

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, September 18, 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 September 4, 2003. 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-04-0061 Lakota Transportation Association and Truck Driver, Chauffeurs and Helpers Local Union No. 100 and Lakota Local School District, October 1, 2003

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 have entered into a Consent Election Agreement seeking an election on October 1, 2003. Board Member Verich moved that the Board approve the Consent Election Agreement and direct an election to be conducted on the date as indicated. 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-REP-06-0097 Teamsters Local 377 and Trumbull County Commissioners

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The substantial evidence was sufficient, and the Employer has complied with the posting requirements. The Employer also filed objections. A conference call was conducted, and the Employer filed a letter withdrawing the objections and requested an election. The Employer was advised that the Board allows the withdrawal of the objections, but cannot go forward with an election request because the Board did not receive a Petition for Representation Election prior to the 21-day objection deadline, pursuant to Ohio Administrative Code Rule 4117-3-02(B)(1). Vice Chairman Gillmor moved that the Board construe the Employer's letter as a motion to withdraw objections, grant the motion, and certify the Employee Organization as the exclusive representative of all employees in the bargaining unit. Board Member Verich seconded the motion. Chairman Drake then called for the vote.

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

3. Case 03-REP-07-0119 Georgetown Federation of Teachers, OFT/AFT and Georgetown Exempted Village Board of Education
4. Case 03-REP-07-0120 Ohio Patrolmen's Benevolent Association and Columbus Regional Airport Authority
5. Case 03-REP-07-0129 Fraternal Order of Police, Capital City Lodge #9 and Columbus Regional Airport Authority
6. Case 03-REP-07-0130 Winton Woods Teachers' Association, OEA/NEA and Winton Woods City School District Board of Education
7. Case 03-REP-07-0131 Independence Education Association, OEA/NEA and Independence Local School District
8. Case 03-REP-07-0132 Medina County Vocational Center Education Association, OEA/NEA and Medina County Joint Vocational School District
9. Case 03-REP-07-0133 Fraternal Order of Police, Ohio Labor Council, Inc. and Greene County Sheriff

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10. Case 03-REP-07-0134 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Coshocton Metropolitan Housing Authority
11. Case 03-REP-08-0138 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Dayton City School District Board of Education

In Case 03-REP-07-0119, the parties jointly filed a Petition for Amendment of Certification seeking to change the Employee Organization's name to Georgetown Federation of Teachers/OFT/AFT and amend the certification to reflect current contract language. In Cases 03-REP-07-0120 and 03-REP-07-0129, the parties jointly filed a Petition for Amendment of Certification seeking to amend the certification to change the Employer's name to Columbus Regional Airport Authority. In Case 03-REP-07-0130, the parties filed a Petition for Amendment of Certification seeking to amend the certification to reflect the Employer's and Employee Organizations' name changes. In Case 03-REP-07-0131, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to exclude Athletic Director. In Case 03-REP-07-0132, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect the current contract language and to exclude Computer Coordinator. In Case 03-REP-07-0133, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include Paramedic. In Case 03-REP-07-0134, the parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include one newly created position and to reflect title changes to both the included and excluded language of the bargaining unit. In Case 03-REP-08-0138, the parties have jointly filed a Petition for Amendment of Certification seeking to create two separate bargaining units. Board Member Verich moved that the Board approve the jointly filed petitions and amend the units and certifications accordingly. 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-REP-05-0086 Professionals Guild of Ohio and Montgomery County Board of Mental Retardation and Developmental Disabilities
13. Case 03-REP-07-0121 Communications Workers of America and Jefferson County Children's Services Board

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14. Case 03-REP-07-0122 Communication Workers of America and Jefferson County Engineer

In Case 03-REP-05-0086, the Employee Organization filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect the inclusion of courier. The Employer filed a letter stating it did not oppose the amendment. In Case 03-REP-07-0121, the Employer filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect current contract language. The Employee Organization filed a letter stating it did not oppose the amendment. In Case 03-REP-07-0122, the Employer filed a Petition for Amendment of Certification seeking to amend the existing unit to include Crew Leader/Operator and Tractor Truck Operator. The Employee Organization filed a letter stating it did not oppose the amendment. Vice Chairman Gillmor moved that the Board construe the Petitions for Amendment of Certification as jointly filed, approve the petitions, and amend the units accordingly. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

15. Case 03-REP-05-0093 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Licking Metropolitan Housing Authority

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employer has filed objections. A conference call was conducted for the purpose of executing a Consent Election Agreement; however, the Employee Organization and Employer could not reach an agreement as to an appropriate bargaining unit. The case has been mediated, and the parties' dispute remains. Board Member Verich moved that the Board direct this matter to hearing to determine an appropriate bargaining unit and for all other relevant issues. 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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16. Case 03-REP-07-0114 Teamsters Local Union 413 and Columbus Regional Airport Authority

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employer filed objections. The Employee Organization filed a response. A conference call was conducted for the purpose of executing a Consent Election Agreement; however, the parties were not to reach an agreement as to an appropriate bargaining unit. The case has been mediated. The parties' dispute remains. Vice Chairman Gillmor moved that the Board direct this matter to hearing to determine an appropriate bargaining unit and for all other relevant issues. 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-REP-02-0029 Ohio Patrolmen's Benevolent Association and City of Solon

- There were 5 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Ohio Patrolmen's Benevolent Association received 5 votes and has prevailed in this election.

18. Case 03-REP-05-0080 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc., and City of Warrensville Heights

- There were 6 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received 1 vote
- Ohio Patrolmen's Benevolent Association received 5 votes and has prevailed in this election.

19. Case 02-REP-12-0243 Owens Faculty Association-AFT/OFT and Owens Community College

Unit A:

- There were 20 ballots cast
- There was 1 challenged ballot
- No Representative received 2 votes
- Owens Faculty Association-AFT/OFT received 17 votes and has prevailed in this election.

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Unit B:

- There were 9 ballots cast
- There were 0 challenged ballots
- No Representative received 1 vote
- Owens Faculty Association-AFT/OFT received 8 votes and has prevailed in this election.

Unit C:

- There were 14 ballots cast
- There were 0 challenged ballots
- No Representative received 1 vote
- Owens Faculty Association-AFT/OFT received 13 votes and has prevailed in this election.

Board Member Verich moved that the Board certify the election results, and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining units, and in Case No. 02-REP-12-0243, add employees in Units A, B, and C to the existing bargaining unit. 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-REP-03-0062 Ohio Patrolmen's Benevolent Association and UAW Local 70 and Cuyahoga County Sheriff's Department

On February 27, 2003, the Board sustained election objections and directed a rerun election per SERB Opinion 2003-001. The rerun election was scheduled for September 24, 2003. On September 16, 2003, the Representation Division received a letter from the Ohio Patrolmen's Benevolent Association withdrawing the Petition for Representation Election. Vice Chairman Gillmor moved that the Board construe the Rival Employee Organization's letter as a motion to withdraw, grant the motion, and vacate the direction to election. Board Member Verich seconded the motion. Chairman Drake commented that she found it odd that a lot of time was spent with the hearing and now a withdrawal is filed. Chairman Drake then called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 02-ULP-06-0455 SERB v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 100, AFL-CIO

On October 10, 2002, the Board determined that probable cause existed for believing the Respondent had committed or was committing unfair labor practices, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to the unfair labor practice mediation process. On December 5, 2002, the parties filed a settlement agreement that resolved the underlying dispute. On December 12, 2003, the Board approved and adopted the settlement agreement; construed the settlement agreement as a motion to withdraw and dismiss; granted the motion; dismissed the complaint; and dismissed with prejudice the unfair labor practice charge. On August 6, 2003, Mr. Gillam filed a motion to show cause, contending that the Respondent has failed to comply with the terms of the settlement agreement. The Respondent did not file a response to the motion. From the materials provided, whether the Respondent has fully complied with the settlement agreement is a matter that must be addressed through a hearing on the motion to show cause. Board Member Verich moved that the Board direct this matter to a show cause hearing to determine whether the Respondent has complied with the settlement agreement, and, if not, what acts must be taken to be in compliance. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

2. Case 02-ULP-02-0084 SERB v. City of Springdale

On June 6, 2002, the Board found probable cause to believe a violation had occurred, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to the unfair labor practice mediation process. On August 13, 2002, the parties entered into a settlement agreement that resolved the underlying dispute to the unfair labor practice charge. On September 5, 2002, the Board approved and adopted the settlement agreement; construed the settlement agreement as motions to withdraw and dismiss; granted the motion; dismissed the complaint; and dismissed with prejudice the unfair labor practice charge. On July 17, 2003, the Charging Party submitted a letter to show cause, contending that the Respondent had failed to comply with the terms of the settlement agreement. On August 8, 2003, the letter was sent to the Respondent. On August 19, 2003, the Respondent filed its response to the motion. On September 2, 2003, the Respondent submitted supplemental information concerning this matter. From the materials provided, whether the Respondent has fully complied with the settlement

agreement is a matter that must be addressed through a hearing on the motion to show cause. Vice Chairman Gillmor moved that the Board construe the Charging Party's letter as a motion to show cause, and direct this matter to a show cause hearing to determine whether the Respondent has complied with the settlement agreement and, if not, what acts must be taken to be in compliance. Board Member Verich seconded the motion. Chairman Drake asked whether the issue is timely for the Board to respond to this action. The General Counsel responded that the motion is timely since the rules do not have any time requirements for a motion to show cause. Chairman Drake then 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-06-0301 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Rehabilitation and Correction, Mansfield Correctional Institution

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (5), and (8) by refusing to abide by a grievance-settlement agreement. Information gathered during the investigation reveals the matter at issue involves contract interpretation and is not a statutory violation. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake asked whether a grievance had been filed; the Investigation's Administrator stated that the parties had not provided that information. Chairman Drake then called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

2. Case 03-ULP-06-0311 Mohawk Education Association, OEA/NEA v. Mohawk Local School District Board of Education

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally extending the workday and has retaliated against the Union President for engaging in protected activities. Information gathered during the investigation reveals the Charging Party knew of the extended work day in August 2002. The investigation indicates that the Charged Party has discriminated against Ms. Nutter for engaging in protected activities regarding filling vacancies. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of

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a complaint, 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 passing over Union President Nutter for the summer-school teaching vacancies because of her exercise of an Ohio Revised Code Chapter 4117 right, and Ohio Revised Code § 4117.11(A)(1) by passing over Union President Nutter for the math vacancy, 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-06-0306 Ohio Federation of Teachers v. Owens Community College

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against known union organizers by terminating their employment for actions where others, committing the same or similar acts, received little or no discipline. Information gathered during the investigation reveals the employee's terminations were for reasons unrelated to their protected activities. 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 then called for the vote.

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

4. Case 03-ULP-07-0361 Drew Dangel, et al. v. Franklin County Coroner's Office

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by eliminating the Charging Parties' work hours because they supported the effort to unionize, and because they filed previous unfair labor practice charges. Information gathered during the investigation reveals the loss of work hours is a result of converting six part-time positions into three full-time positions, and not for engaging in protected activities. 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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5. Case 03-ULP-06-0321 Bunita Field v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to address the key issue of the Charging Party's grievance at the mediation step and refusing to take the grievance to arbitration. Information gathered during the investigation reveals the decision was not arbitrary, discriminatory, or in bad faith, but based upon the merits of the case. The alleged harm of the mediation in May 2002, occurred more than 90 days before the charge was filed with the Board. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party, and as untimely filed with regard to the 2002 mediation. 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-06-0330 Crystal Davis v. Copley-Fairlawn City Schools

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by denying the Charging Party's grievance because of her exercise of guaranteed rights. Information gathered during the investigation reveals the charge was untimely filed. 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

7. Case 03-ULP-04-0222 Rodney Williamson v. Genoa Township, Delaware County

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by disciplining and threatening discipline in retaliation for engaging in protected activities. Information gathered during the investigation reveals the discipline was for reasons other than exercising guaranteed rights. No information was provided to support an Ohio Revised Code § 4117.11(A)(5) violation occurred. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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8. Case 03-ULP-07-0360 Latesha L. Lester v. Ohio Council 8,
American Federation of State, County and
Municipal Employees, AFL-CIO

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to fairly represent the Charging Party. Information gathered during the investigation reveals the Charged Party did not take the Charging Party's grievance to arbitration based on the merits of the case. 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

9. Case 03-ULP-07-0369 Uniformed Police Personnel Organization
v. City of Euclid

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by failing to timely reject a fact-finder's report, and refusing to follow the terms of the deemed-accepted report. Information gathered during the investigation reveals the Charged Party bargained in bad faith by refusing to execute the parties' successor collective bargaining agreement. No information was provided to support an Ohio Revised Code § 4117.11(A)(3) violation occurred. 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 an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5), but not (A)(3), by refusing to execute the parties' successor collective bargaining agreement, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Discussion took place regarding the seven-day rule and how it is addressed in the administrative rule. Chairman Drake mentioned how important this issue is, and that this issue was a typographical error, and this situation could have been avoided with action within the seven-day period. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

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10. Case 03-ULP-05-0243 International Brotherhood of Teamsters,
Local 436 v. Ohio Turnpike Commission

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code §§ 4117.11(A)(1) and (3), and (B)(1) by disciplining, questioning, and harassing three union stewards. Information gathered during the investigation reveals Ms. Slovay did not receive any harm, Mr. Allomong was denied a pay raise for reasons other than exercising guaranteed rights, and the Charging Party withdrew the allegation regarding Mr. Hofbauer. The Ohio Revised Code § 4117.11(B)(1) allegation is inappropriate to file against the Employer. 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-07-0370 Ohio Patrolmen's Benevolent Association
v. Portage County Sheriff

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) through its negotiation of a successor collective bargaining agreements that necessitated the filing of joint Petitions for Amendment of Certification, and failing to implement the agreements or file the joint petitions. Information gathered during the investigation reveals the Charged Party failed to respond to the allegations. The Charged Party failed to sign and file joint petitions pursuant to negotiated changes, and failed to implement the successor collective bargaining agreements. 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 an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to implement the collective bargaining agreements as negotiated, dismiss the allegations in the charge concerning the Charged Party's failure to sign or file the joint Petitions for Amendment of Certification as premature, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. During discussion, it was mentioned that the Charging Party is a Board-certified exclusive representative, and it could unilaterally file the amendment petitions. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

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12. Case 03-ULP-05-0241

Freight Drivers, Dockworkers and Helpers
Teamsters Local Union No. 24 v. Brimfield
Township, Portage County

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) because the Charged Party failed to bargain in good faith. Information gathered during the investigation reveals the parties did not negotiate any ground rules for bargaining, and the Board is left with a credibility issue as to what the parties agreed. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by agreeing to a wage proposal on October 21, 2002, and then making an inconsistent wage proposal on March 27, 2003, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

13. Case 03-ULP-05-0231

Youngstown State University Association
of Professional/Administrative Staff v.
Youngstown State University

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally eliminating the past practice of providing employees with compensatory time for time spent over their forty-hour work week. The Charged Party filed a motion to defer to arbitration. Information gathered during the investigation reveals the parties' contract provides for averaging work hours. 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 motion as moot. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

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14. Cases 03-ULP-04-0228 Anthony D. Giusto v. Cleveland Teachers Union, Local 279, AFT, AFL-CIO
- 03-ULP-05-0247 Anthony D. Giusto v. Cleveland City School District Board of Education

In Case 03-ULP-04-0228, the unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by failing to represent the Charging Party in his effort for employment with the Cleveland City School District, and preventing him from seeking union office. Information gathered during the investigation reveals the Charged Party's actions were based upon a 1999 decision regarding a similar situation, and the actions were not arbitrary, discriminatory, or in bad faith. In Case 03-ULP-05-0247, the unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by refusing to hire the Charging Party because he engaged in protected activities. Information gathered during the investigation reveals the allegations regarding the Charging Party not being hired into the coaching positions because he engaged in protected activities have merit. The Charging Party's only previous contact with the manager deciding the hiring was when he was engaged in protected activities. The allegations that the Charging Party was not hired as a tutor for engaging in protected activities is untimely filed. Board Member Verich moved that the Board, in Case 03-ULP-04-0228, 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 in Case 03-ULP-05-0247, 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 refusing to hire the Charging Party for positions applied for or decided within the 90 days prior to the filing of the charge on May 9, 2003, because he engaged in protected activities, 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 __

15. Case 03-ULP-06-0316 Doctor's Professional Association v. State of Ohio, Rehabilitation Services Commission, Bureau of Disability Determination

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (2) by interfering with and restraining employees from engaging in protected activities. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice because the Charging Party failed to pursue the matter. 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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16. Case 03-ULP-07-0372

Ohio Association of Public School
Employees, AFSCME Local 4, AFL-CIO
and Its Local 673 v. Southington Local
School District Board of Education

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by implementing a collective bargaining agreement without providing the Charging Party with a last, best offer, and by including a permissive subject of bargaining. Information gathered during the investigation reveals no probable cause exists to believe the Charged Party has violated Ohio Revised Code § 4117.11. On February 26, 2003, the parties settled Case Nos. 02-ULP-10-0653 and 02-ULP-10-0694 by entering into an agreement to bargain for at least two more sessions with the assistance of the federal mediator. The investigation revealed those two meetings occurred and that several proposals were exchanged. A "supposal," which was not a proposal, was also made during negotiations. A "supposal" is a hypothetical resolution that could be reached supposing the other party made the suggested resolution as its own proposal. The Charged Party's offer at the table was influenced by exigent circumstances, such as State funding reductions and reduced revenue, and increased costs associated with maintaining the health benefit provisions of the expired collective bargaining agreement. The parties were engaged in "hard bargaining," particularly on the issue of health insurance benefits, until "ultimate impasse" was reached. The Charged Party has not wavered from its May 2, 2003 last, best offer.

The expired Agreement contained a provision titled "Project Review Committee." The Charged Party's implementation of its "Project Review" provision falls within the contractual topic and was ripe for negotiation and inclusion into the last, best offer.

The parties had been in negotiations for more than two years, and the costs of the previous Agreement were becoming cost prohibitive for the Charged Party. With the additional State cuts of 2.5% made in early March 2003, the increased cost of health insurance, and the obligation to pay for insurance buyouts as called for under the terms of the expired Agreement, the Charged Party could no longer honor its previous financial proposals and the last, best offer in May 2003, reflected that concern.

Additionally, the investigation reveals that the Charged Party had the right to implement its last, best offer. Once the Charged Party announced its last, best offer, it did not sway or give any indication that it was going to negotiate any further.

The issue of whether the February 26, 2003 settlement agreement was violated is congruent with the other allegations contained in the charge. The Charged Party did meet twice within the 40 days required under the settlement. The Charged Party bargained in good faith, which was another requisite under the settlement. Under the totality of the circumstances of the events occurring subsequent to the signing of the settlement, the settlement was not violated by the Charged Party. 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 discussion on this case. Board Member Verich stated that the parties have tried to resolve the differences for the past two years, and due to economical factors these days, it has made it hard to do this. He also said that this case should be used as an example for others to learn

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from it. Executive Director Pat Snyder thanked the Board for hearing this case today as it is a priority issue, and thanked the Investigation Section in trying to resolve the matter before it being addressed by the Board. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

17. Case 03-ULP-06-0300 Twinsburg Support Staff Association, OEA/NEA v. Twinsburg City School District Board of Education

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

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

18. Case 03-ULP-07-0380 Euclid Teachers Association, OEA/NEA v. Euclid City School District Board of Education
19. Case 03-ULP-07-0381 Euclid Teachers Association, OEA/NEA, et al. v. Euclid City School District Board of Education
20. Case 03-ULP-05-0271 Service Employees International Union, Local 47 v. Cuyahoga Metropolitan Housing Authority
21. Case 03-ULP-09-0433 International Brotherhood of Teamsters, Local 20 v. City of Toledo

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

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

VI. ADMINISTRATIVE MATTERS

Executive Director Pat Snyder reported on a letter she had drafted to send to Auditor of State Betty Montgomery in response to audit recommendations for improving SERB's fiscal procedures and internal communications. She reviewed the five items listed in her letter as follows: 1) Inventory/Fixed Assets – stated that Fiscal Specialist Dannetta Babbs has conducted a physical inventory of agency equipment, and has attended DAS-sponsored inventory control training and expects to receive further training on the data entry of inventory on the FAMS system when it is operational in November 2003, and has issued inventory procedures to require an approved Inventory Input Document to ensure that all new inventory items purchased are included in FAMS records, as appropriate; 2) Payroll-Internal Controls – a payroll reconciliation log has been created, on which the Fiscal Specialist documents her reconciliation of payroll change screens and employee timesheets; 3) Information Communication–Policies and Procedures – a flow chart now specifies when Board Members are to receive various types of information. Ms. Snyder also noted that Board members will be asked to acknowledge receipt of information on a Board member Information Log; 4) Revenue-Segregation of Duties – the Executive Director has been given read-only computer access to the Fiscal Specialist's check register log, so she can reconcile the check register log with the bi-weekly deposits. This action is being done due to the fact that SERB's Fiscal Office has only one employee assigned, and there should be someone else to perform this reconciliation of funds; and 5) Information Technology-Monitoring Controls – the Research and Training Section has a tracking tool in its ACCESS database to determine which public employers have not timely submitted collective bargaining agreements and information to the SERB clearinghouse, but it lacks staff time to follow up with these non-complying entities. Efforts are underway to recruit a student intern to assist with this tracking project.

Executive Director Snyder discussed computers, and how the agency has lost 3 computer monitors recently due to breakdowns and are in need of 3 new ones. SERB has received three quotes to replace the monitors, and the lowest one is from an MBE in the amount of \$837.45. No money was set aside in the budget for the purchases.

Executive Director Snyder reported on SERB's Developing Labor Law Seminar. There were 114 registered and the agency made an estimated \$4,500.00. A practitioners' panel, discussing SERB's decisions, was especially popular. She also mentioned that the research department profited very well from this conference. The agency printed 750 health care insurance reports and that the Governor, Speaker of the House, and President of the Senate will also be sent this report.

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Executive Director Snyder mentioned the Combined Charitable Campaign is underway. The goal is for a total of 16 people to take part in the payroll deductions program of this campaign. The agency has a hard time meeting this goal, but not the projected money goal to be raised, which is \$5,538.00. Jackie Murray, the agency's coordinator, has done an excellent job coordinating different events, including a "Jello-a-thon". All the events are fun and exciting, and she has encouraged all to participate.

Executive Director Snyder discussed that at an upcoming managers' meeting, goals and objectives will be discussed. The goals and objectives will help support figures used in each section budget.

Vice Chairman Gillmor 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. Board Member Verich seconded the motion. Chairman Drake called for the roll-call vote.

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

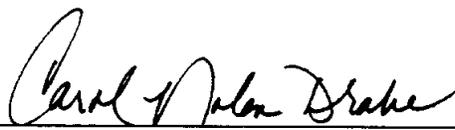
Board Member Verich moved that the Board exit from executive session. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the roll-call vote.

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

VII. ADJOURNMENT

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