

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, June 5, 2003, at 10:00 a.m., at 65 East State Street, Columbus. Present at the meeting were Chairman Drake, Vice Chairman Gillmor, and Board Member Verich.

I. APPROVAL OF MINUTES FOR PREVIOUS MEETING:

Vice Chairman Gillmor moved that the Minutes for the regular meeting on May 22, 2003, be approved. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

There were no Mediation matters for this Board Meeting.

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 03-REP-03-0046 Municipal Foremen and Laborers' Union
Local No. 1099 and City of Shaker
Heights

2. Case 03-REP-03-0047 Fraternal Order of Police, Ohio Labor
Council, Inc. and Jackson Township
Trustees, Stark County

The Employee Organizations filed Requests for Recognition seeking to represent certain employees of the Employers. The substantial evidence was sufficient, and no objections were filed. The Employer has complied with the posting requirements set forth in Ohio Revised Code § 4117.05(A)(2). Board Member Verich moved that the Board certify the Employee Organizations as the exclusive representative of all employees in the bargaining units. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

State Employment Relations Board Minutes
June 5, 2003
Page 2 of 19

3. Case 03-REP-02-0019 Fraternal Order of Police, Ohio Labor Council, Inc. and Tuscarawas County Sheriff
4. Case 03-REP-02-0020 Fraternal Order of Police, Ohio Labor Council, Inc. and Tuscarawas County Sheriff
5. Case 03-REP-05-0079 Ft. Recovery Education Association and Ft. Recovery Local Schools
6. Case 03-REP-05-0081 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of Canton
7. Case 03-REP-05-0084 Fraternal Order of Police, Ohio Labor Council, Inc. and Fairfield County Sheriff
8. Case 03-REP-04-0063 North Canton Professional Paramedic Association, IAFF Local 3489 and City of North Canton

The Employee Organizations are the exclusive representatives of certain employees of the respective Employers. In Case 03-REP-02-0019, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect current contract language and to correct the name of the exclusive representative as it appears in the contract. In Case 03-REP-02-0020, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to eliminate abolished positions, create two bargaining units, and correct the name of the exclusive representative as it appears in the contract. In Case 03-REP-05-0079, the parties jointly filed a Petition for Amendment of Certification seeking to amend the certification to reflect the Employer's name per the current contract language. In Case 03-REP-05-0081, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to add three newly created classifications to the bargaining unit and to remove one abolished classification. In Case 03-REP-05-0084, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include Corrections Deputies. In Case 03-REP-04-0063, the Employee Organization filed a Petition for Amendment of Certification seeking to amend the existing unit to include full-time EMS Captains. The Employer filed a letter stating it does not oppose the amendment. Vice Chairman Gillmor moved that the Board in Case 03-REP-04-0063 construe the Employee Organization's petition as being jointly filed, approve all of the jointly filed petitions, and amend the units accordingly. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye
Affirmed X

GILLMOR Aye
Denied ___

VERICH Aye

State Employment Relations Board Minutes
June 5, 2003
Page 3 of 19

9. Case 03-REP-01-0003 Ohio Patrolmen's Benevolent Association and Cuyahoga County Commissioners

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed a Petition for Clarification of Bargaining Unit seeking to clarify the existing unit to exclude Physical Security Planner from the bargaining unit. The Employer filed a position statement and does not oppose the clarification. Board Member Verich moved that the Board construe the Petition for Clarification of Bargaining Unit as jointly filed, and clarify the unit accordingly. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

10. Case 02-REP-10-0203 Avon Lake Professional Firefighters IAFF Local 1361 and City of Avon Lake

The Employee Organization is the deemed-certified exclusive representative for certain employees of the Employer. The Employer filed a Petition for Amendment of Certification seeking to amend the unit to include Paramedic. The Employee Organization filed a letter opposing the amendment maintaining the amendment contains errors and that the inclusion of paramedic is not necessary because all firefighters are paramedics. In re Groveport Madison Local School Dist Bd of Ed, SERB 98-01 (7-23-98), prohibits altering or changing the composition of a deemed-certified bargaining unit if opposed by either the Employer or the exclusive representative. Vice Chairman Gillmor moved that the Board dismiss without prejudice the Employer's 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 ___

11. Case 03-REP-01-0010 International Union of Operating Engineers, Local 66A, B, C, D, O, R and Springfield Township, Mahoning County

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer filed a Petition for Representation Election in response and objections maintaining the proposed unit contains supervisory personnel. The Employee Organization maintains all employees in the proposed unit are performing bargaining-unit work and should be included. The parties could not reach an agreement as to an appropriate bargaining unit. Board Member Verich moved that the Board direct the matter to hearing to determine an appropriate bargaining unit and for all other relevant issues, and direct the parties to mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

State Employment Relations Board Minutes
June 5, 2003
Page 4 of 19

12. Case 02-REP-11-0237 International Association of Fire Fighters, Local 698 and City of Xenia

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed a Petition for Amendment of Certification seeking to amend the existing unit to include fire Captains. The Employer filed a position statement opposing the amendment. The Employer states the Fire Captains are a critical part of the supervisory staff that oversee a 43-member unit. The Employee Organization maintains the Fire Captains are not supervisory. Vice Chairman Gillmor moved that the Board direct the matter to hearing to determine an appropriate bargaining unit and for all other relevant issues, and direct the parties to mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

13. Case 99-REP-02-0033 Fraternal Order of Police, Ohio Labor Council, Inc. and City of Riverside

The Employee Organization is the Board-certified exclusive representative for (Unit A) public safety dispatchers and (Unit B) police administrative secretary of the Employer. On April 17, 2003, the Employee Organization filed a motion to revoke certification for both units. The parties confirm no contracts exist. Board Member Verich moved that the Board grant the motion and revoke the Employee Organization's certification. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

14. Case 03-REP-02-0017 International Union of Operating Engineers Local 18/18G and City of Findlay

- There was 23 ballots cast
- There were 0 challenged ballots
- International Union of Operating Engineers Local 18/18G received 11 votes
- No Representative received 12 votes and has prevailed in this election.

State Employment Relations Board Minutes
June 5, 2003
Page 5 of 19

15. Case 03-REP-01-0004 Patricia R. VanMeter and Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Countryview Assisted Living Center
- There were 14 ballots cast
 - There were 0 challenged ballots
 - Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 5 votes
 - No Representative received 9 votes and has prevailed in this election.
16. Case 03-REP-02-0035 United Steelworkers of America, AFL-CIO-CLC and City of Westerville
- There were 40 ballots cast
 - There were 0 challenged ballots
 - No Representative received 18 votes
 - United Steelworkers of America, AFL-CIO-CLC received 22 votes and has prevailed in this election.
17. Case 03-REP-01-0008 International Union of Operating Engineers, Local 18 and City of Louisville
- There were 11 ballots cast
 - There were 0 challenged ballots
 - No Representative received 4 votes
 - International Union of Operating Engineers, Local 18 received 7 votes and has prevailed in this election.
18. Case 03-REP-01-0007 Ohio Patrolmen's Benevolent Association and Mercer County Sheriff
- There were 26 ballots cast
 - There were 0 challenged ballots
 - Ohio Patrolmen's Benevolent Association received 9 votes
 - No Representative received 17 votes and has prevailed in this election

Vice Chairman Gillmor 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 unit. Board Member Verich 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-UPL-06-0421 SERB v. Youngstown State University

Board Member Verich moved that the Board deny the motion for oral argument; adopt the Findings of Fact and Conclusions of Law in the Proposed Order; issue an order to the Respondent 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 refusing to bargain collectively with the Youngstown State University Association of Classified Employees, by unilaterally eliminating the Employee Certification Program, and from otherwise violating Ohio Revised Code Sections 4117.11(A)(1) and (A)(5); and order the Respondent to (1) return to the status quo ante the Employee Certification Program in effect prior to the unlawful act, allowing employees to take specified classes during work hours with no loss of pay, until the parties negotiate a modification or termination of the Employee Certification Program, (2) post for sixty days, in all the usual and normal posting locations where bargaining-unit employees represented by the Youngstown State University Association of Classified Employees work, the Notice to Employees furnished by the State Employment Relations Board, and (3) 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. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote:	DRAKE <u>Aye</u>	GILLMOR <u>Aye</u>	VERICH <u>Aye</u>
	Affirmed <u>X</u>	Denied <u> </u>	

2. Case 02-UPL-06-0438 SERB v. Franklin County Sheriff

Vice Chairman Gillmor moved that the Board adopt the Findings of Fact and Conclusions of Law in the Proposed Order; issue an order to the Respondent 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 refusing to bargain collectively with the Fraternal Order of Police, Ohio Labor Council, Inc., by refusing to bargain over new parking conditions for bargaining-unit members, and from otherwise violating Ohio Revised Code Sections 4117.11(A)(1) and (A)(5); and order the Respondent to (1) bargain with the Fraternal Order of Police, Ohio Labor Council, Inc. over the new parking conditions for bargaining-unit members, (2) reimburse bargaining-unit members for the parking expenses they incurred that they would not have otherwise incurred had the free parking not been unilaterally eliminated, (3) post for sixty days, in all of the usual and normal posting locations where bargaining-unit employees represented by the Fraternal Order of Police, Ohio Labor Council, Inc. work, the Notice to Employees furnished by the State Employment Relations Board, and (4) 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. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote:	DRAKE <u>Aye</u>	GILLMOR <u>Aye</u>	VERICH <u>Aye</u>
	Affirmed <u>X</u>	Denied <u> </u>	

State Employment Relations Board Minutes
June 5, 2003
Page 7 of 19

3. Case 96-REP-07-0157 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO and State of Ohio

Chairman Drake recused. On July 31, 1996, the Employee Organization filed a Petition for Amendment of Certification seeking to add the classifications of Assistant Public Defender 1, 2, 3, and 4 in the Office of the Ohio Public Defender to State Unit 14 by accretion. On November 6, 1997, the Board took several actions in this case. It found that the employees in the positions of Assistant Public Defender 1, 2, 3, and 4 were fiduciary employees and were excluded from the definition of "public employee" in Ohio Revised Code § 4117.01(C). It found that the Assistant Public Defender 4s and Assistant Public Defender 3 Jerry McHenry are also excluded from the definition of "public employee" because they are supervisors pursuant to Ohio Revised Code § 4117.01(F). It also dismissed the Petition for Amendment of Certification. Upon appeal, the Court of Appeals of Franklin County ultimately reversed the Board on the fiduciary issue and affirmed the decision on the supervisor issue. The case was remanded to the Board for further procedure in accordance with the appellate court's opinion. The Employee Organization asserted that accretion is appropriate for the positions at issue. The Board denied the petition. The Employee Organization appealed the denial to the Court of Common Pleas of Franklin County. The Court concluded that the accretion issue had not been addressed by the Board, and the Court reversed the denial and remanded the case to the Board. An examination of House Bill 675, which was effective December 13, 2002, reveals that Ohio Revised Code § 4117.01(C)(19) excludes the employees in question from the definition of "public employee." Since the Board cannot accrete these individuals into State Unit 14 because they are not "public employees," the Board's only option is to dismiss the Petition for Amendment of Certification. Board Member Verich moved that the Board dismiss the Petition for Amendment of Certification with prejudice. Vice Chairman Gillmor seconded the motion and called for the vote.

Vote: DRAKE Recused GILLMOR Aye VERICH Aye
Affirmed X Denied ___

4. Case 02-ULP-12-0780 Columbus State Community College v. Columbus State Education Association, OEA/NEA

5. Case 02-ULP-09-0625 SERB v. City of Willoughby

Vice Chairman Gillmor moved that the Board approve and adopt the settlement agreements, construe the settlement agreements as motions to withdraw, grant the motions, dismiss the complaint, 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 ___

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 03-ULP-04-0196 Donte Thomas v. Amalgamated Transit Union, Local 268

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (3), and (6) by failing to process the Charging Party's grievance. Information gathered during the investigation reveals the Charged Party did not process the Charging Party's grievance based on the merits, and notified him in time so that he could file on his own. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. 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

2. Case 03-ULP-03-0145 Allen County Child Support Enforcement Agency v. Communications Workers of America, Local 4319

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by violating a negotiation ground rule and publicly communicating in the *Lima News* regarding wages and insurance. Information gathered during the investigation reveals the Charged Party violated the ground rules. 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(B)(3) by violating the parties' ground rules for negotiations through its unilateral release of information to the media regarding bargaining issues and positions, 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

State Employment Relations Board Minutes
June 5, 2003
Page 9 of 19

3. Case 03-ULP-02-0056 Ashtabula Association of Classified School Employees v. Ashtabula Area City Schools Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally assigning bargaining-unit employees nonbargaining-unit duties. Information gathered during the investigation reveals knowledge of the alleged violations 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 as untimely filed Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

4. Case 03-ULP-03-0117 Rhonda Hart, et al. v. Stow-Munroe Falls Classified Employees Association, et al.

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by improperly conducting the contract ratification vote. Information gathered during the investigation reveals no statutory violation occurred. The Charged Parties did not coerce or restrain the members in voting for or against the contract. 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 Employment Relations Board Minutes
June 5, 2003
Page 10 of 19

5. Case 03-ULP-03-0116 Communications Workers of America,
Local 4501 v. The Ohio State University

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (8) by coercing and discriminating against the employees who made statements on behalf of Robert Walls, and by attempting to cause the Charging Party to commit an unfair labor practice. Information gathered during the investigation reveals the comment made by the supervisor could be construed as a threat against the witnesses. The recommendation from the Investigator is 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 a hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), but not (A)(3) or (8), by threatening grievance witnesses with retaliation, and direct the parties to ULP mediation. 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. Discussion followed showing that the information gathered during the investigation reveals the Charging Party has failed to make the required nexus between the alleged threat made by the supervisor and the individual witnesses against whom the alleged threat was made. The witnesses were not present when the alleged violating statement was made, and no evidence was presented showing that they were aware of the alleged threat. The Charged Party's statement did not interfere with, restrain, or coerce the individuals it was allegedly directed against. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

6. Case 03-ULP-02-0095 Shawnee Township Board of Trustees,
Allen County v. Shawnee Township Fire
Fighters, Local 2550, IAFF

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (3) by bargaining in bad faith when it refused to agree to negotiation guidelines. Information gathered during the investigation reveals the Charged Party's action of not agreeing to the guidelines does not amount to a 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

State Employment Relations Board Minutes
June 5, 2003
Page 11 of 19

7. Case 03-ULP-02-0090 Shawnee Township Fire Fighters, Local 2550, IAFF v. Shawnee Township Fire Department, Allen County, and Chief Tim Mosher

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (5), and (7) by bargaining in bad faith. Information gathered during the investigation reveals attempting to negotiate or compromise on the negotiation guidelines is not a violation of the statute. 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 __

8. Case 03-ULP-03-0119 Shawnee Township Fire Fighters, Local 2550, IAFF v. Shawnee Township, Allen County

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by bargaining in bad faith. Information gathered during the investigation reveals the Charged Party's actions of declaring impasse regarding guidelines negotiations is not a violation of 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 __

9. Case 03-ULP-02-0055 Municipal Foremen and Laborers' Union, Local No. 1099 v. City of Cleveland

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by contracting out bargaining-unit work to nonbargaining-unit employees. Information gathered during the investigation reveals knowledge of the alleged violations 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 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 __

State Employment Relations Board Minutes
June 5, 2003
Page 12 of 19

10. Case 03-ULP-02-0049 International Brotherhood of Teamsters
Local Union No. 436 v. Ohio Turnpike
Commission

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing the method of paying wages. Information gathered during the investigation reveals that the collective bargaining agreement between the parties includes a grievance procedure culminating in final and binding arbitration. A grievance regarding the alleged unilateral change has been filed and is proceeding through the grievance procedure. In interpreting contract provisions such as Article 44 of the contract, the arbitrator will determine whether the method of payment to maintenance employees violates the contract. Board Member Verich moved that the Board defer the charge to the parties' grievance-arbitration procedure and retain jurisdiction pursuant to *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

11. Case 03-ULP-03-0163 Communications Workers of America v.
Mahoning County Children Services

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (6) by refusing to process Roslyn Stonework's grievance pursuant to the terms of the contract. Information gathered during the investigation reveals no pattern of failing to process grievances was provided. Knowledge of the alleged violations 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 __

State Employment Relations Board Minutes
June 5, 2003
Page 13 of 19

12. Cases 03-ULP-03-0120 Shawnee Township Fire Fighters, Local 2550, IAFF v. Fire Chief Tim Mosher
- 03-ULP-03-0121 Shawnee Township Fire Fighters, Local 2550, IAFF v. Fire Chief Tim Mosher

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by bargaining in bad faith. The Charged Party filed a motion to dismiss the charge. Information gathered during the investigation reveals the Charged Party offered to make concessions, and his actions do not amount to a violation. Board Member Verich moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and deny the Charged Party's motion to dismiss as moot. 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-03-0138 Daniel J. Schrader v. International Association of Fire Fighters, Local 67

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by utilizing a grievance committee. Information gathered during the investigation reveals the Charging Party never filed a grievance, but the Charged Party took the Charging Party's concern and processed it to a resolution he desired. The Charging Party failed to provide information to show how utilizing the grievance committee violated the statute. 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 __

State Employment Relations Board Minutes
June 5, 2003
Page 14 of 19

14. Case 03-ULP-04-0177 Lilemon James Ferguson v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 3619

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party at his arbitration hearing. Information gathered during the investigation reveals that the Charging Party knew that no court stenographer was at the Charging Party's hearing, that his attorney was not permitted to attend the hearing, and that his unidentified witnesses were not present. The Charged Party provided the Charging Party with a copy of the arbitration decision after he requested it. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Knowledge of the September 24, 2002 alleged violations 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. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

15. Case 03-ULP-01-0020 Richard D. Keiser, Jr., et al. v. Fremont City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code §§ 4117.11(A)(1), (3), and (7) and (B)(3) and (6) by discriminating against employees because of their nonunion membership status. Information gathered during the investigation reveals the Charged Party discriminated against nonunion members by paying members to attend a meeting. The Charging Parties marked the box for the Charged Party as the employer and not the union. The Charged Party filed a motion to add the union as a charged party. The Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and its Local 321 (OAPSE) filed a motion to intervene. The recommendation from the Investigator is 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 a hearing to determine if the Charged Party violated Ohio Revised Code §§ 4117.11(A)(1) and (3), but not (A)(7) and (B)(3) and (6) by discriminating against the Charging Parties because of their nonunion membership status by not affording them the same opportunity for pay on the in-service day as afforded to employees with union membership status, deny the Charged Party's motion to add a charged party, grant OAPSE's motion to intervene as an interested party, and direct the parties to ULP mediation. 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, deny as moot the Charged Party's motion to add a charged party, and deny as moot OAPSE's motion to intervene as an interested

State Employment Relations Board Minutes
June 5, 2003
Page 15 of 19

party. Board Member Verich seconded the motion. Discussion followed showing that the information gathered during the investigation reveals the Charged Party has treated all bargaining-unit members equally. All people who did not attend the in-service training, whether they were nonmembers of the union or union members, were required to take personal, vacation, or sick leave, or take leave without pay. The Charged Party was under no statutory duty to develop an alternative training course or activity for the people who did not attend the in-service day. The Charging Parties' complaint is with the union and not with the Charged Party, and they did not file a charge against the union to address this issue. Chairman Drake called for the vote.

Vote:	DRAKE <u>Aye</u>	GILLMOR <u>Aye</u>	VERICH <u>Aye</u>
	Affirmed <u>X</u>	Denied <u> </u>	

16. Case 03-ULP-03-0155 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Its Local 1039 v. City of Portsmouth, Gregory A. Bauer, and M. Trent Williams

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to recognize the party's successor collective bargaining agreement. Information gathered during the investigation reveals the Charged Parties are within the thirty days of receiving the entire tentative collective bargaining agreement to take appropriate action. The recommendation from the Investigator is 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 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 Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to recognize the parties' successor collective bargaining agreement, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Discussion followed showing that the information gathered during the investigation reveals the question of whether the City Auditor's original submission of the terms of the tentative collective bargaining agreement to the City Council members (legislative body) on November 22, 2002, met the requirements to start the thirty-day period for the legislative body to either approve or reject the submission or have the submission be deemed accepted by the legislative body's inaction pursuant to Ohio Revised Code § 4117.10(B). Chairman Drake called for the vote.

Vote:	DRAKE <u>Aye</u>	GILLMOR <u>Aye</u>	VERICH <u>Aye</u>
	Affirmed <u>X</u>	Denied <u> </u>	

State Employment Relations Board Minutes
June 5, 2003
Page 16 of 19

17. Case 03-ULP-03-0140 Elizabeth D. Hunter, et al. v. Stow-Munroe Falls Classified Employees Association, Marianne Wingard, and Kent Williams

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by negotiating a raise for Union President Marianne Wingard, the elimination of bargaining-unit positions, and failing to follow rules associated with negotiations. Information gathered during the investigation reveals the Charged Parties' actions were reasonable and benefited the bargaining-unit as a whole. The Charged Parties followed the union's internal meeting rules. 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

18. Cases 03-ULP-03-0166 Fraternal Order of Police, Lodge No. 15
03-ULP-03-0167 v. City of Strongsville

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing dental coverage during successor contract negotiations. Information gathered during the investigation reveals contract interpretation is at the center of the dispute. Deferring the charges to the parties' grievance-arbitration process is appropriate, but no grievance was filed warranting this action to defer to arbitration and to retain jurisdiction by this Board. 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

State Employment Relations Board Minutes
June 5, 2003
Page 17 of 19

19. Case 03-ULP-02-0070 Steven F. Sakal, Jr. v. Ohio Patrolmen's Benevolent Association

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (6) by entering into an agreement with management over the filling of an exempt post that violated the collective bargaining agreement, and by not pursuing the Charging Party's grievance over the matter. Information gathered during the investigation reveals the Charged Party's actions were not arbitrary, discriminatory, or in bad faith. The Charging Party was not restrained or coerced in exercising his guaranteed rights, and was notified he could file the grievance on his own, which he did. The Charged Party's actions did not cause the employer to commit a violation. 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. Case 03-ULP-03-0112 District 1199, Service Employees International Union v. State of Ohio, Department of Rehabilitation and Correction, Lorain Correctional Institution

Board Member Verich moved that the Board construe the letter requesting withdrawal as a motion to withdraw, and grant the motion with prejudice. 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-11-0771 Allison M. Mallow, Nancy Woolweaver, and Bill Galbreath v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 5041
22. Case 02-ULP-12-0783 Terri Pigg v. Newton Falls Exempted Village Board of Education
23. Case 02-ULP-11-0761 Luther L. Gordon, Jr. v. Ohio Education Association
24. Case 02-ULP-07-0491 Robert Folk, Richard Parker, and Tino Valjean v. City of Painesville

State Employment Relations Board Minutes
June 5, 2003
Page 18 of 19

25. Case 02-ULP-10-0693 William J. Johnston v. Miami Valley Regional Transit Authority (Greater Dayton Regional Transit Authority)

The Board dismissed the unfair labor practice charges for lack of probable cause. The Charging Parties have filed letters requesting reconsideration of the Board's decisions. A review of the original investigations reveal that the Charging Parties have failed to raise any new issues warranting reversal of the dismissals. Vice Chairman Gillmor moved that the Board construe the letters requesting reconsideration as motions for reconsideration, and deny the motions for reconsideration with prejudice. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

26. Case 02-ULP-09-0588 Bonnie Perry v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 100, AFL-CIO
27. Case 03-ULP-04-0205 Dennis Thomas v. State of Ohio, Department of Rehabilitation and Correction, Ohio State Penitentiary
28. Case 03-ULP-02-0080 Ohio Patrolmen's Benevolent Association v. Montgomery County Sheriff, et al.
29. Case 03-ULP-02-0087 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Rehabilitation and Correction

In Case 02-ULP-09-0588, the Board dismissed the charge for lack of probable cause on November 26, 2002. On January 27, 2003, the Charging Party filed a letter requesting reconsideration of the Board's decision. On April 2, 2003, the Charging Party filed a settlement agreement requesting withdrawal of this charge. Board Member Verich moved that the Board, in Case 02-ULP-09-0588, construe the letter and settlement agreements as motions to withdraw, and grant all motions with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

State Employment Relations Board Minutes
June 5, 2003
Page 19 of 19

VI. ADMINISTRATIVE MATTERS

There were no Administrative matters for this Board Meeting.

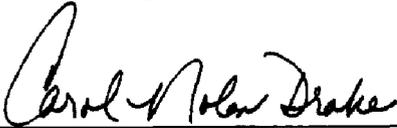
VII. ADJOURNMENT

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
Affirmed X

GILLMOR Aye
Denied

VERICH Aye



Carol Nolan Drake, Chairman