

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, October 16, 2003, at 10:00 a.m., at 65 East State Street, Columbus. Present at the meeting were Chairman Drake, Vice Chairman Gillmor, and Board Member Verich.

I. APPROVAL OF MINUTES FOR PREVIOUS MEETING:

Vice Chairman Gillmor moved that the Board approve the minutes for the regular meeting on October 1, 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:

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| 1. | Case | 03-REP-06-0106 | <u>Ohio Patrolmen's Benevolent Association and Chester Township, Geauga County, October 28, 2003</u> |
| 2. | Cases | 03-REP-06-0105
03-REP-06-0113 | <u>Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Chester Township, Geauga County, October 28, 2003</u> |

In Case 03-REP-06-0106, the Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The parties entered into a Consent Election Agreement seeking an election on October 28, 2003. In Cases 03-REP-06-0105 and 03-REP-06-0113, 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 28, 2003. Board Member Verich moved that the Board approve the Consent Election Agreements and direct the elections to be conducted on the dates 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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- 3. Case 03-REP-08-0152 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Warren County Board of Mental Retardation and Developmental Disabilities

- 4. Case 03-REP-09-0159 Fraternal Order of Police, Ohio Labor Council, Inc. and Hamilton County Sheriff

- 5. Case 03-REP-09-0180 Uhrichville Firefighters, IAFF Local 4265 and City of Uhrichville

In Case 03-REP-08-0152, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties jointly filed a Petition for Amendment of Certification seeking to amend the certification to exclude certain positions from the existing bargaining unit. This joint amendment is the result of the withdrawal of Case 03-REP-04-0066. In Case 03-REP-09-0159, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include Information Clerk. In Case 02-REP-09-0180, the Employee Organization is the deemed-certified exclusive representative of certain employees of the Employer. The parties jointly filed a Petition for Amendment of Certification seeking to amend the certification to change IAFF Local 1501 to IAFF Local 4265. Vice Chairman Gillmor moved that the Board approve the jointly filed petitions, and amend the units accordingly. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

- 6. 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. On September 4, 2003, the Board

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directed the case to hearing to determine the bargaining-unit status of the employees in question. As a result of further mediation efforts, the Employee Organization filed a motion to withdraw the Petition for Clarification of Bargaining Unit. Board Member Verich moved that the Board grant the Employee Organization's motion and dismiss without prejudice the Petition for Clarification of Bargaining Unit. 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-03-0043 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Hamilton County Engineer

The Employee Organization filed an Opt-in Petition for Representation Election seeking to represent certain employees of the Employer, and to add them to an existing unit. The Employer responded by filing objections and a Motion to Dismiss. The Employee Organization has not confirmed changed circumstances or equitable considerations supporting inclusion pursuant to In re Cincinnati Technical College, SERB 94-018 (10-17-04). Vice Chairman Gillmor moved that the Board grant the Employer's motion to dismiss as it relates to failure to confirm a change of circumstances or equitable considerations, and dismiss without prejudice the Opt-in 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

8. Case 03-REP-03-0056 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of London

On July 24, 2003, the Board conducted a secret ballot election for certain employees (Unit Clerical) of the Employer. There were six (6) eligible voters. The Employee Organization received four (4) votes, No Representative received two (2) votes, and there were two (2) determinative challenged ballots. The Employee Organization had filed objections to the voter eligibility list filed by the Employer. The Employer filed a response. The Employee Organization and Employer filed post-election position statements regarding the challenged ballots pursuant to Ohio Administrative Code Rule 4117-5-10(B). The two determinative challenged ballots were cast by Karen Gorman and Michelle Rammel because their names did not appear on the voter eligibility list. The Employer excluded these two employees from the voter eligibility list. The Employer maintains that Ms. Gorman is a confidential employee and supervises two bargaining-unit employees. The Employer maintains that Ms. Rammel is the Assistant Tax Director and a management level employee. The Employee Organization states that Ms. Gorman and Ms. Rammel's job duties are strictly clerical and that both employees should have been included on the voter eligibility list and included in the Clerical Unit. Board Member Verich moved that the Board direct this matter to hearing to determine

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the eligibility of Karen Gorman and Michelle Rammel and for all other relevant issues, and direct the parties to mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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9. Case 03-REP-03-0056 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of London

Unit A – Public Utilities

- There were 18 ballots cast
- There was 1 challenged ballot
- No Representative received 0 votes
- Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 17 votes and has prevailed in this election.

Unit B – Street

- There were 5 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 5 votes and has prevailed in this election.

10. Case 03-REP-06-0110 Ohio Patrolmen's Benevolent Association and City of Clayton

- There were 3 ballots cast
- There was 0 challenged ballot
- No Representative received 0 votes
- Ohio Patrolmen's Benevolent Association received 3 votes and has prevailed in this election.

Vice Chairman Gillmor moved that the Board certify the election results and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining units. 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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IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 02-ULP-11-0751 SERB v. City of Sheffield Lake

Board Member Verich moved that the Board amend Finding of Fact No. 7 to read, "so long as the City paid the full cost of any premiums" instead of "the premiums"; adopt the Findings of Fact, as amended, Analysis and Discussion, and Conclusions of Law in the Proposed Order; and issue an Order with a Notice to Employees ordering the Respondent to: (1) cease and desist from interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Ohio Revised Code Chapter 4117, refusing to bargain collectively with the exclusive representative of its employees, and otherwise violating Ohio Revised Code Sections 4117.11(A)(1) and (A)(5) by failing to execute a successor collective bargaining agreement under the terms to which it has agreed and under which it has already accepted a benefit; (2) promptly sign a copy of the collective bargaining agreement that requires the Respondent to pay the total health insurance premiums for the life of the contract; (3) post for sixty days, in all the usual and normal posting locations where bargaining-unit employees represented by the Ohio Patrolmen's Benevolent Association work, the Notice to Employees furnished by SERB stating that the Respondent shall cease and desist from the actions set forth in paragraph (A), and shall take the affirmative actions set forth in paragraph (B), of the Notice to Employees; and (4) notify SERB in writing within twenty calendar days from the date the Order becomes final of the steps that have been taken to comply therewith. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

2. Case 03-ULP-03-0154 Maple Heights Transit Employees Association v. City of Maple Heights
3. Case 03-ULP-03-0155 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Its Local 1039 v. City of Portsmouth, Gregory A. Bauer, and M. Trent Williams
4. Case 03-ULP-02-0082 SERB v. City of Shaker Heights
5. Case 03-ULP-04-0223 SERB v. Teamsters Local 284
6. Cases 02-ULP-07-0481
 02-ULP-08-0566
 02-ULP-09-0621 SERB v. Ohio Association of Public School Employees, AFSCME, AFL-CIO and Its Local 274
7. Case 02-ULP-11-0717 SERB v. Stryker Local School District Board of Education

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8. Case 03-ULP-05-0257 Fraternal Order of Police, Ohio Labor Council, Inc. v. Fulton County Sheriff

Vice Chairman Gillmor moved that the Board construe the notices of withdrawal and settlement agreements as motions to withdraw, grant the motions, dismiss the complaints, and dismiss with prejudice the unfair labor practice charges. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 03-ULP-07-0368 Bernadette Allen v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 1632, AFL-CIO

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(1), (3), and (6) by repeatedly refusing to represent the Charging Party regarding her termination in April 2003. Information gathered during the investigation reveals the Charged Party did not interfere with the Charging Party's rights, and its actions were not arbitrary, discriminatory, or in bad faith. The alleged harm occurred more than 90 days before the charge was filed with the Board. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

2. Case 03-ULP-07-0365 Fraternal Order of Police, Ohio Labor Council, Inc. v. Hamilton County Sheriff's Office and Simon L. Leis, Jr.

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1) and (5) by dealing directly with employees. Information gathered during the investigation reveals Ohio Revised Code Chapter 4117 does not cover original applicants' appointments for employment. The agreement was signed in 2001, and knowledge of the alleged harm occurred more than 90 days before the charge was filed with the Board. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged 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 __

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3. Case 03-ULP-07-0367 Gary S. Mathias v. Fraternal Order of Police, Capital City Lodge No. 9

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(6) by accusing the Charging Party of conducting a flawed Internal Affairs investigation of its grievant that prompted an internal investigation of the Charging Party, and failing to represent the Charging Party during the investigation. Information gathered during the investigation reveals the Charged Party aggressively defended the grievant who the Charging Party had investigated. The Charging Party did not request representation during his subsequent investigation. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

4. Case 03-ULP-06-0351 Penny L. Robinson v. City of Chillicothe, Randall Sneddon, and Wayne McLaughlin

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1), (3), (4), and (7) by transferring the Charging Party to another position. Information gathered during the investigation reveals the Charging Party engaged in protected activities with the Charged Parties' knowledge, but did not receive any harm. No information was provided to support Ohio Revised Code § 4117.11(A)(4) and (7) violations occurred. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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5. Case 03-ULP-07-0374 Teamsters Local No. 377 v. Liberty Township, Trumbull County

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), and (5) by repeatedly failing to designate a representative with authority to bargain or commence bargaining of the initial collective bargaining agreement. Information gathered during the investigation reveals the Charged Party has failed to negotiate an initial collective bargaining agreement and did interfere with the administration of the newly formed union. 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), but not (2), by failing to engage in negotiations for an initial collective bargaining 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

6. Case 03-ULP-07-0359 Ohio Patrolmen's Benevolent Association v. City of Cleveland

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally transferring bargaining-unit work to employees outside the bargaining unit. Information gathered during the investigation reveals the institutional guards were temporarily performing bailiff duties, and when bailiffs were hired, the guards went back to performing their regular duties. No guard duties were transferred to the bailiffs. 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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7. Case 03-ULP-05-0268 Communications Workers of America,
Local 4501 v. The Ohio State University

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), and (8) by refusing to allow an employee union representation when confronted by Gregg Ferrell with allegations of dishonesty and theft. Information gathered during the investigation reveals Mr. David Hartzler did not request union representation at the police interview. 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 __

8. Case 03-ULP-07-0377 Maple Heights Teachers Association,
OEA/NEA v. Maple Heights City School
District Board of Education

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by attempting to undermine the exclusive representative's status with its members and its ability to represent its members. Information gathered during the investigation reveals the Charged Party's actions may have interfered with the administration of the Charging Party, and the Charging Party's President was reprimanded for engaging in protected activity. 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), (2), and (3) by attempting to undermine the exclusive representative's status with its members and its ability to represent its members when it sent a letter to all bargaining-unit employees attacking the Association President, and by disciplining the Union President while acting in her role as Union official, direct the parties to ULP mediation, and deny the Charged Party's motion for sanctions. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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9. Case 03-ULP-08-0397 MARCA Education Association, OEA/NEA v. Marion County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by planning to sign a contract on August 4, 2003, to assign bargaining-unit duties outside the bargaining unit without negotiating with the Charging Party. Information gathered during the investigation reveals the charge is prematurely filed because the Charged Party has not implemented any change. 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

10. Case 03-ULP-08-0400 Scioto Township, Pickaway County v. Scioto Township Fire Fighters, Local 4000, IAFF

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(3) by unilaterally refusing to negotiate with the Charging Party despite service of the Notice to Negotiate and a prior verbal agreement. Information gathered during the investigation reveals no evidence of the verbal agreement, the Charged Party notified the Charging Party that it was not ready, and the contract was not due to expire for five months. The totality of the circumstances indicates that the Charged Party's failure to agree to the Charging Party's time to negotiate, which fell within an 18-day period, does not amount to bargaining in bad faith. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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11. Case 03-ULP-05-0282 Roosevelt Hampton, III v. International Brotherhood of Teamsters Local 20

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(6) by failing to represent the Charging Party when he was terminated. Information gathered during the investigation reveals the Charging Party was represented by the Charged Party. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Business Agent Terry Barror attempted to help the Charging Party above and beyond what is required by the statute. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

12. Case 03-ULP-05-0279 Debra A. Berkeley v. United Electrical, Radio and Machine Workers of America, Local 741, and Ruth Hollabaugh

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to pursue the Charging Party's grievance, and by denying her the opportunity to attend a Step 1 grievance meeting. Information gathered during the investigation reveals the Charged Parties did not advance the Charging Party's grievance because it lacked merit. No Step 1 meeting took place; the Charged Parties failed to uphold the Charging Party's right to a Step 1 meeting, which may have been based on an unlawful motive. 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 Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to pursue the Charging Party's grievance because she is a fair share fee payer, and by denying her the opportunity to attend a Step 1 grievance meeting as called for under the agreement, 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

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13. Case 03-ULP-08-0402 Jamshid Sabouri v. State of Ohio,
Department of Job and Family
Services

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by changing the non-traditional arbitration location from the Union's to the Charged Party's premises, and having its security guards constantly watch and follow the Charging Party around its premises on the day of the arbitration hearing. Information gathered during the investigation reveals the Charging Party suffered no adverse employment action. The Charged Party's activity of ensuring a violence-free work environment is not a violation of guaranteed rights. 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 __

14. Cases 03-ULP-05-0294 Kathleen A. Huth, et al. v. Ohio
03-ULP-05-0295 Education Association/National Educa-
tion Association

The unfair labor practice charges allege the Charged Party has violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to represent the Charging Parties and provide requested information. Information gathered during the investigation reveals the Charged Party has met with the Charging Parties and offered to meet again, but the Charging Parties declined. 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 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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15. Case 03-ULP-05-0289 John Short v. Lakota Local Schools Board of Education

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by terminating the Charging Party's light-duty assignment because he exercised guaranteed rights. Information gathered during the investigation reveals the Charged Party's actions appear to be in part due to the Charging Party exercising his guaranteed rights. 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 (3) by terminating the Charging Party's light-duty assignment because he exercised his guaranteed rights, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

16. Case 03-ULP-07-0371 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Scioto County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing changes to employees' terms and conditions of employment. Information gathered during the investigation reveals the Charged Party unilaterally changed terms and conditions of employment while the parties were in negotiations. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by implementing changes with respect to employees' work hours, procedures for storing their assigned vehicles, and changes in bus routes, 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

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17. Case 03-ULP-07-0366 Jason Allomong v. Ohio Turnpike Commission

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (2) by denying the Charging Party the right to receive overtime. Information gathered during the investigation reveals the matter is contractual with possible statutory violations. Board Member Verich moved that the Board grant the motion to defer, defer the charge to the parties' grievance-arbitration procedure, and retain jurisdiction pursuant to *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

18. Case 03-ULP-05-0285 Cynthia D. Preston, et al. v. State of Ohio, Rehabilitation Services Commission

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against the Charging Parties for filing a grievance, and by creating a hostile work environment. Information gathered during the investigation reveals the Charging Parties were not harmed for having engaged in protected activities. The statewide changes by the Charged Party were not implemented to interfere with, restrain, or coerce the Charging Parties in the exercise of guaranteed rights. The Charged Party's actions of correcting job duties is not a violation of the statute. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged 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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21. Case 03-ULP-06-0300 Twinsburg Support Staff Association,
OEA/NEA v. Twinsburg City 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 its last, best offer prior to reaching ultimate impasse. 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 implementing its last, best offer prior to reaching ultimate impasse, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for any discussion and stated that when reviewing the parties' statements, the number of days in bargaining being disputed, and the willingness of the parties to move on issues being in question, the Board needs more information through a hearing. A finding of probable cause should not be viewed as a win/lose situation, which should be reinforced through the SERB Academy. Chairman Drake called for the vote.

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

22. Case 03-ULP-05-0252 Johnny Brantley v. Amalgamated
Transit Union Local 627

On August 7, 2003, the Board dismissed the unfair labor practice charge for lack of probable cause to believe the Charged Party had violated Ohio Revised Code § 4117.11(B)(1) and (A)(8) by interfering with the Charging Party's guaranteed rights. On September 18, 2003, the Charging Party filed a request for reconsideration of the Board's decision. A review of the original investigation and new information reveals there is probable cause for believing a violation occurred. Board Member Verich moved that the Board construe the Charging Party's letter as a Motion for Reconsideration, grant the motion, find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(B)(1) by failing to provide the Charging Party with the appropriate form to file a grievance or file the grievance, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

23. Case 03-ULP-07-0389 Luereacie Holloway v. Golden Acres
Home/Lorain County Home

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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24. Case 03-ULP-07-0379 Pike Delta York Education Association, OEA/NEA v. Pike Delta York Board of Education
25. Case 03-ULP-06-0320 United Riverside Education Association, OEA/NEA v. Riverside Local School District Board of Education
26. Case 03-ULP-09-0446 Ohio Association of Public School Employees, AFSCME Local 419, AFL-CIO v. Jefferson Area Local School District Board of Education

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

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

VI. TABLED MATTERS

Vice Chairman Gillmor moved that Cases 03-ULP-07-0363 and 03-ULP-05-0251, be lifted from the Tabled Matters. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

1. Case 03-ULP-07-0363 Professionals Guild of Ohio v. Montgomery County Children Services

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally discontinuing the Masters of Social Work program and requiring employees to know how to type. Information gathered during the investigation reveals the Charging Party knew of the changes in August 2002 and in January 2003. The Charging Party did not make any formal proposals on the issues during negotiations. Board Member Verich moved that the Board dismiss the April 9, 2003 aspect of 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 for all other aspects of the charge. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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2. Case 03-ULP-05-0251 Ohio Patrolmen's Benevolent Association v. Sandusky County Sheriff and Sandusky County Commissioners

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1) and (5) by utilizing a private life squad service to perform bargaining-unit work while the Sheriff refuses to man a bargaining-unit life squad, and by the Commissioners failing to provide funding for emergency medical services while providing funding for private life squad service. The Charged Parties filed a motion to dismiss the Commissioners as a Charged Party. Information gathered during the investigation reveals the Commissioners are the legislative body and not the Employer. The Sheriff is not obligated to provide overtime pursuant to the contract, and the work being done is not exclusive to the bargaining unit. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice against the Commissioners for lack of jurisdiction, dismiss the charge with prejudice against the Sheriff for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties, and deny the motion to dismiss as moot. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

VII. ADMINISTRATIVE MATTERS

Executive Director Pat Snyder reported on the Disaster Recovery Plan, and has passed SERB's final plan to each Board member.

Executive Director Snyder discussed SERB's Intellivue system. SERB's IT Administrator Anderson Reed will be meeting with vendors regarding the Intellivue and SSI problems with the system, and will report back to the Board with further details.

Executive Director Snyder mentioned she has evaluations SERB received from the SERB Academy at Atwood, and available for the Board's review.

Executive Director Snyder mentioned an article in the *Columbus Dispatch* regarding car mileage used throughout the state, and the Department of Administrative Services' Break Even Point program. As of this time, usage by SERB employees is consistent with the DAS recommended levels.

Executive Director Snyder discussed with the Board the case closing figures from the Clerk's Office, and that there are still some 1998 closed cases targeted to be closed in the system.

Executive Director Snyder reported back to the Board on conference costs, and that the Ramada Inn space we rent costs about the same as renting three rooms at the Columbus Zoo. She also mentioned that our next conference is the Fact-Finder's conference at Atwood on October 24, 2004.

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Chairman Drake congratulated Vice Chairman Gillmor on her reappointment by the Governor to SERB. She, Board Member Verich, Executive Director Snyder, General Counsel Russ Keith, and the staff look forward to continuously working with her.

Executive Director Snyder wished the Board a Happy Boss' Day and thanked them for their continuous support as the agency's new Executive Director.

Executive Director Snyder reminded the Board that October 21 is Buckeye Bill Day, and everyone is looking forward to participating in the JELL-O eating/fund-raising activity where donations have been designated to go to various charities. Due to the generosity of the donations, she and Chairman Drake will also be participating. It is to be a day of fun and in remembrance of the passing of Administrative Law Judge Bill Dennis.

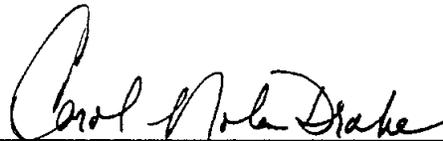
VIII. ADJOURNMENT

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