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8. Cases            03-MED-04-0502            Ohio Patrolmen's Benevolent Association and City of London  
                         03-MED-04-0504

The Fact Finder appointed to this case issued his report on September 25, 2003. On October 3, 2003, the Board received the vote from the Employer to accept the report. The Employee Organization did not vote on the fact finder's report. On November 4, 2003, the Board received a request from the fact finder to adjust his report. Vice Chairman Gillmor moved that the Board grant the fact finder's request to adjust the fact finder's recommendation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

III. REPRESENTATION MATTERS AT ISSUE:

1. Case    03-REP-07-0117            Fraternal Order of Police, Ohio Labor Council, Inc. and City of Martins Ferry

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The substantial evidence is sufficient, no objections have been filed, and the Employer has complied with the posting requirements. Board Member Verich moved that the Board certify the Employee Organization as the exclusive representative of all employees in the bargaining unit. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

2. Case    03-REP-09-0169            Chauffeurs, Teamsters, Warehousemen and Helpers, Local 377, IBT and Canfield School Bus Drivers and Canfield Local Board of Education, November 20, 2003
3. Case    03-REP-09-0160            Fraternal Order of Police, Ohio Labor Council, Inc. and City of West Carrollton, November 19, 2003

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4. Case 03-REP-04-0067 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Napoleon Area City School District Board of Education, November 18, 2003

In Case 03-REP-09-0169, 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 Employer filed a letter opposing the bargaining unit as petitioned for by the Rival Employee Organization. A conference call was conducted, and the parties have entered into a Consent Election Agreement seeking an election on November 20, 2003. In Case 03-REP-09-0160, 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. The parties have entered into a Consent Election Agreement seeking an election on November 19, 2003. In Case 03-REP-04-0067, 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. Conference calls were conducted. The parties have entered into a Consent Election Agreement seeking an election on November 18, 2003. Vice Chairman Gillmor moved that the Board approve the Consent Election Agreements and direct the elections to be conducted on the dates as indicated. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

5. Case 03-REP-10-0195 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO and State of Ohio
6. Case 03-REP-09-0189 Service Employees International Union, District 1199 WV/KY/OH and Portage County District Library
7. Case 03-REP-09-0166 Indian Hill Education Association, OEA/NEA and Indian Hill Exempted Village School District Board of Education
8. Case 03-REP-08-0153 Fraternal Order of Police, Ohio Labor Council, Inc. and Metro Parks Serving Summit County
9. Case 03-REP-08-0151 Teamsters Local Union No. 284 and Columbus State Community College

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| 10. | Case | 03-REP-08-0142 | <u>Ohio Patrolmen's Benevolent Association and Montgomery County Sheriff</u>   |
| 11. | Case | 03-REP-07-0116 | <u>Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Jefferson County Water and Sewer District</u> |

In Case 03-REP-10-0195, the Employee Organization is the Board-certified exclusive representative of State Bargaining Unit 14, which includes certain employees of the Employer. The parties have jointly filed a Petition for Amendment of Certification seeking to amend the certification to exclude one Administrative Assistant (PCN 41015.5). In Case 03-REP-09-0189, 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 certification to change the Employee Organization's name reflecting the merger of SEIU District 925 (Ohio) with SEIU District 1199 WV/KY/OH. The parties have provided information verifying that the appropriate internal union procedures have been followed, substantial continuity still exists, and no questions of representation are pending. In Case 03-REP-09-0166, 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 certification to change the Employee Organization's name and to include Coordinating Teachers and Certified Auxiliary Services employees, and to exclude the Athletic Director. In Case 03-REP-08-0153, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employer filed a Petition for Amendment of Certification seeking to amend the existing unit to exclude Assistant Park Ranger. The Employee Organization filed a letter stating it does not oppose the amendment. In Case 03-REP-08-0151, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed a Petition for Clarification of Bargaining Unit seeking to clarify the existing unit to exclude clerical and office support staff. The Employer filed a letter agreeing to the clarification sought. In Case 03-REP-08-0142, 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 Security Officers. In Case 03-REP-07-0116, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employer filed a Petition for Amendment of Certification seeking to amend the certification to change the Employer's name to Jefferson County Water and Sewer District, and to make changes to the existing bargaining unit. The Employee Organization filed a letter stating it does not oppose the amendment. Board Member Verich moved that the Board construe the Petitions for Amendment of Certification and Petition for Clarification of Bargaining Unit as jointly filed, and amend and clarify the units accordingly. 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>	

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12. Case 03-REP-05-0085 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Knox County Health Department

On September 3, 2003, the Board conducted a unit determination and representation election for certain employees of the Employer. Regarding unit determination, professional employees cast twenty ballots: twelve votes were for inclusion with nonprofessionals in a single unit, seven votes were for non-inclusion with nonprofessionals in a single unit, and one challenged ballot was cast. Nonprofessional employees cast sixteen ballots: eight votes were for inclusion with professionals in a single unit, seven votes were for non-inclusion with professionals in a single unit, and one determinative challenged ballot was cast.

Regarding representation, professional employees cast twenty ballots: eight votes were for Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO (Ohio Council 8), eleven votes were for No Representative, and one challenged ballot was cast. Nonprofessional employees cast fifteen ballots, eight votes were for Ohio Council 8, six votes were for No Representative, and one challenged ballot was cast.

The Employee Organization and Employer filed post-election objections. The Board finds the one determinative challenged ballot was cast by an ineligible voter. As a result, a corrected tally for Nonprofessional Question 1 must be issued excluding the one determinative challenged ballot, and a corrected tally for NonProfessional Question 2 excluding the one challenge ballot is appropriate. These corrected tallies allow the Board to certify the following election results in the unit-determination and representation election.

Regarding unit determination, professional employees cast twenty ballots; twelve votes were for inclusion with nonprofessionals in a single unit, seven votes were for non-inclusion with nonprofessionals in a single unit, and one challenged ballot was cast. Nonprofessional employees cast fifteen ballots: eight votes were for inclusion with professionals in a single unit, seven votes were for non-inclusion with professionals in a single unit. Since both the professional and nonprofessional units voted for inclusion, "Inclusion" has prevailed in the unit-determination election.

Regarding representation in a combined unit of professional and nonprofessional employees, thirty-four ballots were cast: Ohio Council 8 received sixteen votes, No Representative received seventeen votes, and the one professional challenged ballot is not determinative since Ohio Administrative Code Rule 4117-5-09(A) states that "No Representative" would prevail when a two-choice ballot results in the tie vote during a representation election.

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These corrected tallies allow the Board to certify the following election results in the unit-determination and representation election.

Regarding unit determination, professional employees cast twenty ballots, twelve votes were for inclusion with nonprofessionals in a single unit, seven votes were for non-inclusion with nonprofessionals in a single unit, and one challenged ballot was cast. Nonprofessional employees cast fifteen ballots with eight votes were for inclusion with professionals in a single unit, seven votes were for non-inclusion with professionals in a single unit. Since both the professional and nonprofessional units voted for inclusion, "Inclusion" has prevailed in the unit-determination election.

Regarding representation in a combined unit of professional and nonprofessional employees, thirty-four ballots were cast, Ohio Council 8 received sixteen votes, No Representative received seventeen votes, and the one professional challenged ballot is not determinative since Ohio Administrative Code 4117-5-09(A) states that "No Representative" would prevail when a two-choice ballot results in the tie vote during a representation election.

Vice Chairman Gillmor moved that the Board declare Jane Burke an ineligible voter; issue corrected Tallies of Ballot for NonProfessional Question 1 and NonProfessional Question 2; certify election results that professional and nonprofessional employees have voted for a combined unit; and certify that the combined unit of employees has voted to have no exclusive representative. Board Member Verich seconded the motion. Chairman Drake called for any discussion and thanked Administrator Alan Bonham for walking through the professional and nonprofessional tallies for the Board to help them understand what had transpired in this case. 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>	

13. Case 03-REP-04-0069 Professionals Guild of Ohio and Children Services of Richland County

Pursuant to Ohio Revised Code § 4117.07(C), the Board conducted a secret ballot election on August 6, 2003, for employees of Children Services of Richland County (Employer).

The results of the election are: fifty-six ballots were cast; fifteen votes were for the Professionals Guild of Ohio; thirty-five votes were for No Representative. The six challenged ballots were not sufficient to affect the results of the election.

On August 1, 2003, the Employer filed objections to the Notice of Election, and the Employee Organization filed objections to the election eligibility list and a response to the Employer's objection to the Notice of Election. The Employer and Employee Organization have not filed post-election objections.

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Board Member Verich moved that the Board overrule the Employer's Objection to Notice of Election and the Employee Organization's Objection to Election Eligibility List, and certify that the employees in the unit have chosen to have no exclusive representative for purposes of collective bargaining. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

14. Case 03-REP-04-0061                      Lakota Transportation Association and Truck Driver, Chauffeurs and Helpers Local Union No. 100 and Lakota Local School District Board of Education

- There were 183 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Lakota Transportation Association received 29 votes
- Truck Driver, Chauffeurs and Helpers Local Union No. 100 received 154 votes and has prevailed in this election.

Vice Chairman Gillmor moved that the Board certify the election results and certify the employee organization as the exclusive representative of all employees in the bargaining unit. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

15. Case 02-REP-05-0098                      Lebanon City School Employees Association and Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Lebanon City School District Board of Education

The Lebanon City School Employees Association (LCSEA) filed a Petition for Representation Election seeking to sever a group of employees from an existing bargaining unit represented by the Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO (OAPSE). The Board granted the petition to sever and directed an election to be conducted in the petitioned-for bargaining unit. OAPSE filed a notice of appeal from this directive and obtained a stay of the election from the Franklin County Court of Common Pleas.

On May 21, 2003, the Board received, via fax, an order to proceed with the scheduled election, collect the ballots, maintain the secrecy of the ballots, and refrain from any discussion thereof until further order from the Court. On May 22, 2003, Labor Relations Specialist Amy Hughes conducted the election, collected the ballots, and returned the sealed ballot box to SERB per the Court's instructions. On May 22, 2003, OAPSE filed objections to the election maintaining SERB lacks jurisdiction to conduct an election in this matter. OAPSE requested that the ballots be impounded and not counted until such time as SERB's authority and jurisdiction has been resolved by the Court.

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On June 20, 2003, the Board received an order from the Court to process the election results in accordance with established certification procedures. OAPSE filed a protest to the election and an objection to the counting of the ballots, and requested a stay pending Court action on the appeal. The Court overruled OAPSE's objections to the election and the counting of the ballots in its orders to SERB.

The results of the election are: Sixty-four ballots cast out of sixty-five eligible voters; Lebanon City School Employees Association received fifty-one votes; Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO (OAPSE) received nine votes; No Representative received two votes. Two challenged ballots were not sufficient to affect the results of the election. The Lebanon City School Employees Association has received a majority of the votes cast and should be certified as the exclusive representative of all employees in the unit.

Board Member Verich moved that the Board deny the Ohio Association of Public School Employees' Objection to Election, Protest of Election, Objection to Counting of the Ballots, and Stay; certify the election results; and certify the Lebanon City School Employees Association as the exclusive representative of all employees in the unit. Vice Chairman Gillmor seconded the motion. Chairman Drake called for any discussion and asked if the court had made any further rulings, and she was informed it had not. Chairman Drake called for the vote.

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

16. Case 02-REP-11-0239 Cincinnati Organized and Dedicated Employees (CODE) and City of Cincinnati

PROFESSIONAL QUESTION 1:

- There were 77 ballots cast
- There were 0 challenged ballots
- NO (noninclusion with nonprofessional employees) received 12 votes
- YES (inclusion with nonprofessional employees) received 65 votes and has prevailed in this election.

NONPROFESSIONAL QUESTION 1:

- There were 538 ballots cast
- There were 17 challenged ballots
- NO (noninclusion with professional employees) received 77 votes
- YES (inclusion with professional employees) received 444 votes and has prevailed in this election.

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COMBINED QUESTION 2:

- There were 618 ballots cast
- There were 17 challenged ballots
- No Representative received 94 votes
- Cincinnati Organized and Dedicated Employees (CODE) received 507 votes and has prevailed in this election.

17. Case 03-REP-07-0135 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of Marysville

- There were 47 ballots cast
- There were 0 challenged ballots
- Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 18 votes
- No Representative received 29 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   

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, 2002, 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, the Charging Party, filed a motion to show cause, contending that the Respondent had failed to comply with the terms of the settlement agreement. The Respondent did not file a response to the motion. On September 18, 2003, the Board directed 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.

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On July 1, 2003, the Respondent filed a motion for reconsideration and to dismiss the direction to show cause hearing. In the motion, the Respondent contends that it was not served with a copy of the motion to show cause and that it has fully complied with the terms of the settlement agreement. The Charging Party did not respond to this motion.

Ohio Administrative Code Rule 4117-1-04(E) allows for the filing of a motion for reconsideration "no later than forty-five days after the issuance of the board's final ruling." The Board's direction to show cause hearing is not a "final ruling." Consequently, the motion for reconsideration is not properly before the Board at this time. Additionally, the issues raised within the motion to dismiss are the same issues that the Board directed to the show cause hearing for resolution.

Board Member Verich moved that the Board deny the motion for reconsideration since the direction to show cause hearing is not a final ruling pursuant to Ohio Administrative Code Rule 4117-1-04(E) and deny the motion to dismiss since the issues raised in the motion to dismiss are the same issues that the Board has directed to the show cause hearing. Vice Chairman Gillmor seconded the motion. Chairman Drake called for any discussion, and discussed the lack of service in the case, and how important it is when serving a copy of the motion to show cause to the Respondent. Chairman Drake called for the vote.

	Vote:	DRAKE <u>Aye</u> Affirmed <u>X</u>	GILLMOR <u>Aye</u> Denied <u>  </u>	VERICH <u>Aye</u>
2.	Case	02-ULP-02-0084		<u>SERB v. City of Springdale</u>
3.	Case	03-ULP-03-0106		<u>SERB v. City of Conneaut</u>
4.	Case	03-ULP-03-0168		<u>SERB v. Warren City School District Board of Education</u>
5.	Case	02-ULP-11-0746		<u>SERB v. Vanguard Sentinel Joint Vocational School District</u>
6.	Case	03-ULP-02-0081		<u>SERB v. Scioto County Board of Mental Retardation and Developmental Disabilities</u>
7.	Case	03-ULP-05-0272		<u>SERB v. City of Maple Heights</u>

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8. Case 03-ULP-05-0257 SERB v. Fulton County Sheriff

Vice Chairman Gillmor moved that the Board construe the settlement agreements as motions to withdraw and dismiss, grant the motions, dismiss the complaints, dismiss with prejudice the unfair labor practice charges, and vacate the direction to show cause hearing. Board Member Verich seconded the motion. Chairman Drake called for any discussion and questioned as to whether in Case No. 02-ULP-11-0746, the settlement agreement was in the file as they did not receive a copy of it, and asked if the agreement addresses the issues raised in the charge. General Counsel Russ Keith mentioned that the Petitioner was being represented by private counsel and that the settlement agreement was a "private" settlement agreement, and it was not filed with the Board. General Counsel Keith also stated that the Board is only addressing the motion to dismiss in this matter. Vice Chairman Gillmor concurred that the Petitioner was being represented by private counsel in this matter as noted in their letter addressing the confidential settlement agreement. 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-08-0404 Tim Tuttle, Shawn Wakefield, Kevin Pannell, and Theresa Magill v. Service Employees International Union, District 1199

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 all members. Information gathered during the investigation reveals bargaining-unit members ratified the contract with the language in it. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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2. Cases 03-ULP-08-0411 Jean Sandifer v. Huron County Board  
03-ULP-08-0412 of Commissioners

The unfair labor practice charges allege the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by disciplining the Charging Party for engaging in protected activities. Information gathered during the investigation reveals the Charging Party was active in the union organization with the Charged Party's knowledge, and was disciplined shortly after the union was established. The Charging Party was singled out even when evidence was provided that she may not have damaged the equipment. Vice Chairman Gillmor moved that the Board find probable cause to believe unfair labor practices have been committed, consolidate the charges, 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 disciplining Jean Sandifer because she engaged in protected activities, 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-06-0305 Tammy R. Milner v. Ohio Civil Service  
Employees Association, AFSCME  
Local 11, AFL-CIO, Chapter 2572

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by causing the Charging Party's position and days off to be posted. Information gathered during the investigation reveals the Charged Party's actions were intended to get the Employer to comply with the collective bargaining agreement. The Charged Party has not failed to take a basic and required step, nor has it restrained or coerced the Charging Party in the exercise of her 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 \_\_

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4. Case 03-ULP-08-0408 International Brotherhood of Teamsters  
Local No. 100 v. Lakota Local School  
District Board of Education

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1) and (3) by transferring Bea Owens because she participated in the organizing efforts of the Charging Party. Information gathered during the investigation reveals the Ms. Owens was not harmed, but the transfer may have been because she exercised guaranteed rights. Additionally, Jerry Spicer filed a motion to intervene. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), but not (A)(3), by transferring Ms. Bea Owens after participating in the organizing effort on behalf of the Charging Party, direct the parties to ULP mediation, and deny the motion to intervene as premature. 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-06-0304 Municipal Foremen and Laborers'  
Union, Local No. 1099 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 contracting out bargaining-unit work to nonbargaining-unit employees. Information gathered during the investigation reveals the issues are untimely filed, and the matter was the subject of a previously filed unfair labor practice charge. Board Member Verich moved that the Board dismiss the charge with prejudice as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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6. Case 03-ULP-06-0307 Maria R. Coccia 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 not renewing the Charging Party's employment contract because of her exercise of guaranteed rights. Information gathered during the investigation reveals that the Board has already found that the medical consultants were independent contractors and not public employees under Ohio Revised Code § 4117.01(C). The investigator recommended that the Board dismiss the charge for lack of jurisdiction. Additionally, Ohio Revised Code § 4117.11(A)(3) provides that a public employer commits an unfair labor practice if it discriminates in regard to hire or tenure of employment or any term or condition of employment on the basis of the exercise of rights guaranteed by Ohio Revised Code Chapter 4117. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of jurisdiction. Board Member Verich offered an alternative motion and 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 whether the Charging Party has standing to file the charge, and, if so, whether the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by not renewing the Charging Party's contract as a medical consultant because she engaged in activities protected under Ohio Revised Code Chapter 4117. After withdrawing her motion, Vice Chairman Gillmor seconded the motion. Chairman Drake called for any discussion. General Counsel Russ Keith stated that whether Ohio Revised Code § 4117.11(A)(3) would apply to a "person" instead of only a "public employee" in a situation like the present one is an issue that has not been determined by the Board, and whether the Board lacks jurisdiction over this charge are questions that should be addressed through a hearing. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
       Affirmed X                              Denied   

7. Case 03-ULP-06-0327 James E. Franklin v. State of Ohio,  
Department of Development

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by refusing to acknowledge or respond to the Charging Party's requests to become a union member. Information gathered during the investigation reveals the Charging Party's position is not in the bargaining unit. 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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8. Case 03-ULP-08-0421 Donna F. Novak v. Ohio Council 8,  
American Federation of State, County  
and Municipal Employees, Local 3360,  
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 file a grievance on the Charging Party's behalf. Information gathered during the investigation reveals the Charging Party was advised her grievance lacked merit, and the Charged Party was not taking it forward because the position was outside of the bargaining unit. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Additionally, knowledge of the alleged violation on April 7, 2003, 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   

9. Case 03-ULP-10-0514 Britany (Luke) Morgan v. Blue Skies of  
Ohio, Inc.

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(6) and (7) by taking client files, threatening the Charging Party's job status, and withholding a paycheck. Information gathered during the investigation reveals the Charging Party is not a public employee and the Charged Party is not a public employer. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of jurisdiction. 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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10. Case 03-ULP-06-0325 Buckeye Local School District Board of Education v. Buckeye Education Association, OEA/NEA

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(1) and (2) by disclosing information about a grievance in public. Information gathered during the investigation reveals the grievance was discussed at a public meeting of the Charging Party, and the information was not released until after the grievance process was completed. The Charged Party's actions did 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. Vice Chairman Gillmor seconded the motion. Chairman Drake called for any discussion, and asked if the information released contained any confidential information that was given to the press. Chairman Drake called for the vote.

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

11. Cases 03-ULP-08-0423 MARCA Education Association v. Marion County Board of Mental Retardation and Developmental Disabilities  
03-ULP-08-0424

In Case 03-ULP-08-0423, the unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to reopen negotiations after changes not contemplated during successor contract talks were discovered. Information gathered during the investigation reveals the allegation sets forth the same set of facts as in Case 03-ULP-08-0424, and is unrelated to successor contract negotiations that concluded in January 2003. In Case 03-ULP-08-0424, the unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by contracting to remove bargaining-unit work and directly negotiating with bargaining-unit employees the terms of their employment with the contracted company. Information gathered during the investigation reveals the Board had a duty to negotiate reassignment of bargaining-unit work outside the bargaining unit. Additionally, there was no evidence provided to support direct negotiations with bargaining-unit members. Vice Chairman Gillmor moved that the Board in Case 03-ULP-08-0423, 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-08-0424, that the Board find probable cause to believe unfair labor practices have been committed, authorize the issuance of a complaint, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally assigning bargaining-unit work outside the bargaining unit. 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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12. Case 03-ULP-07-0373 International Union of Operating Engineers, Local 20 v. Hamilton County Board of Commissioners

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1), (5), and (6) by refusing to proceed with a grievance arbitration. Information gathered during the investigation reveals there was no evidence to support a repeated failure to process grievances. The Charged Party's action of unilaterally delaying the grievance process appears to be a violation of the statute. 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), but not (A)(6), by refusing to proceed with a grievance arbitration, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for any discussion and asked if a mandamus was filed in this case. General Counsel Keith will check on this. Chairman Drake called for the vote.

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

13. Cases 03-ULP-09-0434 Southern Local Education Association, OEA/NEA v. Southern Local School District Board of Education  
03-ULP-09-0435 Southern Local Education Association, OEA/NEA v. Southern Local School District Financial Planning and Supervision Commission

Vice Chairman Gillmor moved that the Board table these cases to 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 \_\_

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14. Case 03-ULP-06-0309 Laborers International Union of North America Municipal, County and State Employee's Union, Local 1099 v. City of Cleveland, Division of Park Maintenance
15. Case 03-ULP-08-0399 International Brotherhood of Teamsters, Local 436 v. Ohio Turnpike Commission

Board Member Verich moved that the Board dismiss the charges with prejudice because the Charging Parties have failed to pursue the matters. 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-05-0273 James K. Smith, et al. v. City of Maple Heights  
03-ULP-05-0274 James K. Smith, et al. v. Maple Heights Transit Teachers Association
17. Cases 03-ULP-05-0260 Hugh P. Gaughan v. Cleveland City School District Board of Education  
03-ULP-05-0261 Hugh P. Gaughan v. National Conference of Firemen and Oilers Local 701, SEIU, AFL-CIO
18. Cases 03-ULP-05-0235 Janice M. Stewart v. Summit County Board of Mental Retardation and Developmental Disabilities and Greg Maras  
03-ULP-05-0236 Janice M. Stewart v. Summit County Board of Mental Retardation and Developmental Disabilities and Tom Moran  
03-ULP-05-0237 Janice M. Stewart v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Gino Carbenia  
03-ULP-05-0238 Janice M. Stewart v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Cheri Nice

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03-ULP-05-0239

Janice M. Stewart v. Ohio Council 8,  
American Federation of State, County  
and Municipal Employees, AFL-CIO and  
Karen White

19. Case 03-ULP-07-0360

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

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

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
         Affirmed X                      Denied   

20. Case 03-ULP-06-0323

Walter Lee v. Cuyahoga County  
Metropolitan Housing Authority

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by terminating the Charging Party's employment because he filed a previous unfair labor practice charge. Information gathered during the investigation reveals the Charging Party was terminated for reasons other than exercising 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

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21. Case 03-ULP-06-0324 Walter Lee v. International Union of Operating Engineers, Local 18-S

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to properly represent the Charging Party at his disciplinary hearing, and refusing to file a grievance over his termination. Information gathered during the investigation reveals there was no evidence to support the Charged Party filed a grievance on behalf of the Charging Party or that it notified him that the Charged Party was not going to advance his grievance so he could file on his own. The Charged Party has failed to take a basic and required step. Additionally, the Charged Party's action were arbitrary, discriminatory, or in bad faith. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by not filing a grievance over the Charging Party's termination, 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 \_

22. Case 03-ULP-09-0431 Kirtland Education Association, OEA/NEA v. Kirtland Local School District Board of Education
23. Case 03-ULP-08-0419 Western Brown Education Association, OEA/NEA v. Western Brown Local School District Board of Education
24. Case 03-ULP-10-0515 Buckeye Central Education Association, OEA/NEA v. Buckeye Central Local School District Board of Education
25. Case 03-ULP-06-0353 Hocking College Education Association, OEA/NEA v. Hocking College

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26. Case 03-ULP-06-0331 Edgerton Education Association,  
OEA/NEA v. Edgerton Local School  
District Board of Education

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

Vote: DRAKE Aye GILLMOR Aye VERICH Aye  
Affirmed X Denied   

VI. ADMINISTRATIVE MATTERS

Administrative Assistant Jackie Murray, who chaired this year's Combined Charitable Campaign, reported the goal-breaking results: a total of \$8,585.89 CCC contributions, including \$6,708.00 from 16 payroll deductions, plus \$226.00 directly to the American Cancer Society from Buckeye Bill Day. The Chairman also read a Board resolution honoring Jackie Murray for her leadership in the campaign since 1998 and chairmanship since 2001.

Executive Director Snyder reported that Labor Relations Specialist Amy K. Hughes had a baby boy on November 4, 2003. They have named him Ryan Edward and all are doing well and the Board congratulates her.

The Board also honored two federal mediators with resolutions upon their retirement from FMCS: Commissioner John R. Wines, who has been with that agency since 1987, and Commissioner Dennis J. Celenica, who has been with FMCS since 1991. Both were recognized for their role in nurturing public sector labor relations in Ohio.

Executive Director Snyder reported that based upon an analysis by DAS Risk Management, it would be prudent to purchase collision insurance for our rental cars but unnecessary to purchase bonding insurance for employees. She reported that newer cars in SERB's own fleet are already covered with collision insurance.

Executive Director Snyder next discussed some computer issues. IT Administrator Anderson Reed has met with several vendors regarding Intellivue problems and will forward their recommendations when they are received. She also reported that vendor Patricia Opong indicates she's working out the problems the agency forwarded to her and will be coming in next week to go over these and to try them out. She reported a request by IT to enter a repair/replacement contract for the scanner in the clerk's office at a cost of \$1,100. She said she would also find out what a new scanner would cost, in response to a question from Vice Chairman Gillmor.

Executive Director Snyder reported that the Health Care surveys are coming in and the Research and Training section is reviewing all of them.

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She also provided Board members with goals for the remainder of FY 2004, which each section had drafted. She commented that with a tight budget, it was important that our resources are directed at goals the Board is comfortable with. Board Member Verich asked if the Board might have the opportunity to speak with each section regarding its goals, and she said that was a great idea. It was suggested that they do this at the next Board meeting. Chairman Drake commented that the goals are a working plan for the agency, and she too is looking to see how the agency's budget is helping or hindering our operation.

Executive Director Snyder distributed a report on the current budget and noted that there had been three pays in November, representing a higher monthly payroll figure than usual. She also pointed out that although SERB does not have to share in fact-finding costs for those appointed since late June, we are still paying for earlier appointments. Chairman Drake stated that the agency is watching their "pennies" in what is being used.

Executive Director Snyder mentioned the 20<sup>th</sup> Anniversary Celebration activities. The internal celebration will be April 1, 2004 and will be a potluck for the current SERB staff. The committee is soliciting memories of past events at the agency and they would be shared at the potluck. The external activities will be more on an educational level sharing how the agency has evolved through the years. Chairman Drake suggested that they have outside people help in planning the external celebration.

Executive Director Snyder next commented on having an "Internal SERB Academy" for employees on all the sections' operations at SERB. The managers have been encouraged to be open to their staff in allowing them to participate in this internal academy, and in the upcoming SERB Academy to be held in January 2004 in Columbus. Donald Leonard, of the Research and Training section, could do the overview of SERB at this internal academy. Chairman Drake also suggested that the goals and budget of the agency should be shared at the SERB Academy in January.

Executive Director Snyder reported on the Fact-Finder Conference SERB just conducted. She stated that 62 people attended, with 36 paid registrations, and 26 neutrals also attending. The agency has also received the participants' comments and she is passing them out for the Board's review.

Executive Director Snyder briefly commented on the Fact-Finder's comments regarding fees. Chairman Drake commented that the decision on this change should be in the rules.

Executive Director Snyder mentioned that the December 4, 2003 board meeting is being changed to December 3, 2003. She also proposed a schedule for board meetings in 2004 to the board and asked that they review it and to get back with her on it.

General Counsel Russ Keith commented that the Administrative Rules are being reviewed and that Chairman Drake and Vice Chairman Gillmor have expressed that they each have some questions and comments on the proposed rules before the rules package is finalized.

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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  
Affirmed X

GILLMOR Aye  
Denied   

VERICH Aye



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Carol Nolan Drake, Chairman