association received 6 votes
  - No Representative received 6 votes and has prevailed because the employees were not represented prior to the election.
12. Case 02-REP-12-0254 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Crawford County Sheriff
- There were 27 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 vote
  - Ohio Patrolmen's Benevolent Association received 9 votes
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 18 votes and has prevailed in this election.

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13. Case 02-REP-12-0255 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Crawford County Sheriff
- There were 7 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 vote
  - Ohio Patrolmen's Benevolent Association received 1 vote
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 6 votes and has prevailed in this election.
14. Case 02-REP-12-0256 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Crawford County Sheriff
- There were 6 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 vote
  - Ohio Patrolmen's Benevolent Association received 1 vote
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 5 votes and has prevailed in this election.
15. Case 02-REP-09-0181 Fraternal Order of Police, Ohio Labor Council, Inc., and Ohio Patrolmen's Benevolent Association and Portage County Sheriff
- There were 29 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 votes
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 3 votes
  - Ohio Patrolmen's Benevolent Association received 26 votes and has prevailed in the election.
16. Case 02-REP-09-0182 Fraternal Order of Police, Ohio Labor Council, Inc. and Ohio Patrolmen's Benevolent Association and Portage County Sheriff
- There were 6 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 votes
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 0 votes
  - Ohio Patrolmen's Benevolent Association received 6 votes and has prevailed in the election.

17. Case 02-REP-12-0253 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Franklin County Board of Mental Retardation and Developmental Disabilities

- There were 5 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO received 5 votes and has prevailed in the election.

Board Member Verich moved that the Board certify the election results and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining units. 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-08-0522 SERB v. Southwest Ohio Regional Transit Authority

On August 2, 2002, the Amalgamated Transit Union Local 627 (Local 627) filed an unfair labor practice charge against the Respondent. On November 7, 2002, the Board found probable cause to believe that the Respondent had committed an unfair labor practice, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to unfair labor practice mediation. On December 5, 2002, the complaint was issued with a notice of hearing and prehearing order. On December 13, 2002, the Respondent filed its Answer. On January 17, 2003, Local 627 filed a motion to intervene; the motion was granted on January 22, 2003. On January 31, 2003, the parties filed joint stipulations of fact. The parties also agreed to waive the evidentiary hearing and submit the briefs, stipulations of fact, and stipulations of evidence directly to the Board members. The parties' briefs were filed on March 14, 2003. Vice Chairman Gillmor moved that the Board transfer this case from the Hearings Section to the Board for a decision on the merits. 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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2. Case 02-ULP-11-0720 Lima Education Association, OEA/NEA v. Lima City School District Board of Education
3. Cases 02-ULP-11-0718  
02-ULP-11-0719 Ohio Patrolmen's Benevolent Association v. City of East Cleveland
4. Case 02-ULP-10-0657 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Columbus
5. Case 02-ULP-09-0632 SERB v. Green Local School District Board of Education
6. Case 02-ULP-06-0430 SERB v. Toledo Area Regional Transit Authority

Board Member Verich moved that the Board approve and adopt the settlement agreements, construe the settlement agreements as motions to withdraw and dismiss, grant all of the motions, dismiss the complaints, and dismiss with prejudice the unfair labor practice charges. 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-04-0074 West Chester Professional Firefighters, IAFF, Local 3518 and West Chester Township, Butler County

Vice Chairman Gillmor moved that the Board adopt the Findings of Fact and Conclusions of Law in the Recommended Determination, finding that no contract bar exists to prevent an opt-in election, that the Lieutenant Fire Fighter/EMT/Paramedics are not management level employees under O.R.C. § 4117.01(L), and that the Opt-in Request for Recognition presents the "unit appropriate for purposes of collective bargaining" under O.R.C. § 4117.06, and direct an opt-in election under O.R.C. § 4117.07 for the Lieutenant Fire Fighter/EMT/Paramedics at a date, time, and place to be determined by the Representation Division in consultation with the parties. 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-01-0020 Service Employees International Union,  
District 1199 and State of Ohio

Board Member Verich moved that the Board adopt the Findings of Fact and Conclusions of Law in the Recommended Determination, finding that the Technical Vocational Rehabilitation Specialists are not "management level employees" under O.R.C. § 4117.01(L), and amend the certification for State Bargaining Unit 12 to include the Technical Vocational Rehabilitation Specialists. Vice Chairman Gillmor seconded the motion and called for the vote.

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

9. Case 02-REP-03-0058 Teamsters Local No. 413 and Dublin  
Support Association and Dublin Board  
of Education

Chairman Drake moved that the Board adopt the Findings of Fact and Conclusions of Law in the Recommended Determination, finding that the Rival Employee Organization has not met the *State of Ohio* standard for severance, and dismiss with prejudice the Petition for Representation Election and amended Petition for Representation Election. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 03-ULP-02-0048 Fraternal Order of Police, Ohio Labor  
Council, Inc. v. Mahoning County Sheriff

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (8) by refusing requested representation for investigatory meetings, and threatening the representative with discipline for attempting to attend the investigatory meetings. Information gathered during the investigation reveals a credibility issue exists with the statements provided for Deputy Dixon's interview, and whether the Charged Party's actions constitute an Ohio Revised Code § 4117.11(A)(8) violation for that interview. Deputy Hood was threatened with discipline for attempting to provide union representation. No information was provided to show that an Ohio Revised Code § 4117.11(A)(3) violation occurred. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed,

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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 (8), but not (A)(3), by ordering Deputy Dixon's representative to leave during an investigatory interview, threatening Deputy Hood with disobeying a direct order for attempting to provide union representation, and causing or attempting to cause the Charging Party to fail in its duty of fair representation of Deputy Dixon, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

2. Case 03-ULP-01-0039                      Randolph M. Burley v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to fairly represent the Charging Party, and causing or attempting to cause the State of Ohio, Department of Commerce to commit an unfair labor practice. Information gathered during the investigation reveals the Charged Party processed the Charging Party's grievances and provided reasonable business reasons for its arbitration decisions. The evidence indicates the grievances were processed pursuant to the terms of the contract. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. The Charging Party failed to provide information to show that an Ohio Revised Code § 4117.11(B)(2) violation occurred. Allegations prior to March 2002 occurred more than 90 days before the charge was filed with the Board. 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, and as untimely filed with regard to the events occurring before March 2002. 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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3. Cases 02-ULP-12-0818 Municipal Foremen and Laborers' Union, Local No. 1099 v. City of Cleveland, Division of Park Maintenance and Properties
- 02-ULP-12-0819 Municipal Foremen and Laborers' Union, Local No. 1099 v. City of Cleveland, Division of Park Maintenance and Properties

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by transferring bargaining-unit work to a nonbargaining-unit individual, and unilaterally subcontracting bargaining-unit work to nonbargaining-unit employees. Information gathered during the investigation reveals the alleged violations occurred in May 2002, and the charges are untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charges 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   

4. Case 03-ULP-01-0022 Hamilton County Board of Commissioners v. International Union of Operating Engineers, Local 20

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by bargaining in bad faith. Information gathered during the investigation reveals the Charged Party's actions of filing a grievance over contract interpretation is not bad-faith bargaining. 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

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5. Case 03-ULP-01-0041 Professionals Guild of Ohio v. Franklin County Children Services

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (5), and (8) by directly negotiating wages, hours, terms, and conditions of employment with bargaining-unit employees, and by unilaterally changing work hours. Information gathered during the investigation reveals the Charged Party met directly with the bargaining-unit employees and advised them of the proposed changes. No negotiations took place, and no changes have been implemented. The Charging Party has failed to provide information to show that an Ohio Revised Code § 4117.11(A)(8) violation occurred. 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-12-0778 Fraternal Order of Police, Ohio Labor Council, Inc., Lodge 48 v. City of Fairborn

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by meeting with bargaining-unit employees and implementing a traffic enforcement quota that included discipline. Information gathered during the investigation reveals implementing a minimum standard for job performance does not violate the statute. 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

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7. Case 02-UPL-12-0823 United Steel Workers of America, Local 6621 v. City of Lorain

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by threatening layoffs if the local does not give in to its demands, and by refusing to bargain over issues proposed by the Charging Party. Information gathered during the investigation reveals the Charged Party's actions appear to amount to surface bargaining. The parties are in negotiations. Vice Chairman Gillmor 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 an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by attempting to negotiate under two separate forums and refusing to bargain over issues proposed by the Charging Party, and direct the parties to ULP mediation. 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-UPL-12-0817 Jerry Jann v. International Brotherhood of Teamsters, Local 377 and Bob Bernat

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code §§ 4117.11(A)(1) and (3) and (B)(1) and (6) by failing to represent the Charging Party concerning his seniority and layoff. Information gathered during the investigation reveals the Charging Party was laid off in August 2002. The Charged Parties had no contractual recourse over the layoffs since the contract does not limit the City's decision regarding layoffs. The Ohio Revised Code § 4117.11(A)(1) and (3) allegations are not applicable to the Charged Parties. Information gathered during the investigation did not support the allegations or show that a violation was committed. Knowledge of the alleged violations pertaining to the August 2002 layoff occurred more than 90 days before the charge was filed with the Board. 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 Parties, and as untimely filed as it pertains to the August 2002 layoff. 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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9. Case 02-UPL-12-0824 United Riverside Education Association, OEA/NEA v. Riverside Local School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by refusing to bargain in good faith. Information gathered during the investigation reveals the Charged Party unilaterally reduced insurance benefits. No information was provided to support an Ohio Revised Code § 4117.11(A)(3) violation occurred. Vice Chairman Gillmor 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), but not (A)(3), by unilaterally making changes to the insurance coverage provisions by reducing the schedule of benefits, and direct the parties to ULP mediation. 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-UPL-11-0773 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 274 v. Green Local School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by disregarding the ruling of an arbitrator's award issued on February 28, 1997. Information gathered during the investigation reveals the Charged Party has violated the arbitrator's award and the statute by unilaterally transferring bargaining-unit work. 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 unilaterally transferring bargaining-unit work out of the unit, 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. Case 03-ULP-02-0047 Crestline Education Association, OEA/NEA v. Crestline Exempted Village School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (5) by informing the Charging Party that it is contemplating a change in the scheduling system. The Charging Party alleges the Charged Party is dealing directly with bargaining-unit employees regarding the issue and is refusing to negotiate. Information gathered during the investigation reveals no changes have been made, and no bargaining proposals have been submitted to the trimester/quarterly committee. 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 —

12. Case 03-ULP-01-0023 Robert Ellis v. State of Ohio, Department of Mental Retardation and Developmental Disabilities, Warrensville Developmental Center

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), (5), and (8) by abusing its authority with regard to mandatory overtime and granting leaves. Information gathered during the investigation reveals the issues involve contractual interpretation and no statutory violation. 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 —

13. Case 03-ULP-02-0078 Karen Adams v. City of Shaker Heights

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (8) by not processing the Charging Party's grievance. Information gathered during the investigation reveals the issues of the Charging Party's grievance and complaint were investigated, and her grievance was processed. The Charging Party failed to provide any evidence to support her allegations. 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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14. Case 03-ULP-02-0086 Dennis Mack Cooke, IV v. Cincinnati Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by harassing the Charging Party because of his protected activities. Information gathered during the investigation reveals the Charged Party's actions were for reasons other than protected activities. The Charging Party failed to provide information to show that an Ohio Revised Code § 4117.11(A)(2) violation occurred. 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 —

15. Cases 02-ULP-12-0814 Mike Moore v. City of Solon

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (4) by threatening and harassing the Charging Party and bargaining-unit employees because of his filing of a safety/staffing grievance. Information gathered during the investigation reveals the Charging Party was disciplined for reasons other than engaging in protected activities. The Charging Party failed to provide information to support the remaining allegations. 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 —

16. Case 03-ULP-02-0060 Aundra Stubbs v. Kent Local School District Board of Education, Dr. Robert Lee, and Ed Smith, III

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (B)(8) by failing to timely process Mr. Stubbs' grievance, and by interfering with his right to grieve. Information gathered during the investigation reveals the grievance was processed, and no evidence was provided to support the remaining allegations. 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 Parties. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied —

17. Case 03-ULP-02-0102 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Zanesville

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against Sandy and John McElhaney because Sandy McElhaney filed a grievance. Information gathered during the investigation reveals the Charged Party has restrained or coerced Mr. McElhaney in the exercise of guaranteed rights. Vice Chairman Gillmor 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), but not (A)(3), by interfering with, restraining, or coercing John McElhaney by reassigning him because his wife filed grievances, and by making negative comments regarding the filing of grievances while he was filing a grievance, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

18. Case 02-ULP-12-0784 Ashland City School District Board of Education v. Ohio Association of Public School Employees, AFSCME Local 233 and Marcia Clark

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(2) and (3) by dealing directly with school board members. Information gathered during the investigation reveals the e-mail in question was sent after negotiations were completed. 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 Parties. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

19. Case 02-ULP-12-0789

Ashland City School District Board of Education v. Ohio Association of Public School Employees, AFSCME Local 233 and Barbara Phillips

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(3) by discussing and revealing information to the press about a mediation session held at the State Employment Relations Board. Information gathered during the investigation reveals the parties had no ground rules prohibiting unilateral communications with the press. Ohio Revised Code Chapter 4117 does not prohibit a party from speaking about SERB's mediation sessions.

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.

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 expressed some concerns regarding this issue and read the following statement. "While the conduct alleged in this case [Case No. 2002-ULP-12-0789] may not rise to the level of a violation of Ohio Revised Code § 4117.11(B)(3), the set of facts is troubling to this board member. The matter may be one of first impression for SERB where a party has revealed the details of settlement negotiations during a SERB-ordered mediation session to the press. The ULP mediation process is offered upon the request of the parties or ordered by SERB to give the parties an opportunity to work out their differences before they incur the costs of a formal hearing. It is the practice of the ULP mediator to read a set of guidelines at the start of each session. Included in the guidelines is a statement that the discussion during the mediation is confidential. Nothing said leaves the room. This confidentiality requirement extends to all participants and to the mediator. The mediator asks the parties if this is agreeable prior to proceeding. The SERB mediators have conducted countless mediations over the past few years following these guidelines. I am concerned that if the Board has no statutory ability to find a violation of Ohio Revised Code Chapter 4117 under this fact pattern, then conduct revealing the content of mediation sessions may have a chilling effect on future parties' willingness to participate in mediation sessions.

SERB was created to promote orderly and constructive relationships between all public employers and their employees. ULP mediation is conducted by SERB as an opportunity for the parties to work together to resolve differences without the formality accompanied by a hearing. The mediation process works best when parties feel confident that they can discuss issues and concerns in an arena of confidentiality.

Based upon the law, I have no alternative but to agree with the recommendation of no probable cause in this case. I ask SERB's General Counsel to review the applicable law and rules and provide a recommendation on how the Board can ensure that mediation discussions are considered confidential." Chairman Drake called for the vote.

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

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20. Case 03-ULP-03-0108 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Euclid

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by renegeing on an agreement to offer the Charging Party better packages offered to any other union with the Charged Party. Information gathered during the investigation reveals the Charged Party did not offer the correction officers the same deal as the other unions after promising to do so. 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 an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by renegeing on an agreement to offer the union wage and insurance packages equal to those subsequently negotiated with other unions, 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 \_\_

21. Case 03-ULP-01-0036 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Administrative Services

The Charging Party has filed a motion to withdraw the unfair labor practice charge. Vice Chairman Gillmor moved that the Board grant the Charging Party's motion to withdraw the charge. Board Member Verich seconded the motion. Vice Chairman Gillmor called for the vote.

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

22. Case 03-ULP-02-0073 Ohio Patrolmen's Benevolent Association v. Portage County Sheriff

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by threatening Daniel Cardinal with retaliation if he processed his grievance to arbitration. Information gathered during the investigation reveals a credibility issue exists regarding the comments, that should be addressed in a hearing. 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, and the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by making threatening comments to Sergeant Cardinal regarding his grievance that was pending arbitration, 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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23. Cases 02-ULP-12-0781 Champion School Support Association,  
OEA/NEA v. Champion Local School  
District Board of Education
- 02-ULP-12-0782 Deborah Holbrook v. Champion Local  
School District Board of Education

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by failing to comply with a grievance settlement, unilaterally altering bargaining-unit employees' duties, and reassigning Ms. Hollbrook and disciplining her in retaliation for exercising guaranteed rights. Information gathered during the investigation reveals the Charged Party's actions were in accordance with contractual rights and do not amount to a violation of Ohio Revised Code Chapter 4117. By a totality of the circumstances, the Charged Party's actions do not amount to a repudiation of the settlement. Ms. Holbrook was not disciplined, and the Charged Party's actions were unrelated to the exercise of guaranteed rights. 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 Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

24. Case 03-ULP-02-0050 Crestline Exempted Village School  
District Board of Education v. Crestline  
Education Association, OEA/NEA and  
Venita Shoulders

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(3) refusing to attend an arbitration hearing. Information gathered during the investigation reveals the Charged Parties did not refuse to arbitrate. 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 Parties. 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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25. Case 02-ULP-12-0832 Cortland Casey, et al. v. Fraternal Order of Police, Ohio Labor Council, Inc.

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to represent the Charging Parties' interests during negotiations and the processing of another employee's grievance, and by failing to process the Charging Parties' grievances. Information gathered during the investigation reveals the Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Knowledge of the alleged violation occurred more than 90 days before the charge was filed with the Board. 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 \_\_

26. Case 03-ULP-02-0083 Ohio Council 8, American Federation of State, County and Municipal Employees, Local 2710, AFL-CIO v. Morgan County Engineer, Richard Hardison, and Morgan County Board of County Commissioners
27. Case 02-ULP-12-0813 Ohio Council 8, American Federation of State, County and Municipal Employees, Local 3557, AFL-CIO v. City of Seven Hills
28. Case 02-ULP-11-0758 Garfield Education Association, OEA/NEA v. James A. Garfield Local School District Board of Education
29. Case 02-ULP-11-0774 Garfield Education Association, OEA/NEA v. James A. Garfield Local School District Board of Education
30. Case 03-ULP-02-0079 Debra Yuhasz v. Westerville Public Library

Board Member Verich moved that the Board construe the letters, withdrawals, and notice requesting withdrawal as motions to withdraw, and grant all motions with prejudice in the above-cited cases. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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



5. Chairman Drake mentioned another memorandum from Mr. Worley she received regarding a training video relating to gender differences and the workplace. Mr. Worley references the tape for the possible use as a training program for SERB staff and in the field for mediators to use. The tape is available for preview before making a decision whether to purchase it for \$495.00. Chairman Drake asked the Board to review Mr. Worley's memorandum, to consider purchasing this video if money is available, and for their comments regarding purchasing future videos to expand SERB's video library should training dollars become available at the next Board meeting.
6. Chairman Drake updated the Board on fact-finding fees. As of April 22, 2003, there has been \$152,000 paid out. SERB's budget only allowed for \$150,000, which means it is \$2,000 over budget with more than two months remaining in the fiscal year. Chairman Drake stated that this is an issue that really needs to be watched.
7. Vice Chairman Gillmor moved that the Board go into executive session, pursuant to Ohio Revised Code Section 1221.22(G)(1), to discuss the employment of public employees. Board Member Verich seconded the motion. Chairman Drake called for the roll-call vote.

ROLL-CALL VOTE: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied   

Board Member Verich moved that the Board exit from executive session. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the roll-call vote.

ROLL-CALL VOTE: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied   

#### VII. ADJOURNMENT

Vice Chairman Gillmor moved that the Board adjourn the meeting. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied   



Carol Nolan Drake, Chairman