

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, July 10, 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 June 19, 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-03-0054 Freight Drivers, Dockworkers and Helpers Teamsters Local 24 and Brimfield Township Police Department, Portage County

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The substantial evidence is sufficient and no objections have been 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 Organization as the exclusive representative of all employees in the bargaining unit. 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-REP-03-0044 Charles Majewski and Teamsters Local Union No. 571 and Lorain County Regional Airport Authority, July 22, 2003
3. Case 03-REP-03-0051 International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, and Laketran, August 5, 2003

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4. Case 03-REP-04-0076 Wapakoneta Professional Fire Fighters, IAFF Local 973 and City of Wapakoneta, July 31, 2003
5. Case 03-REP-03-0053 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Lodge #104 and Montgomery County Sheriff, July 29, 2003

In Case 03-REP-03-0044, the Petitioner filed a Petition for Decertification Election seeking to decertify the Employee Organization, which is the Board-certified exclusive representative for certain employees of the Employer. The parties have entered into a Consent Election Agreement seeking an election on July 22, 2003. In Case 03-REP-03-0051, the Employee Organization filed an Opt-in Petition for Representation Election seeking to represent Customer Service Representatives and add them to an existing unit of employees of the Employer. The parties have entered into a Consent Election Agreement seeking an election on August 5, 2003. In Case 03-REP-04-0076, the Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The above-cited parties have entered into Consent Election Agreements. The parties have entered into a Consent Election Agreement seeking an election on July 31, 2003. In Case 03-REP-03-0053, the Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization, which is the Board-certified exclusive representative of certain employees of the Employer. The parties verbally agreed to an election on July 29, 2003. The Employer and Rival Employee Organization have executed the Consent Election Agreement. The Incumbent Employee Organization has not executed a Consent Election Agreement as the President has vacation scheduled for the day of the election and wishes to change the election date. The Rival Employee Organization and Employer wish to go forward with the election as scheduled. The Employer has filed a motion to stay negotiations pending resolution of this case. The Board granted the motion to stay at the June 19, 2003 Board meeting and directed this representation case to be expedited. In an effort to expedite this case, directing the election on July 29, 2003 is appropriate. Vice Chairman Gillmor moved that the Board approve the Consent Election Agreements and direct elections to be conducted on the dates as indicated. 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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6. Case 03-REP-04-0069 Professionals Guild of Ohio and Children Services of Richland County, August 6, 2003

In Case 03-REP-04-0069, Board Member Verich moved to table this case to the July 24, 2003 meeting. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

7. Case 03-REP-05-0082 Painesville Water Treatment Operator II and City of Painesville

The Employee Organization has filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employee Organization, however, failed to file substantial evidence of support as required by Ohio Revised Code § 4117.07(A)(1). Board Member Verich moved that the Board dismiss without prejudice the Petition for Representation Election, because the Employee Organization has failed to file substantial evidence as required by Ohio Revised Code § 4117.07(A)(1). Vice Chairman Gillmor seconded the motion. Following discussion, Vice Chairman Gillmor moved to amend the recommendation by deleting "because the Employee Organization has failed to file substantial evidence as required by O.R.C. § 4117.07(A)(1)." Board Member Verich seconded the motion to amend. Chairman Drake called for the vote on the motion to amend.

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

Chairman Drake then called for the vote on the amended motion.

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

8. Case 03-REP-06-0100 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO and State of Ohio

9. Case 03-REP-06-0098 United Steelworkers of America and Lorain County Recorder's Office

The Employee Organizations and the Employers, jointly filed Petitions for Amendment of Certification seeking to amend the existing units. Board Member Verich moved that the Board approve the jointly filed petitions and amend the units accordingly. 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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10. Case 03-REP-06-0101 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Avon Local School District

Avon Classified Employees and the Employer have jointly filed a Petition for Amendment of Certification seeking to amend the certification to reflect the union's affiliation with Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO, and to amend exclusionary language to reflect current contract language. In support of the Petition, the parties have provided information verifying that the standards set by the Board in In re Montgomery County Joint Vocational School Dist Bd of Ed, SERB 89-010 (5-1-89), and in In re Ohio Federation of Teachers, AFT, AFL-CIO, SERB 96-007 (6-7-96), have been met. Appropriate internal union procedures have been followed, and substantial continuity still exists. No questions of representation are pending. Vice Chairman Gillmor moved that the Board approve the jointly filed petition and amend the certification accordingly. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

11. Case 02-REP-11-0221 Public Employees of Ohio, Local 450 and City of Marietta

The Employee Organization is the deemed-certified exclusive representative of certain employees of the Employer. The Employee Organization filed a Petition for Amendment of Certification and has now filed a letter seeking to withdraw it. Board Member Verich moved that the Board construe the Employee Organization's letter as a motion to withdraw, grant the motion, and dismiss without prejudice the Petition for Amendment of Certification. 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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12. Case 03-REP-01-0009 International Union of Operating Engineers, Local 66A, B, C, D, O, R and Beaver Township, Mahoning County

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer responded by filing a Petition for Representation Election and objections. A conference call was conducted for the purpose of executing a consent election agreement; however, the parties could not reach an agreement concerning an appropriate unit. The Employer asserts the proposed bargaining unit contains a supervisor who is excluded from collective bargaining. The Employee Organization maintains the employee in question is performing bargaining-unit work and is only a lead worker. Several follow-up conference calls have been conducted, but the parties' dispute remains. 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 03-REP-02-0028 Canton Professional Firefighters Association, IAFF Local 249 and City of Canton

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 Battalion Chiefs. The Employer filed a position statement opposing the amendment. The Employer asserts the Battalion Chief performs the same duties as the Assistant Chief and should be excluded from the existing unit. The Employee Organization maintains the Division Chiefs act in the Chief's absence, therefore, the Battalion Chiefs should be included in the existing unit. Several conference calls have been conducted. The parties' dispute remains. 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 __

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14. Cases 84-REP-10-2299 Fraternal Order of Police, Perry
84-REP-11-2443 County Lodge #134 and Perry County
Sheriff
15. Case 84-REP-10-2202 Fraternal Order of Police, Lodge #129
and City of Sylvania

The Employee Organizations are the Board-certified exclusive representatives for certain employees of the Employers. The Employee Organizations have filed motions to revoke certification. The parties confirm no contracts exist. Vice Chairman Gillmor moved that the Board grant the motions and revoke the Employee Organizations' certifications. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

16. Cases 03-REP-02-0026 Boardman Police Supervisor's Unit and
03-REP-02-0032 Ohio Patrolmen's Benevolent
Association and Boardman Township,
Mahoning County

- There were 15 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Boardman Police Supervisor's Unit received 7 votes
- Ohio Patrolmen's Benevolent Association received 8 votes and has prevailed in this election.

Board Member Verich moved that the Board certify the election results and certify the prevailing employee organization as the exclusive representative of all employees in the bargaining unit. 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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17. Cases 03-REP-02-0024 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Fraternal Order of Police, Ohio Labor Council, Inc. and Multi-County Correctional Center
- 03-REP-02-0036 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Multi-County Correctional Center
- 03-REP-05-0088 Fraternal Order of Police, Ohio Labor Council, Inc. and Multi-County Correctional Center

In Case No. 03-REP-02-0024, the Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization, which is the Board-certified exclusive representative of certain employees (Corrections Officers) of the Employer. The parties entered into a Consent Election Agreement seeking an election on July 10, 2003. In Case Nos. 03-REP-02-0036 and 03-REP-05-0088, the Rival Employee Organization and the Incumbent Employee Organization filed Petitions for Representation Election seeking to represent the same group of employees (Lieutenants) of the Employer. The substantial evidence is sufficient in both cases. The parties entered into a Consent Election Agreement seeking an election on July 10, 2003. On June 19, 2003, the Board directed elections pursuant to Consent Election Agreements in all of the above-referenced cases. On June 24, 2003, the Rival Employee Organization filed letters withdrawing Case Nos. 03-REP-02-0024 and 03-REP-02-0036. On June 26, 2003, the investigator issued a letter and notices to all parties postponing all elections pending Board action of the Rival Employee Organization's request to withdraw. Granting the Rival Employee Organization's requests to withdraw would leave pending before the Board Case No. 03-REP-05-0088 filed by the Incumbent Employee Organization. Vice Chairman Gillmor moved that the Board construe the letters filed by the Rival Employee Organization, as motions to withdraw, grant the motions, and dismiss without prejudice Case Nos. 03-REP-02-0024 and 03-REP-02-0036; and that the Board direct an election in Case No. 03-REP-05-0088 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

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18. Case 02-REP-11-0230 Wilmington Fire Fighters, IAFF Local 3011 and City of Wilmington

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 include the position of Lieutenant and Fire Inspector. The Employer responded by filing a position statement and motion to dismiss, as well as a motion to strike the motion to substitute affidavit and reply. The Employee Organization filed a memorandum in opposition. On June 19, 2003, the Board directed this case to hearing to determine the bargaining-unit status of the employees in question, and directed the parties to mediation. The Board's actions did not include resolution of the Employer's pending motions. The June 19, 2003 directive was not issued. Board Member Verich moved that the Board vacate the June 19, 2003 direction to hearing, grant the Employer's motion to strike and substitute affidavit and reply, deny the Employer's motion to dismiss, direct this case to hearing to determine the bargaining-unit status of the employees in question, 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 __

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 02-UJP-06-0424 SERB v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 233 and Barbra Phillips

Vice Chairman Gillmor moved that the Board amend Finding of Fact No. 12 to include the wage rates in Item 2 of Joint Exhibit 14, which is the Employer's "Last and Final Offer"; adopt the Findings of Fact, as amended, and Conclusions of Law in the Proposed Order; issue an order to the Respondents to cease and desist from refusing to bargain collectively with a public employer by failing to sign the final package agreed to and ratified by the parties in negotiations for a successor collective bargaining agreement, and from otherwise violating O.R.C. § 4117.11(B)(3); and order (1) the Respondents to post for sixty days, in all of the usual and normal posting locations where bargaining-unit employees represented by the Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and its Local 233 work, the Notice to Employees furnished by the Board, (2) a representative for the Union to promptly sign a copy of the collective bargaining agreement in dispute, and (3) the Respondents to notify the 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 Aye GILLMOR Aye VERICH Aye
Affirmed X Denied __

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5. Case 03-ULP-02-0067 Fraternal Order of Police, Ohio Labor Council, Inc. v. Hamilton County Sheriff
6. Case 03-ULP-02-0102 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Zanesville
7. Case 03-ULP-03-0139 Mike Edwards v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO
8. Case 02-ULP-11-0762 SERB v. Mayfield City School District Board of Education
9. Case 02-ULP-10-0684 SERB v. Cleveland City School District

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

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 03-ULP-04-0178 International Brotherhood of Teamsters, Local Union No. 377 v. Mahoning County Board of Commissioners

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to bargain in good faith. Information gathered during the investigation reveals the Charged Party participated in the negotiations and agreed to the wages and hospitalization, and then rejected the contract. This case is one of first impression with the legislative body actively participating in the negotiations with the Charging Party and Charged Party. 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 refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by bargaining in bad faith by participating in negotiations, agreeing to wages and hospitalization, and then rejecting the contract. 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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2. Case 03-ULP-03-0146 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)(3) by refusing to bargain. Information gathered during the investigation reveals the letter appeared to attempt to bypass the designated representative. 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(B)(3) by refusing to bargain in good faith in an attempt to bypass the Charging Party's designated representative, 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

3. Case 03-ULP-03-0137 Hillsboro Professional Fire Fighters,
Local 2972, IAFF v. City of Hillsboro

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by bargaining in bad faith. Information gathered during the investigation reveals the finalized agreement was submitted to the City Council and acted upon within thirty days. 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

4. Case 03-ULP-04-0210 Teamsters Local 377 v. Austintown
Township Trustees, Mahoning County

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (5), and (7) by unilaterally abolishing a bargaining-unit position, assigning the duties outside the unit, and laying off bargaining-unit employees to force compromise or capitulation. Information gathered during the investigation reveals that during contract negotiations, the Charged Party laid off 13% of the bargaining-unit without negotiating the layoff. 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, and refer the matter to an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (5), and (7) by unilaterally laying off bargaining-unit employees without negotiating, and concentrating its layoffs in the bargaining unit to pressure the Charging Party into compromising in the wage negotiations. 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 03-ULP-04-0202 Terry N. Banks v. Bexley City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by denying the Charging Party union representation. Information gathered during the investigation reveals the Charging Party was advised that he could have representation at the predisciplinary meeting, but did not bring a representative nor did he request union representation at the meeting. The charge was filed 124 days after the meeting and is untimely filed. 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 __

6. Case 03-ULP-04-0213 Larry L. Fitzgerald v. Transport Workers Union of America, Local 1, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), (3), and (6) by the Local union not having a fair-share-fee policy and adopting the International affiliate union's fair-share-fee policy. Information gathered during the investigation reveals the Local union's by-laws did not have a fair-share-fee policy. The Local adopted the International affiliate's policy after the Charging Party requested to pay fair share fees. The Charged Party's actions are not arbitrary, discriminatory, or in bad faith. The Charging Party did not demonstrate how the Charged Party 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 __

7. Case 03-ULP-05-0242 Jesse Crumbley, III v. City of Cleveland, House of Correction

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11. Information gathered during the investigation reveals the Charging Party failed to provide a clear and concise statement of facts constituting an alleged violation. The Charging Party was advised to correct the matter by May 30, 2003, and has failed to comply. Board Member Verich moved that the Board dismiss the charge without prejudice due to Charging Party's failure to provide a clear and concise statement of the facts constituting the alleged violation. 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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8. Case 03-ULP-03-0123 Ohio Patrolmen's Benevolent Association v. Perrysburg Township Police Department, Wood County

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by resolving a grievance with only one of the three grievants, and that its resolution violates a January 2000 settlement agreement. Information gathered during the investigation reveals the resolution of the grievance was with the officer named in the grievance. Contract interpretation is at the center of the issue. No information was provided to support that an Ohio Revised Code § 4117.11(A)(3) 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 __

9. Case 03-ULP-04-0218 Southeast Local School District Board of Education v. Southeast Local District Teachers Association

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), and (3) by unilaterally releasing a public statement in violation of the parties' negotiations procedure. Information gathered during the investigation reveals no information was provided to demonstrate the negotiation team posted the information on the web site. The information on the web site does not violate the statute. No information was provided to support that Ohio Revised Code § 4117.11(B)(1) or (2) violations 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 commented how accessing and utilizing web sites in the future may bring up more issues for parties and the Board to address. Chairman Drake called for the vote.

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

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10. Case 03-ULP-04-0170 Ohio Patrolmen's Benevolent Association
v. City of Findlay

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by removing Officer Tracy Love from his Detective Bureau assignment in retaliation for his exercise of guaranteed rights. Information gathered during the investigation reveals Officer Love is a public employee engaged in protected activity with the employer's knowledge, and was transferred from the Detective Bureau before completing his one-year assignment. The Employer did not provide a persuasive rebuttal of anti-union animus. 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 (3) by removing Officer Tracy Love from his Detective Bureau assignment in retaliation for his exercise of guaranteed rights, 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

11. Case 03-ULP-03-0164 Communications Workers of America,
Local 4501, AFL-CIO v. Ohio Secretary
of State

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally assigning new job duties to bargaining-unit employees. Information gathered during the investigation reveals the parties agreed to cross-training for the creation of new classifications. 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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12. Case 03-ULP-03-0168 International Union of Operating Engineers, Local 943 v. Warren 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 (5) by threatening employees with job loss if they continued to file grievances. Information gathered during the investigation reveals a credibility issue exists with what was said at a grievance meeting. 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) and (5), by threatening employees with layoffs if they continued to file grievances, 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

13. Case 03-ULP-03-0107 Ohio Patrolmen's Benevolent Association v. City of East Cleveland

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to implement the collective bargaining agreement and/or implement the conciliation award. Information gathered during the investigation reveals the Charged Party has not complied with the conciliator's award or implemented the collective bargaining agreement. 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 refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to implement the collective bargaining agreement and the conciliation award, 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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14. Case 03-ULP-03-0122 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 387 v. Coshocton 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 (8) by interfering with and coercing Lori DeVore, John Conrad, and John McPeak in the exercise of guaranteed rights. Information gathered during the investigation reveals no information was provided to demonstrate how a reasonable person would feel threatened. No information was provided to support that Ohio Revised Code § 4117.11(A)(3) or (8) violations occurred. The charge is untimely filed regarding the May 17, 2002 and September 18, 2002 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, 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 __

15. Case 03-ULP-03-0154 Maple Heights Transit Employees Association v. City of Maple Heights

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (5) by refusing to allow the Charging Party to process a grievance. Information gathered during the investigation reveals the Charged Party violated the statute by refusing to process the grievance, and interfered with the Charging Party's choice of representative. 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 (5) by refusing to allow the Charging Party to process a grievance, 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 __

16. Case 03-ULP-05-0232 Communications Workers of America, Local 4319 v. Allen County Child Support Enforcement Agency

Vice Chairman Gillmor moved that the Board table this case. 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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17. Case 03-ULP-02-0085 Ohio Council 8, American Federation of State, County and Municipal Employees, Local 2696, AFL-CIO v. Summit County Department of Job and Family Services and James McCarthy

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by bargaining in bad faith. Information gathered during the investigation reveals the Charged Parties delayed submitting the tentative agreement to the legislative body. 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 timely submit the parties' tentative agreement to its legislative body, 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

18. Case 03-ULP-04-0207 Dale G. Lipscomb v. Service Employees International Union, District 1199

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) and (6) by removing the Charging Party as an elected delegate without just cause, failing to maintain a local representative, and denying his request for representation. Information gathered during the investigation reveals a complaint about the election process caused a rerun election, which the Charging Party won. The Charging Party was not entitled to representation at a meeting that did not occur, nor was he disciplined for another individual. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. 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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19. Cases 03-ULP-04-0171 Chris Bunce v. City of Lorain
03-ULP-04-0172 Anthony Hoholski v. City of Lorain
03-ULP-04-0173 Sam Jacob v. City of Lorain
03-ULP-04-0174 Patrick A. McGannon v. City of Lorain
03-ULP-04-0175 Dale Vandersommen v. City of Lorain

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by unilaterally breaching an agreement with nonbargaining-unit managers. Information gathered during the investigation reveals the Charging Parties do not allege a violation covered under Ohio Revised Code Chapter 4117, they are not in a bargaining unit, and the charges are not within the jurisdiction of SERB. Board Member Verich moved that the Board dismiss the charges with prejudice for lack of jurisdiction. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

20. Case 02-ULP-05-0305 Communications Workers of America,
Local 4546 v. Summit County Children
Services

On August 15, 2002, the charge was deferred to the parties' grievance-arbitration procedure pursuant to option three of *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-02). The arbitrator's decision was rendered on May 21, 2003. The parties had thirty days to file a motion for review, and no motions have been filed. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice as having been resolved between the parties pursuant to the grievance-arbitration process. Board Member Verich seconded the motion. Discussion followed with Chairman Drake asking the Labor Relations Section Administrator how does SERB keep track of cases, like this one, from falling through the cracks so that the Board can take action on them. Administrator Alan Bonham responded that the section has an internal tracking mechanism where the Investigators are informed their cases have been deferred, and that they contact the parties on a regular basis requesting the status of the case. The process may take many months as the parties are instructed to inform SERB of when the arbitrator issues the decision, and to send in a copy of the award to SERB so that the case may then be ruled on by the Board. It was suggested that instructing people of this process and to be aware of this process could be listed on our web site, in the *SERB Quarterly*, SERB Academy, and other conferences. Chairman Drake called for the vote.

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

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21. Case 02-ULP-12-0790 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 275 v. Chesapeake Exempted Village School District Board of Education

The Board previously dismissed the unfair labor practice charge for lack of probable cause. The Charging Party has filed a motion requesting reconsideration of the Board's decisions. A review of the original investigation reveals that the Charging Party has failed to raise any new issues warranting reversal of the dismissal. Board Member Verich moved that the Board deny the motion for reconsideration with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Drake noted that the Investigator's Memorandum mentioned that in the Board's earlier no probable cause directive that the Board mis-stated a change, which has been clarified and reviewed by the Board during this matter. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

22. Case 03-ULP-05-0283 Eastern Local Classroom Teachers Association, OEA/NEA v. Eastern Local School District Board of Education
23. Case 03-ULP-05-0288 Ohio Patrolmen's Benevolent Association v. Huron County Sheriff
24. Case 03-ULP-06-0312 Teamsters Local Union No. 637 v. South East Area Transit
25. Case 03-ULP-04-0194 Portage County Educators Association for the Mentally Retarded v. Portage County Board of Education
26. Case 03-ULP-04-0180 Douglas Mitchell v. City, County, Waste Paper Drivers Union, Local 244
27. Case 03-ULP-04-0199 Tim Studer v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO and Ron Alexander

Vice Chairman Gillmor moved that the Board construe the notice and letters as motions to withdraw, and grant all motions with prejudice. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

VI. ADMINISTRATIVE MATTERS

Chairman Drake, on behalf of the Board, presented to Sandy Iversen, Administrative Assistant, a 15-year State of Ohio pin for her years of service working at SERB. The Board conveyed how much they appreciated her and all of the hard work she has done through the years, and for being part of SERB.

Dale Zimmer and Tom Worley, SERB Mediators, presented a synopsis report of the Croatia Mediation Grant Training Program. Mr. Worley mentioned that in the beginning there were some concerns when orchestrating everything together before the trainees were to arrive that we were not sure everything would happen, such as liability issues, expenditures, materials, vehicles, language barrier, etc. and some how it all turned out fine. Mr. Worley stated that the program received rave reviews from the SERB staff, the Croatian mediator trainees partaking in this project, World Learning, Inc. (grant provider), and union and management representatives that were impacted by the training program. It is an experience that the SERB mediators will never forget. The trainees traveled all over Ohio participating in all aspects of mediations. The union and employers conducting mediations and negotiations, extended a warm welcome to the trainees and learned a lot from them too. The trainees also attended functions outside of the agency, such as at the Columbus Zoo where Congressman Paul Gillmor extended a warm welcome to them, the Afro-American Museum at Wilberforce (Dayton), an art gallery where one of the trainees discovered some art work he knew as being from an artist from Croatia, a Crew soccer game, a cookout, and shopping along the way. The trainees stated they had heard that the Americans were friendly, but did not realize how friendly we could be. Mr. Zimmer mentioned that many questions were presented to the mediators as to why we do things this way or that way, our approach on mediating, and the different steps it takes to try to settle cases. Mr. Zimmer stated it was a great honor to have been chosen over all the other states to be a part of this training, and it shows just how well respected our mediation program is. Mr. Worley stated he has been in contact with the trainees since their departure, and many have asked to know the outcome of some of the cases where they attended the mediation. Mr. Worley stated that they are finalizing a report that he and Mr. Zimmer will make a final report to the Board. Chairman Drake thanked Mr. Zimmer, Mr. Worley, and the Bureau of Mediation staff for all of their hard work in ensuring that this program was a success. Chairman Drake said the Board would send out thank you letters to the parties who participated in the program who helped make this project such a success. Board Member Verich asked

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both Mr. Zimmer and Mr. Worley what they thought was benefited from this program. Mr. Zimmer said that it was an "infusion of energy" for the agency. Mr. Worley commented that we all learned a lot in how other facets of the world are different than we are in settling problems, whether it is through union or management disputes. Our independence, compared to theirs, has made us a little bit more curious in how we settle matters. Mr. Worley presented to the Board some recommendations regarding this program for their review.

Chairman Drake stated that the Budget Bill has been signed with a few changes affecting our agency. The changes will take affect within the next 90 days. There are some procedural changes. Chairman Drake suggested that we can announce these changes on our web site for people to see.

Chairman Drake informed the Board that she had received a memorandum from Brian Hicks, Chief of Staff in the Governor's Office, regarding "Policy for FY 2004 Salary increases for Schedule E-2 Employees and Administrative Staff." The memorandum states that due to the tight budget, pay increases should be avoided for the coming fiscal year. Chairman Drake stated that she would make sure the Board members receive a copy of this memorandum.

Board Member Verich moved that the Board go into executive session, pursuant to Ohio Revised Code Section 121.22(G)(1), to discuss the employment of public employees. 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

Vice Chairman Gillmor moved that the Board exit from executive session. 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

VII. ADJOURNMENT

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

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied



Carol Nolan Drake, Chairman

TO: Honorable Members of the Board and Acting Executive Director

FROM: Dale Zimmer and Tom Worley

DATE: July 10, 2003

RE: Croatian Mediation Grant Training Program

The Croatian Mediation Grant Training Program has received rave reviews from SERB staff, the Croatian mediator trainees, World Learning, Inc. (grant provider), and union and management representatives that were impacted by the training program. The partnership with the Columbus Area Labor Management Committee as fiscal agent for the grant was excellent. All Experience America programs and mediation training programs met or exceeded the grant requirements. All expenditures were within the projected budget allocations under the grant. Currently, SERB continues to assist as needed in providing advice and written materials to the Croatian Mediation Project as part of the action plan developed by the trainees in compliance with the grant requirements.

Thank you notes will be sent to various presenters, volunteers, and to the parties that participated in the training program. Presenters included: Columbus Zoo Labor Management Committee, Scott Johnson – Director of the Department of Administrative Services, Congressman Paul Gillmor, Jr., Columbus Coating Labor Management Committee, and Dr. James Cowles of the Columbus Area Labor Management Committee.

Recommendations:

- 1) SERB should document the successful Croatian Mediation Grant Training Program through a final report, a SERB quarterly newsletter article, and other archival references (i.e. web site);
- 2) SERB should explore with DAS a mechanism for SERB to receive and expend grant funds on a direct basis;
- 3) Once SERB is able to receive grant funds directly, SERB should identify potential agency needs that can be funded as a result of income from grant programs;
- 4) SERB should explore other grant funding opportunities that complement the services that it provides to the parties, improves the skills of its staff, and advances the field of the labor relations profession; and
- 5) Upon proper request and approval of the Executive Director, SERB staff should be permitted to assist in international professional development programs and to be compensated (if applicable) by independent grant providers in accordance with SERB employee policies, state ethics laws, and other relevant standards.