

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, September 4, 2003, at 10:15 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 Board approve the minutes for the regular meeting on August 7, 2003. 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>	

Chairman Drake welcomed Pat Snyder to SERB as the new Executive Director. Chairman Drake also welcomed Kera Schiopota as our new intern at SERB. Ms. Schiopota is from Kent State University and is in the University's Columbus Program in Intergovernmental Issues. She will be here until December.

Vice Chairman Gillmor moved to accept the following resolution. 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>	

Chairman Drake presented the following resolution to General Counsel Russ Keith, who served as Acting Executive Director:

WHEREAS, J. Russell Keith was appointed by the State Employment Relations Board as the Acting Executive Director effective on Friday, January 17, 2003; and

WHEREAS, for the past eight months, Mr. Keith has served the Board diligently and with good humor as both the Acting Executive Director and General Counsel; and

WHEREAS, the Board has been appreciative of his ability to manage the day to day activities of the office as well as advise the Board on legal matters during this dual assignment,

State Employment Relations Board Minutes  
September 4, 2003  
Page 2 of 29

NOW, THEREFORE, We the State Employment Relations Board hereby officially recognize

J. Russell Keith

For his commitment to the Board, the employees of SERB and the people of the State of Ohio.

In grateful appreciation, we hereby adopt this resolution on this 4<sup>th</sup> day of September, 2003.

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

There were no Mediation matters for this Board Meeting.

III. REPRESENTATION MATTERS AT ISSUE:

1. Cases 03-REP-06-0095 Fraternal Order of Police, Ohio Labor  
03-REP-06-0096 Council, Inc. and City of Chardon

The Employee Organization filed a Request for Recognition, in each case, seeking to represent certain employees of the Employer. The substantial evidence was sufficient, and no objections had been filed. The Employer complied with the posting requirements. Board Member Verich moved that the Board certify the Employee Organization as the exclusive representative of all employees in each 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-06-0110 Ohio Patrolmen's Benevolent  
Association and City of Clayton,  
September 17, 2003

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer responded by filing Objections and a Petition for Representation Election. The parties entered into a Consent Election Agreement seeking an election on September 17, 2003. Vice Chairman Gillmor moved that the Board approve the Consent Election Agreement and direct an election to be conducted on September 17, 2003. 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  
September 4, 2003  
Page 3 of 29

3. Cases 03-REP-01-0014                      Fraternal Order of Police, Ohio Labor Council, Inc. and Village of Indian Hills  
          03-REP-01-0015
4. Case 03-REP-01-0010                      International Union of Operating Engineers, Local 66A, B, C, D, O, R and Springfield Township, Mahoning County

In Cases 03-REP-01-0014 and 03-REP-01-0015, the Employee Organization filed a Request for Recognition, in each case, seeking to represent certain employees of the Employer. The Employer responded by filing objections and Petitions for Representation Election. The Employee Organization filed a Motion to Withdraw the Requests for Recognition. In Case 03-REP-01-0010, 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 an objection maintaining the proposed unit contains supervisory personnel. The Employee Organization maintained all employees in the proposed unit were performing bargaining unit work and should be included. Several conference calls were conducted for the purpose of executing a consent election agreement, however, the parties could not reach an agreement. On June 5, 2003, the Board directed this matter to hearing to determine an appropriate bargaining unit and for all other relevant issues and directed the parties to mediation. The Employee Organization filed a letter withdrawing the Request for Recognition. Board Member Verich moved that the Board construe the Employee Organizations' letter as a motion to withdraw in Case 03-REP-01-0010, grant all of the motions to withdraw, and dismiss without prejudice the Requests for Recognition. 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-05-0092                      Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Avon Classified Employees and Avon Local School District

The Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization as the exclusive representative of certain employees of the Employer. The Rival Employee Organization filed a Notice to Withdraw. Vice Chairman Gillmor moved that the Board construe the Rival Employee Organization's notice as a motion to withdraw, grant the motion, and dismiss without prejudice the Petition for Representation Election. 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  
September 4, 2003  
Page 4 of 29

6. Case 03-REP-03-0055 Service and Support Administrators, Lake County Board of MR/DD, and Professional Association for the Teaching of the Mentally Retarded/OEA/NEA, and Lake County Board of Mental Retardation and Developmental Disabilities

The Petitioner filed a Petition for Decertification Election seeking to decertify the Employee Organization, which is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed a motion to revoke certification. The parties confirmed that no contract exists. The Board granted the revocation request on July 24, 2003, and as a result, the Petitioner filed a letter requesting withdrawal of the Petition for Decertification Election. Board Member Verich moved that the Board construe the Petitioner's letter as a motion to withdraw, grant the motion, and dismiss without prejudice the Petition for Decertification Election. 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-06-0094 Butler Vocational Education Association and Butler Technology and Career Development Schools
8. Case 03-REP-06-0102 Communications Workers of America, Local 4322 and City of Riverside, Montgomery County
9. Case 03-REP-06-0108 Mahoning Education Association of Developmental Disabilities, OEA/NEA and Mahoning County Board of Mental Retardation and Developmental Disabilities

In Case 03-REP-06-0094, the Employer and Employee Organization filed a Petition for Amendment of Certification seeking to amend the certification to change the Employer's name to Butler Technology and Career Development Schools. The proposed amendment appears to be appropriate. In Case 03-REP-06-0102, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect the re-titling of classifications, the inclusion of two Working Foremen, and to change the Employer's name to City of Riverside per the latest census information. The proposed amendment appears appropriate. In Case 03-REP-06-0108, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit

State Employment Relations Board Minutes  
September 4, 2003  
Page 5 of 29

to reflect current contract language and to include Early Intervention Specialist and Fixed Asset Clerk. The proposed amendment appears appropriate. Vice Chairman Gillmor moved that the Board approve the jointly filed petitions and amend the certifications accordingly. 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-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 stated the Fire Captains are a critical part of the supervisory staff that oversees a 43-member unit. The Employee Organization maintained the Fire Captains are not supervisory. The case was directed to hearing on June 5, 2003. As a result of mediation, the Employee Organization filed a notice of withdrawal. Board Member Verich moved that the Board construe the Employee Organization's notice of withdrawal 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   

11. Case 03-REP-06-0104                      Weathersfield Teachers Association,  
OEA/NEA and Weathersfield Local  
Schools

The Employee Organization is the deemed-certified exclusive representative of certain employees of the Employer. The Employer and Employee Organization (Jennifer Staunton) have jointly filed a Petition for Amendment of Certification seeking to amend the certification to reflect the Employee Organization's disaffiliation from OEA/NEA. The parties have not provided information verifying that the standards set by the Board have been met. The Employer's representative filed a motion to dismiss maintaining that Ms. Staunton is not the Employee Organizations' representative, but rather a member of the bargaining unit and does not have standing to file the petition. Vice Chairman Gillmor moved that the Board dismiss the jointly filed Petition for Amendment of Certification because the standards set forth by *In re Montgomery County Joint Vocational School Dist Bd of Ed*, SERB 89-010 (5-11-89) and in *In re Ohio Federation of Teachers, AFT, AFL-CIO*, SERB 96-007 (6-7-96) have not been met, and deny the motion to dismiss. 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  
September 4, 2003  
Page 6 of 29

12. Case 02-REP-11-0227 Putnam County Education Association, OEA/NEA and Putnam County Educational Service Center

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 full-time and part-time professional positions that have historically been included in the bargaining unit. The Employer responded by filing a letter opposing the clarification. The Employee Organization filed a response. A mediation conference was held on July 17, 2003, but the parties were unable to resolve their disputes. Board Member Verich moved that the Board 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   

13a. Case 03-REP-02-0038 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Carroll County Board of Mental Retardation and Developmental Disabilities (Professional Question1)

- There were 2 ballots cast
- There were 0 challenged ballots
- YES (Inclusion with nonprofessional employees) received 2 votes
- NO (Noninclusion with nonprofessional employees) received 0 votes
- Inclusion received 2 votes and has prevailed in this election.

13b. Case 03-REP-02-0038 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Carroll County Board of Mental Retardation and Developmental Disabilities (Professional Question 2)

- There were 2 ballots cast
- There were 0 challenged ballots
- No Representative received 1 vote
- Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO received 1 vote
- No Representative received 1 vote and prevailed in this election.

State Employment Relations Board Minutes  
September 4, 2003  
Page 7 of 29

- 13c. Case 03-REP-02-0038 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Carroll County Board of Mental Retardation and Developmental Disabilities (Nonprofessional Question 1)
- There were 40 ballots cast
  - There was 1 challenged ballot
  - YES (Inclusion with professional employees) received 19 votes
  - NO (Noninclusion with professional employees) received 20 votes
  - Noninclusion received 20 votes and has prevailed in this election.
- 13d. Case 03-REP-02-0038 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Carroll County Board of Mental Retardation and Developmental Disabilities (Nonprofessional Question 2)
- There were 40 ballots cast
  - There was 1 challenged ballot
  - No Representative received 21 votes
  - Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO received 18 votes
  - No Representative received 21 votes and has prevailed in this election.
14. Case 03-REP-03-0044 Charles Majewski and Teamsters Local Union No. 571 and Lorain County Regional Airport Authority
- There were 4 ballots cast
  - There were 0 challenged ballots
  - No Representative received 1 vote
  - Teamsters Local Union No. 571 received 3 votes and has prevailed in this election.

State Employment Relations Board Minutes  
September 4, 2003  
Page 8 of 29

15. Case 03-REP-03-0053 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Lodge #104 and Montgomery County Sheriff
- There were 31 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 votes
  - Fraternal Order of Police, Lodge #104 received 10 votes
  - Ohio Patrolmen's Benevolent Association received 21 votes and has prevailed in this election.
16. Case 03-REP-04-0076 Wapakoneta Professional Fire Fighters, IAFF Local 973 and City of Wapakoneta
- There were 11 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 vote
  - Wapakoneta Professional Fire Fighters, IAFF Local 973 received 11 votes and has prevailed in this election.
17. Case 03-REP-03-0051 International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW and Laketran
- There were 8 ballots cast
  - There were 0 challenged ballots
  - No Representative received 3 votes
  - International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW received 5 votes and prevailed in this election.
18. Case 03-REP-04-0075 Teamsters Local Union No. 507, IBT and Maple Heights Drivers Association and City of Maple Heights
- There were 8 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 votes
  - Maple Heights Drivers Association received 0 votes
  - Teamsters Local Union No. 507, IBT received 8 votes and prevailed in this election.

State Employment Relations Board Minutes  
September 4, 2003  
Page 9 of 29

19. Case 03-REP-05-0088 Fraternal Order of Police, Ohio Labor Council, Inc. and Multi-County Correctional Center
- There were 4 ballots cast
  - There were 0 challenged ballots
  - No Representative received 0 votes
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 4 votes and prevailed in this election.
20. Case 03-REP-05-0083 Ohio Council 8, American Federation of State, County and Municipal Employees and Coshocton County Department of Job and Family Services
- There were 56 ballots cast
  - There were 0 challenged ballots
  - Ohio Council 8, American Federation of State, County and Municipal Employees received 28 votes
  - No Representative received 28 votes and prevailed in this election.
21. Case 03-REP-02-0039 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and City of Pataskala
- There were 12 ballots cast
  - There were 0 challenged ballots
  - Ohio Patrolmen's Benevolent Association received 6 votes
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 6 votes and prevailed in this run-off 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



State Employment Relations Board Minutes  
September 4, 2003  
Page 11 of 29

9. Cases 02-ULP-12-0824 SERB v. Riverside Local School District Board of Education  
03-ULP-02-0094 United Riverside Education Association v. Riverside Local School District Board of Education
10. Case 03-ULP-03-0145 Allen County Child Support Enforcement Agency v. Communications Workers of America, Local 4319

Vice Chairman Gillmor moved that the Board approve and adopt the settlement agreements, construe the settlement agreements as motions to withdraw or dismiss, construe the notice of withdrawal in Case 03-ULP-03-0145 as a motion to withdraw, grant all of the motions, dismiss the complaints, dismiss with prejudice the unfair labor practice charges, and vacate the direction to show cause hearing in Case Nos. 02-ULP-05-0350 through 02-ULP-05-0351 and 02-ULP-05-0377 through 02-ULP-05-0381. 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-05-0278 Betty Barnett v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 252 and President Gene Adams

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(6) because Union President Gene Adams refused to discuss rumors with the Charging Party. Information gathered during the investigation reveals the Charging Party was not the subject of any discipline, nor did she file a grievance or request representation. Failure to discuss rumors 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 Parties. 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  
September 4, 2003  
Page 12 of 29

2. Case 03-ULP-05-0250 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Port Clinton

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally deciding to terminate any employee involved in three accidents regardless of fault. Information gathered during the investigation reveals the Charged Party knew of the material change in working conditions involving termination of employment and never notified the Charging Party. When the Charging Party became aware of the change, it demanded to bargain, but the Charged Party refused to bargain. 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) by failing to notify the Union of a material midterm change involving termination of employment, and negotiating a successor collective bargaining agreement without revealing that material change, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake stated that the investigation revealed questions concerning insurability and conflicting documents; consequently, more information is needed, which can only be obtained by sending this matter to hearing. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

3. Case 03-ULP-05-0233 Solon Firefighters Association Local 2079, IAFF v. City of Solon – City Council

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally passing an ordinance that prohibits the use of take-home City vehicles. Information gathered during the investigation reveals the Charged Party should have bargained the material effects of the change in past practice. 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 passing an ordinance that prohibits the use of take-home City vehicles, and direct the parties to ULP mediation. Vice Chairman seconded the motion. Chairman Drake called for any discussion before calling for the vote. Vice Chairman Gillmor moved, per a supplemental memorandum, to amend the recommendation to use the word "implementing" an ordinance instead of using the word "passing" an ordinance. Board Member Verich seconded the amended motion. Chairman Drake called for the vote on the amendment.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

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

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied

State Employment Relations Board Minutes  
September 4, 2003  
Page 13 of 29

4. Cases 03-ULP-04-0214 Professional Association of Service and Support Administrators, OEA/NEA v. Lake County Board of Mental Retardation and Developmental Disabilities
- 03-ULP-04-0215 Professional Association for the Teaching of the Mentally Retarded, OEA/NEA v. Lake County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by undertaking a course of conduct interfering with and threatening bargaining-unit employees for their pursuit of representation. Information gathered during the investigation reveals the Charged Party appears to have interfered with the formation and administration of the Professional Association of Service and Support Administrators union, but not the Professional Association for the Teaching of the Mentally Retarded, OEA/NEA. Additionally, the Charged Party appears to have discriminated against Jeanine Williams and Heidi Kosterman for their exercise of guaranteed rights. Vice Chairman Gillmor moved that in Case 03-ULP-04-0214, 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 (3) by interfering with the formation and administration of the new employee organization, interfering with the rights of employees, and discriminating against Jeanine Williams and Heidi Kosterman for their exercise of guaranteed rights, and direct the parties to ULP mediation; and in Case 03-ULP-04-0215, 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 \_\_

5. Case 03-ULP-05-0249 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Madeira

Board Member Verich moved that the Board construe the request to withdraw the charge 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 \_\_

State Employment Relations Board Minutes  
September 4, 2003  
Page 14 of 29

6. Case 03-ULP-05-0276 Fraternal Order of Police, Scioto Lodge No. 33 v. City of Portsmouth

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally adopting a resolution regarding involuntary disability separation. Information gathered during the investigation reveals that the Charged Party unilaterally adopted a resolution dealing with involuntary disability separation in the middle of an existing 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 Party and for lack of jurisdiction. Board Member Verich seconded the motion. The General Counsel stated the recommendation is based on the fact that on February 24, 2003, the Charged Party's City Council adopted the resolution. While the implementation of the resolution is a matter that would be subject to bargaining, the legislative act of adopting a resolution is outside of the Board's jurisdiction. In *SERB v. City of St. Bernard*, 1991 SERB 4-67 (1<sup>st</sup> Dist Ct App, Hamilton, 5-8-91), SERB addressed an unfair labor practice charge in which the City of St. Bernard enacted an ordinance pertaining to residency of fire fighters and applied the ordinance without bargaining with the union. The First District Court of Appeals held: "Although SERB may order a public employer to cease and desist from unfair labor practices committed against the bargaining unit as provided in R.C. 4117.12(B)(3), it lacks statutory jurisdiction to invalidate the ordinance of a political subdivision." Since the charge in the present case addresses only the adoption of the resolution and not the implementation of it, SERB does not have jurisdiction over this legislative act. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied   

7. Case 03-ULP-05-0280 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Rehabilitation and Correction, Pickaway Correctional Institution

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (5), and (8) by directly negotiating with J. Doherty with regard to his discipline, using threats of future discipline if he grieved the discipline, and interfering with the exclusive bargaining representative's obligation of providing its statutory duty of fair representation to the bargaining-unit employee. Information gathered during the investigation reveals there is no evidence the employer bypassed the Charging Party and threatened or negotiated directly with Mr. Doherty regarding his discipline and right to grieve. Instead, Mr. Doherty was represented at all relevant times. 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  
September 4, 2003  
Page 15 of 29

8. Case 03-ULP-05-0277 International Association of Fire Fighters, Local 512 v. City of Portsmouth

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally adopting a resolution regarding involuntarily disability separation. Information gathered during the investigation reveals the Charged Party unilaterally adopted a resolution dealing with involuntary disability separation in the middle of an existing 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 party and for lack of jurisdiction. Board Member Verich seconded the motion. The General Counsel stated this case is related to Item #6 of this meeting in Case 03-ULP-05-0276, and the recommendation is based on the fact that on February 24, 2003, the Charged Party's City Council adopted the resolution. While the implementation of the resolution is a matter that would be subject to bargaining, the legislative act of adopting a resolution is outside of the Board's jurisdiction. In *SERB v. City of St. Bernard*, 1991 SERB 4-67 (1<sup>st</sup> Dist Ct App, Hamilton, 5-8-91), SERB addressed an unfair labor practice charge in which the City of St. Bernard enacted an ordinance pertaining to residency of fire fighters and applied the ordinance without bargaining with the union. The First District Court of Appeals held: "Although SERB may order a public employer to cease and desist from unfair labor practices committed against the bargaining unit as provided in R.C. 4117.12(B)(3), it lacks statutory jurisdiction to invalidate the ordinance of a political subdivision." Since the charge in the present case addresses only the adoption of the resolution and not the implementation of it, SERB does not have jurisdiction over this legislative act. Chairman Drake called for the vote.

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

9. Case 03-ULP-07-0376 Kenneth Landberg v. Fraternal Order of Police, Lodge No. 67 and Lt. Gary Wolske

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code §§ 4117.11(A)(1) and (B)(1) and (2) by negotiating a contract without the Charging Party's knowledge or ratification, refusing to represent the Charging Party, and requiring him to pay \$288.75 for consulting with the union's attorney regarding his termination grievance. Information gathered during the investigation reveals the Charging Party is not a public employee under Ohio Revised Code Chapter 4117, the charge does not allege a violation covered under Ohio Revised Code Chapter 4117, and the charge is not within the jurisdiction of SERB. Board Member Verich moved that the Board dismiss the charge 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 \_\_

State Employment Relations Board Minutes  
September 4, 2003  
Page 16 of 29

10. Case 03-ULP-05-0290 Linda Holt and Lancaster School Support Association, OEA/NEA v. Lancaster City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by retaliating against the Charging Party for exercising guaranteed rights. Information gathered during the investigation reveals the Charged Party's actions of requiring Linda Holt to account for her time is not a violation of the statute. The Charging Parties were not harmed. 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   

11. Case 03-ULP-06-0310 Bexley Education Association, OEA/NEA 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) and (5) by dealing directly with bargaining-unit employees during contract negotiations. The Charging Party filed a motion to amend the charge changing the Ohio Revised Code § 4117.11(A)(3) violation to an (A)(5) violation. Information gathered during the investigation reveals there is no evidence to support direct dealing with the bargaining-unit employees took place. Board Member Verich moved that the Board grant the motion to amend the charge and 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   

12. Case 03-ULP-05-0281 Ohio Patrolmen's Benevolent Association v. City of Lorain

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (6) by repeatedly refusing to timely process grievances to arbitration. The Charged Party filed motions to dismiss the charge and to defer the charge to the grievance-arbitration process. Information gathered during the investigation reveals the reason given for delaying the arbitration process, unavailability of an essential witness, did not violate 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, and deny the Charged Party's motion to dismiss and defer as moot. 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  
September 4, 2003  
Page 17 of 29

13. Case 03-ULP-06-0319

Lisa L. Hawkins-Alahmad v. Lucas County  
Job and Family Services

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by changing the qualifications for a position in retaliation because the Charging Party filed a grievance and previous unfair labor practice charge, and the retaliation included forcing the Charging Party to work at a cold work station. Information gathered during the investigation reveals the Charging Party has received no harm, the allegation regarding the cold work station occurred in 2001, and the Union has been involved with the changes in minimum qualifications for various positions. The contract provides recourse through the grievance-arbitration process if the union has concerns with the reasonableness of the changes in minimum qualifications. 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, as untimely filed regarding the allegation concerning working in a cold environment, and as prematurely filed regarding any change to the investigator position. 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-ULP-05-0291

Dale G. Lipscomb v. Service Employees  
International Union, District 1199, AFL-  
CIO and Dave Regan

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(6) by failing to recognize local delegates, failing to negotiate independent of the Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, failing to allow negotiators to negotiate by issuing them predetermined negotiation packets, and by failing to conduct a proper successor contract ratification vote and count. Information gathered during the investigation reveals the Charging Party failed to show how the Charged Parties' actions were arbitrary, discriminatory, or in bad faith. The allegation regarding the local-delegate recognition was addressed through a previously filed unfair labor practice charge in Case No. 03-ULP-04-0207. 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, and dismiss the local delegate recognition allegation as a duplicate filing in Case 03-ULP-04-0207. 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  
September 4, 2003  
Page 18 of 29

15. Case 03-ULP-06-0302 Frank M. Latella v. Gahanna-Jefferson City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(5) by refusing to bargain with the Charging Party over a grievance issue. Information gathered during the investigation reveals the Charged Party denied the grievance and the Union did not advance it. The Charged Party's actions do 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. Chairman Drake stated that the Charging Party also lacked standing to raise the refusal-to-bargain allegations. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied   

16. Cases 03-ULP-05-0234 Mary Ann Adams v. Communications Workers of America, Local 4530, AFL-CIO and Diana Sharp
- 03-ULP-05-0263 Lynn A. Mominee v. University of Toledo
- 03-ULP-05-0264 Lynn A. Mominee v. Communications Workers of America, Local 4530, AFL-CIO and Diana Sharp
- 03-ULP-05-0269 Mary Ann Adams v. University of Toledo

In Cases 03-ULP-05-0263 and 03-ULP-05-0269, the unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (6) by failing to timely process the Charging Parties' grievance. In Cases 03-ULP-05-0234 and 03-ULP-05-0264, the unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to properly represent the Charging Parties during the processing of their grievance. Information gathered during the investigation reveals one grievance was filed by the Charging Parties and was processed through Step 2 by the Employer. One grievance does not establish a pattern or practice of failing to process grievances. The Union did not appeal the matter to arbitration because its investigation revealed the grievance lacked merit. Additionally, the Charging Parties knew in November 2002, that the Union was withdrawing the grievance, and the charges are untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Parties and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied

17. Case 03-ULP-04-0203

Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Local 2696, AFSCME, AFL-CIO 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 bargaining in bad faith when it implemented a merger of emergency medical service duties with the responsibilities of the fire division. Information gathered during the investigation reveals the Charged Party cannot unilaterally change the composition of the bargaining unit. Changes regarding duties must be negotiated. 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 bargaining in bad faith when it implemented a merger of emergency medical services duties with the responsibilities of the Fire Division, 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-04-0216

Lorain Education Association, OEA/NEA and Paul Biber v. Lorain City School District Board of Education and Anthony Cassano

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (3) by singling out Mr. Biber for a three-day suspension. Information gathered during the investigation reveals Mr. Biber was disciplined for reasons other than engaging in protected activity. 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  
September 4, 2003  
Page 20 of 29

19. Case 03-ULP-06-0297

Ohio Association of Public School  
Employees, AFSCME Local 4, AFL-CIO  
and Its Local 472 v. Bryan City 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 refusing to process a grievance. Information gathered during the investigation reveals the Charged Party did not refuse to process the grievance, and no appeal to arbitration was made. 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   

20. Case 03-ULP-06-0315

Marie S. Persin 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)(1) and (6) by failing to arbitrate the Charging Party's grievance. Information gathered during the investigation reveals the Charged Party processed the Charging Party's grievance to arbitration, the arbitration committee investigated the grievance, and it found no violation of the contract. The Charging Party appealed the grievance committee's ruling, and the appeal was denied. 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   

21. Case 03-ULP-06-0308

National Conference of Firemen and  
Oilers, Local 100 v. Akron 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 refusing to negotiate. Information gathered during the investigation reveals nothing has occurred requiring any negotiations, and no evidence of any harm was presented. 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  
September 4, 2003  
Page 21 of 29

22. Case 03-ULP-04-0193 Parma Heights Firefighters, IAFF Local 1690 v. City of Parma Heights Fire Department and Chief Brian Sloan

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing Standard Operating Procedure #804.4. The Charging Party filed a motion to expedite. Information gathered during the investigation reveals the Standard Operating Procedure was implemented March 3, 2003. The Charged Party's right to manage in the area of using the Charged Party's computers for personal interests outweighs any material effect on terms and conditions of employment. 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, and deny the motion to expedite. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

23. Case 03-ULP-04-0208 Municipal Construction Equipment Operators' Labor Council v. City of Cleveland

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2) and (3) by refusing to cease payroll deductions for dues and fees of the International Union of Operating Engineers, Local 18 (IUOE), the former bargaining representative, and to commence deductions for its dues and fees. Information gathered during the investigation reveals that until the Charging Party was certified by SERB, dues were taken out for IUOE. After the Charging Party was certified, no collective bargaining agreement was in place requiring the Charged Party to take dues out for the Charging Party. The continued deduction for IUOE dues for several employees was corrected, and the monies returned. 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  
September 4, 2003  
Page 22 of 29

24. Case 03-ULP-06-0333 United Steelworkers 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), (5), and (7) by hiring seasonal and/or temporary employees to perform bargaining-unit duties. Information gathered during the investigation reveals the Charged Party hired seasonal employees to perform bargaining-unit work. A grievance has been filed. Contract interpretation and application appear to lie at the heart of both the charge and the grievance dispute. VICE Chairman Gillmor 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). Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied   

25. Case 03-ULP-04-0221 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 689 v. Akron 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 stating it would negotiate a memorandum of understanding on the condition that grievances and legal actions taken on behalf of Bernadine Driskill be withdrawn. Information gathered during the investigation reveals Ms Driskill was not harmed, and no information was provided to support Ohio Revised Code § 4117.11(A)(1) or (8) 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 called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied

State Employment Relations Board Minutes  
September 4, 2003  
Page 23 of 29

26. Case 03-ULP-05-0246

Ohio Association of Public School  
Employees, AFSCME Local 4, AFL-CIO  
and Its Local 778 v. Akron 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 giving Robert Schutte unsatisfactory marks on his evaluation because he filed a grievance. Information gathered during the investigation reveals Mr. Schutte received the evaluation on January 22, 2003, which is more than 90 days before the charge was filed. No mitigating circumstances exist that warrant equitable tolling of the statute of limitations. 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   

27. Case 03-ULP-04-0204

Ohio Association of Public School  
Employees, AFSCME Local 4, AFL-CIO  
and Its Local 695 v. Parma 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 holding a disciplinary hearing without authorization under the contract, and failing to give the Charging Party notice of the employee's disciplinary hearing, then threatening the employee with a more severe discipline if he attempted to pursue the issue pursuant to the terms of the contract, and by denying two other employees union representation during a meeting. Information gathered during the investigation reveals the disciplinary hearing was held without notifying the Charging Party in violation of the contract. Richard Izzo was harmed and was engaged in protected activity with the Charged Party's knowledge. A credibility issue exists as to whether Mr. Izzo was threatened with more severe discipline. There was no information provided to support an Ohio Revised Code § 4117.11(A)(5) violation occurred, or that the two employees were entitled to representation at a meeting that was not investigatory or may have resulted in discipline. 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 (3), but not (A)(5), by threatening Richard Izzo with a more severe disciplinary measure if he attempted to pursue the issue under the terms of the agreement, 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

State Employment Relations Board Minutes  
September 4, 2003  
Page 24 of 29

28. Case 03-ULP-06-0338 Toledo Federation of Teachers, Local 250  
v. Toledo City School District Board of  
Education and Clinton Faulkner

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) by interfering with employee's right to take sabbatical leave. Information gathered during the investigation reveals the matter involves contract interpretation and does not violate 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   

29. Case 03-ULP-06-0355 Toledo Federation of Teachers, Local 250  
v. Toledo City School District Board of  
Education and Clinton Faulkner

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) by interfering with employee's right to take paraprofessional study leaves. Information gathered during the investigation reveals the matter is strictly contractual and 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 Parties. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied   

30. Cases 03-ULP-05-0292 Gary L. Martin v. State of Ohio,  
Department of Rehabilitation and  
Correction, Southeastern Correctional  
Institution

03-ULP-05-0293 Gary L. Martin v. Ohio Civil Service  
Employees Association, AFSCME  
Local 11, AFL-CIO, Chapter 2300

In Case 03-ULP-05-0292, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by violating the Charging Party's bumping and recall rights, failing to meet with him for his grievance step meetings, ignoring a grievance settlement offer, and failing to provide requested information necessary to process his grievance. In Case 03-ULP-05-0293, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by refusing to process the Charging Party's grievance, meeting with the Employer without his knowledge, refusing to provide requested information, and ignoring a grievance settlement offer. Information gathered during the investigation reveals that in Case 03-ULP-05-0292, contract interpretation is the issue and is not a statute violation, and in Case 03-ULP-05-0293, the Charged Party did not interfere with the Charging Party

State Employment Relations Board Minutes  
September 4, 2003  
Page 25 of 29

pursuing his grievance, but encouraged the Employer to process the grievance. The Charged Party did not pursue the grievance to arbitration because the grievance lacked merit, and the Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote:     DRAKE Aye             GILLMOR Aye             VERICH Aye  
           Affirmed X             Denied   

31.     Cases 03-ULP-06-0328

Salena Maazaoui v. Vanlue Local Schools  
Board of Education, Timothy Kruse, and  
Duane Hackworth

03-ULP-06-0329

Salena Maazaoui v. Vanlue Teachers'  
Association and Cathy Lauck

In Case 03-ULP-06-0328, the unfair labor practice charge alleges the Charged Parties' violated Ohio Revised Code § 4117.11(A)(1) and (3) by interfering with the Charging Party's Ohio Revised Code Chapter 4117 rights and refusing to renew her contract because of her relationship with Union Representative Jane Walter. In Case 03-ULP-06-0329, the unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(6) by causing the nonrenewal of the Charging Party and failing to support or arbitrate her meritorious grievance. Information gathered during the investigation reveals in Case 03-ULP-06-0328, the Charging Party did not provide any evidence to show the Charged Parties' action was a result of her engaging in any protected activity, or that she was restrained, coerced, or interfered with regarding her grievance. In Case 03-ULP-06-0329, information gathered during the investigation reveals the Charged Parties processed the Charging Party's grievance but did not take it to arbitration based on the merits. Evidence was provided to support that Union Representative Walter played a part in the Charging Party's contract not being renewed, and the union's actions were in bad faith. Board Member Verich moved that the Board in Case 03-ULP-06-0328, 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 in Case 03-ULP-06-0329, 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(B)(6) by acting in bad faith by playing a part to cause the nonrenewal of Salena Maazaoui's teaching contract, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake stated that there were questions about the relationships that needed to be addressed at hearing. Chairman Drake called for the vote.

Vote:     DRAKE Aye             GILLMOR Aye             VERICH Aye  
           Affirmed X             Denied

State Employment Relations Board Minutes  
September 4, 2003  
Page 26 of 29

32. Case 03-ULP-05-0231 Youngstown State University Association of Professional/Administrative Staff v. Youngstown State University

Vice Chairman Gillmor moved that the Board remand this case to the Investigation Division for the next Board meeting. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied   

33. Case 03-ULP-03-0116 Communications Workers of America, Local 4501 v. The Ohio State University
34. 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
35. Case 03-ULP-02-0057 International Union of Operating Engineers, Locals 66, 66A, B, C, D, O and R, AFL-CIO v. Springfield Township, Mahoning County
36. Case 03-ULP-03-0142 Ohio Patrolmen's Benevolent Association v. Geauga County Board of Commissioners

Board Member Verich moved that the Board construe the requests as motions for reconsideration, and deny the motions for reconsideration with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied   

37. Case 03-ULP-07-0356 Teamsters Local No. 377 v. Board of Mahoning County Commissioners/Mahoning County Child Support Enforcement Agency
38. Case 03-ULP-07-0375 Auglaize Acres v. Service Employees International Union, District 1199, AFL-CIO
39. Case 03-ULP-07-0383 Ohio Patrolmen's Benevolent Association v. Auglaize County Sheriff

State Employment Relations Board Minutes  
September 4, 2003  
Page 27 of 29

40. Case 03-ULP-07-0358 Ohio Patrolmen's Benevolent Association v. City of Cleveland
41. Case 02-ULP-08-0574 Mayfield City School District Board of Education v. Mayfield Education Association School Support Personnel
42. Case 03-ULP-05-0286 Mark A. Kellogg v. Toledo Public School Board of Education
43. Case 03-ULP-06-0341 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Green Local School District Board of Education
44. Case 03-ULP-06-0314 Allen County Child Support Enforcement Agency v. Communications Workers of America, Local 4319
45. Case 03-ULP-06-0350 Allen County Child Support Enforcement Agency v. Communications Workers of America, Local 4319
46. Case 03-ULP-06-0317 Communications Workers of America, Local 4319 v. Allen County Child Support Enforcement Agency
47. Case 03-ULP-08-0428 Teamsters Local Union No. 100 v. City of Monroe

Vice Chairman Gillmor moved that the Board construe the letters and notices 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   

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

Board Member Verich moved that Case 03-ULP-05-0232, be lifted from the Tabled Matters. 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  
September 4, 2003  
Page 28 of 29

Vice Chairman Gillmor moved that the Board construe the notice to withdraw as a motion to withdraw, and grant the motion with prejudice. 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>	

VI. ADMINISTRATIVE MATTERS

Board Member Verich moved that the Board authorize Patricia E. Snyder to act on behalf of the Board as the appointing authority and signatory for the Board on personnel, fiscal, payroll, expenditure, and contractual matters not to exceed \$5,000.00; that she be authorized to act on behalf of the Board in issuing directives for parties to attend mediation sessions and on behalf of the Board to seek enforcement of those directives if parties fail to comply; that she be authorized as signatory on unfair labor practice probable cause directives, complaints, and rules on behalf of the Board; and that the Board ratify all such actions taken by her as Executive Director retroactive to August 18, 2003. 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>	

Executive Director Pat Snyder stated the Health Care Report is at the printers, and she wanted to thank Vice Chairman Gillmor and Mediator Craig Young for their input into it. She also stated the next questionnaire will be out by October, there will be more responses on universities, and in the future the reports will be issued through a more structured deadline and tracking system.

Executive Director Snyder mentioned the budget figures and asked the Board to review them and to go over them with her and Fiscal Officer Danneta Babbs. Chairman Drake suggested that there should be an area in the budget showing how much is spent in each section at SERB, and to have it incorporated with the sections' goals and objectives.

Executive Director Snyder discussed briefly the Micro Computer System SERB is trying to use through the assistance of Ms. Patricia Opong. Ms. Opong's program is designed to assist with our minutes, agendas, quarterly reports, and many other functions where consistency throughout the whole agency is important. Administrative Assistant Sandy Iversen and Labor Relations Specialist Amy Hughes will test it out in the coming week. There have been some glitches in the system. Once corrected, it should save the agency time and money on many procedures used.

Executive Director Snyder mentioned the e-mail virus that has been going around, and the fact that there were 12,351 attempts trying to penetrate SERB's computers. She stated the agency has some very good software that has helped prevent a potential problem with the virus and the fact that the staff has been instructed not to open these unusual e-mails. It could have caused some serious problems had it gone through our computer system.

State Employment Relations Board Minutes  
September 4, 2003  
Page 29 of 29

Executive Director Snyder mentioned the registration for the upcoming Developing Labor Law Conference was at 125 people, with 77 attending the all-day session.

Executive Director Snyder stated that the Combined Charitable Campaign at SERB will start with a Dress Down Kickoff Breakfast on September 5, 2003, Community Care Day on September 10, 2003, and other upcoming events.

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