

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, November 20, 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 November 6, 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-09-0158 Ohio Patrolmen's Benevolent Association and City of Findlay, December 4, 2003

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The parties have entered into a Consent Election Agreement seeking an election on December 4, 2003. Board Member Verich moved that the Board approve the Consent Election Agreement and direct an election to be conducted on December 4, 2003. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

2. Cases 03-REP-05-0090 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO and State of Ohio
03-REP-05-0091

The Employee Organization is the Board-certified exclusive representative of State Bargaining Unit 13, which includes certain employees of the Employer. The Employee Organization filed a Petition for Amendment of Certification in Case 03-REP-05-0090, and a Petition for Clarification of Bargaining Unit in Case 03-REP-05-0091 seeking to include Transportation Engineer 3 (92710.0) in the existing unit. The Employer filed a response advising the position is vacant. The Board does not entertain vacant positions, therefore, the amendment in Case 03-REP-05-0090, should be dismissed, and the clarification in Case 03-REP-05-0091, should be dismissed because unit clarification does not alter the composition of the unit, but rather maintains it.

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Vice Chairman Gillmor moved that the Board, in Case 03-REP-05-0090, dismiss without prejudice the Petition for Amendment of Certification because the position is vacant and, in Case 03-REP-05-0091, dismiss without prejudice the Petition for Clarification of Bargaining Unit because it is not the appropriate vehicle. 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-REP-06-0107 Deerfield Professional Fire Fighters, IAFF Local 4286 and Deerfield Township, Warren County

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer responded by filing a Petition for Representation Election and objections. Several conference calls have been conducted, and the case has been mediated. The parties have not been able to reach an agreement concerning an appropriate bargaining unit. Board Member Verich moved that the Board direct the 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

4. Case 03-REP-09-0170 Green Township Professional Fire Fighters, IAFF Local 2927 and Green Township, Hamilton County

The Employee Organization filed an amended Opt-in Request for Recognition seeking to represent certain employees of the Employer and add them to an existing unit. The Employer responded by filing a Petition for Representation Election and objections. Several conference calls have been conducted, and the case has been mediated. The parties have not been able to reach an agreement concerning an appropriate bargaining unit. Vice Chairman Gillmor moved that the Board direct the 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

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5. Case 03-REP-06-0104 Weathersfield Teachers Association,
OEA and Weathersfield Local School
District Board of Education

On September 4, 2003, the Board dismissed the Petition for Amendment of Certification because the affiliation standards had not been met. On October 2, 2003, the Employer filed a timely Motion for Reconsideration requesting the Board amend the September 4, 2003 directive because the Petition for Amendment of Certification was not jointly filed, but filed unilaterally by the Employee Organization. The Employee Organization did not file a response. The Employer did not file any objections to the Employee Organization's original request to disaffiliate. Board Member Verich moved that the Board grant the Employer's Motion for Reconsideration, issue a corrected Directive stating that the Employee Organization filed a Petition for Amendment of Certification seeking to amend the certification to reflect disaffiliation from OEA/NEA, and that the Employer filed no objections to the Employee Organization's original request. 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-REP-05-0093 Ohio Council 8, American Federation of
State County and Municipal Employees,
AFL-CIO and Licking Metropolitan
Housing Authority, December 15, 2003

7. Case 03-REP-09-0165 Teamsters Local Union No. 957 and
City of Englewood, December 8, 2003

In Case 03-REP-05-0093, the Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employer filed objections maintaining the proposed unit contained positions exempt from collective bargaining. The Employee Organization and Employer could not reach an agreement as to an appropriate bargaining unit. The case was directed to hearing on September 18, 2003. As a result of further mediation efforts, the parties entered into a Consent Election Agreement seeking an election on December 15, 2003. In Case 03-REP-09-0165, the Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer responded by filing objections and a Petition for Representation Election. The parties have entered into a Consent Election Agreement seeking an election on December 8, 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

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IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 03-ULP-04-0169 Fairborn Professional Fire Fighters Association, Local 1235, IAFF v. City of Fairborn and Chief Rudy Weyland
2. Case 03-ULP-07-0369 Civilian Uniform Police Personnel Organization v. City of Euclid
3. Case 03-ULP-03-0157 SERB v. State of Ohio, Department of Rehabilitation and Correction, Richland Correctional Institution

Board Member Verich moved that the Board approve and adopt the settlement agreement, construe the settlement agreement and withdrawal as motions to withdraw or dismiss, grant all of the motions, dismiss the complaint, and dismiss with prejudice the unfair labor practice charges. Vice Chairman Gillmor 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-09-0493 Robin A. Williams 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)(6) by not holding a timely arbitration hearing. Information gathered during the investigation reveals that due to scheduling conflicts, the Charging Party's arbitration hearing was rescheduled. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

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2. Case 03-ULP-07-0390 Northwest State Community College Education Association, OEA/NEA v. Northwest State Community College

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by threatening non-cooperation during successor collective bargaining, and acting on the threat by negotiating the successor agreement in bad faith. Information gathered during the investigation reveals the comment was not a threat, and no harm was experienced. The Charging Party provided no evidence to demonstrate that the negotiations were conducted 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

3. Case 03-ULP-07-0384 St. Clairsville Education Association, OEA/NEA v. St. Clairsville-Richland 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 unilaterally removing bargaining-unit positions from the bargaining unit and assigning bargaining-unit work to a nonbargaining-unit employee. Information gathered during the investigation reveals the Charged Party had an obligation to negotiate over the position and did not. 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 unilaterally removing bargaining-unit positions from the bargaining unit and assigning bargaining-unit work to a nonbargaining-unit employee, 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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4. Case 03-ULP-09-0444 Laura A. Church v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(6) by agreeing in 2002, and again in 2003, to health care assessments. Information gathered during the investigation reveals the collective bargaining agreement covers the premium percentages. Knowledge of the alleged assessments on September 6, 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. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

5. Case 03-ULP-09-0432 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Lima

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against Officer Beverly Leary in retaliation for exercising guaranteed rights. Information gathered during the investigation reveals Officer Leary was marked lowest for promotion by the individual she only had contact with as a union representative. Officer Leary did not work for Major Thorburn directly. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against Officer Leary in retaliation for exercising guaranteed rights, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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6. Case 03-ULP-08-0414 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of West Carrollton

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally imposing a quota system. Information gathered during the investigation reveals the Charged Party unilaterally implemented a new performance evaluation system mid-term without coming to an agreement. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally imposing a quota system, 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

7. Case 03-ULP-08-0403 Jamshid Sabouri 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), (2), and (6) by failing to process the Charging Party's working-out-of-classification grievance, failing to hold the nontraditional arbitration for his suspension on the union premises, guarding him while in the restroom, refusing to allow his witnesses to testify, allowing the Employer – without objection-to introduce ten-year old irrelevant and negative documentation, and refusing to process his subsequent termination grievance to arbitration. Information gathered during the investigation failed to provide evidence to support Ohio Revised Code § 4117.11(B)(1) or (2) violations occurred. The actions of the Charged Party 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 and as untimely filed for the working out of class grievance issue. 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-08-0401 Mary K. Miner 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) (6) by failing to process the Charging Party's grievance to make her whole. Information gathered during the investigation reveals the second grievance was filed regarding discipline. The Charged Party was able to get the discipline reduced, and its actions were not arbitrary, discriminatory, or in bad faith. The July 17, 2002 removal grievance was not filed because it was not a contract violation. The Charging Party had or should have had knowledge that the alleged violation 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 processing of the July 17, 2002 grievance. 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-08-0418 Ohio Patrolmen's Benevolent Association v. Trumbull County Sheriff

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by subcontracting bargaining-unit work. Information gathered during the investigation reveals that under the collective bargaining agreement during an emergency, contract provisions can be suspended, and the special deputies who were working were not paid. 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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10. Case 03-ULP-06-0348 Communications Workers of America,
Local 4530 v. University of Toledo

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by engaging in surface bargaining over job abolishments. Information gathered during the investigation reveals job abolishments are covered under the contract. The issue is contractual, and no statutory issues are evident. 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

11. Case 03-ULP-08-0430 Clyde Bert Williams 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)(6) by failing to process grievances pursuant to the contract and the Case 2001-ULP-03-0149 settlement agreement. Information gathered during the investigation reveals the Charging Party failed to provide sufficient information to establish the existence of the grievance. The Charging Party waited for more than a year after he should have known the grievance was or was not processed to file this charge. The allegations 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 Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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12. Case 03-ULP-07-0385 Riverdale Education Association,
OEA/NEA v. Riverdale 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 unilaterally assigning the bargaining-unit duties of Athletic Director to a nonbargaining-unit employee. Information gathered during the investigation reveals supplemental contracts are not exclusive to the bargaining unit; therefore, bargaining-unit duties were not assigned outside the bargaining unit. 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

13. Case 03-ULP-07-0394 Communications Workers of America,
Local 4546 v. Summit County Children
Services

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), (3), (5), and (7) by refusing to allow bargaining-unit employees to continue to work under the terms of the expired collective bargaining agreement, and forcing ultimate impasse during the successor contract negotiations. Information gathered during the investigation reveals the Charged Party did honor the expired contract terms. A strike does not mean ultimate impasse has been reached. No information was provided to support Ohio Revised Code § 4117.11(A)(1), (2), or (3) 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 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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14. Case 03-ULP-06-0344 Elida Education Association, OEA/NEA v. Elida 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 (3) by eliminating the bargaining-unit position held by Union Representative James Neu just before negotiations commenced. Information gathered during the investigation reveals the Charging Party's President's position was the only position eliminated, and occurred at the beginning of the negotiations. The Charged Party's actions and its timing are suspect. Board Member Verich moved that the Board find probable cause to believe unfair labor practices have 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 announcing a reduction-in-staff that eliminated the Charging Party's lead negotiator's position at the beginning of successor contract negotiations, 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-06-0345 City of Massillon v. Massillon Police Officers Association, Fraternal Order of Police Henderson Lodge #105

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(3) by sending a letter directly to the Charging Party's mayor, other city officials, and newspapers regarding safety issues while bypassing the Charging Party's designated representative. Information gathered during the investigation reveals the parties were not in negotiations. The Charged Party did not submit proposals in its letter, and was not attempting to bargain. 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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16. Case 03-ULP-06-0343 Municipal Foremen and Laborers' Union
Local No. 1099 v. City of Cleveland,
Division of Park Maintenance

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally subcontracting out bargaining-unit work to nonbargaining-unit employees. Information gathered during the investigation reveals the work is not exclusive to the bargaining unit and has been contracted out since 1997. The allegations 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 __

17. Case 03-ULP-06-0342 Municipal Foremen and Laborers' Union
Local No. 1099 v. City of Cleveland,
Division of Park Maintenance

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally subcontracting out bargaining-unit work to nonbargaining-unit employees. Information gathered during the investigation reveals the Charged Party has utilized the volunteers for three years. The Charging Party failed to identify what bargaining-unit work was being impacted. The allegations 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 Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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18. Case 03-ULP-09-0502 Nicole D. Portis 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 fairly represent the Charging Party despite its claim her grievance could be won. Information gathered during the investigation reveals the Charged Party represented the Charging Party and did not take her grievance to arbitration based on the merits of her case. 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 __

19. Cases 03-ULP-07-0387 Cynthia D. Preston v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO and Laura Hardie
- 03-ULP-07-0388 Cynthia D. Preston v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO and Jennie Lewis
- 03-ULP-07-0393 Denise M. Thorpe v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charges allege the Charged Parties have violated Ohio Revised Code § 4117.11(B)(1) and (6) by denying Ms. Preston the right to file a grievance, by making certain comments, and by misrepresenting its position on the use of work logs. Information gathered during the investigation reveals the Charged Parties are not obligated to file an unfair labor practice charge, the harsh comments between the parties are not a violation of the statute, and it was the Employer who responded to Ms. Thorpe's question regarding the work logs and not the Charged Parties. The Charged Parties' actions were not arbitrary, discriminatory, or in bad faith. Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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20. Cases 03-ULP-09-0454 Richard Goga v. Hilliard City School District Board of Education
- 03-ULP-09-0455 Richard Goga v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 310

In Case 03-ULP-09-0454, the unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by forcing the Charging Party to resign, denying him representation at his termination meeting, and discriminating against him by not placing him in the bid position he was awarded. In Case 03-ULP-09-0455, the unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to process the Charging Party's grievance, and by failing to ensure he was placed into the bid position he was awarded. Information gathered during the investigation reveals the Charging Party had two union representatives at his termination meeting, he never requested a union attorney, and he was never awarded the bid position because it was not available until the building opened after he resigned. The Charging Party was not engaged in protected activities known to the Employer. The Union's actions were not arbitrary, discriminatory, or in bad faith. The allegations occurred more than 90 days before the charges were filed with the Board. Board Member Verich moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Parties and as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

21. Case 03-ULP-09-0436 Larry B. Mayfield 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(A)(1), (3), and (8) and (B)(6) by refusing to timely appeal an arbitration decision. Information gathered during the investigation reveals the Charged Party reviewed the decision and believed the arbitrator presented a logical reasoning for the decision. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. The Ohio Revised Code § 4117.11(A)(1), (3), and (8) violations do not apply to the Charged Party. 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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22. Case 03-ULP-09-0437 Larry B. Mayfield v. State of Ohio,
Department of Commerce

The unfair labor practice charge alleges the Charged Party has violated Ohio Revised Code §§ 4117.11(A)(1), (3), and (8) and (B)(6) by providing false information to the arbitrator during the Charging Party's grievance-arbitration. Information gathered during the investigation reveals the Charging Party did not support his allegations with any evidence. The Ohio Revised Code § 4117.11(B)(6) violation does not apply to 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 the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

23. Cases 03-ULP-06-0334 Anthony Magisano v. Service
Employees International Union, District
1199

03-ULP-06-0336 Bruno Magisano v. Service Employees
International Union, District 1199

The unfair labor practice charges allege the Charged Party has violated Ohio Revised Code § 4117.11(B)(6) by failing to properly and timely process the Charging Parties' grievance. Information gathered during the investigation reveals the Charged Party has attempted to resolve the grievance through other means, and the grievance is still pending. 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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24. Case 03-ULP-06-0335 Anthony Magisano v. Stark County District Library and William Muzzy

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by harassing and disciplining the Charging Party because he filed a grievance. Information gathered during the investigation reveals the Charging Party had received no memorandums regarding his performance or discipline until he filed a grievance. Board Member Verich moved that the Board find probable cause to believe unfair labor practices have been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (3), but not (A)(4), by discriminating against and disciplining Anthony Magisano because he participated in a grievance, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

25. Case 03-ULP-06-0337 Bruno Magisano v. Stark County District Library and William Muzzy

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by harassing and threatening the Charging Party. Information gathered during the investigation reveals the Charging Party had been counseled and subject to performance memorandums prior to his engaging in protected activities. No evidence was provided to support an Ohio Revised Code § 4117.11(A)(4) violation occurred. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged 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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26. Case 03-ULP-09-0495 Robert D. Ferguson v. Governor Robert A. Taft and State of Ohio, Department of Rehabilitation and Correction, Trumbull Correctional Institution

The unfair labor practice charge alleges the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1), (2), (5), and (8) by bargaining in bad faith by misrepresenting the State's financial status to the conciliator. Information gathered during the investigation reveals there was no evidence to support that the Charged Parties knew of the \$180 million in additional funds when they presented their case to the conciliator. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

27. Case 03-ULP-03-0152 Communications Workers of America, Local 4546 v. Summit County Children Services

On June 19, 2003, the Board dismissed the unfair labor practice charge for lack of probable cause to believe that an unfair labor practice charge has been committed by the Charged Party. On August 12, 2003, the Charging Party filed an untimely motion for reconsideration of the Board's decision. 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." Vice Chairman Gillmor moved that the Board deny the Charging Party's Motion for Reconsideration 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

28. Case 03-ULP-05-0244 Johnny Brantley v. Southwest Ohio Regional Transit Authority

On August 7, 2003, the Board dismissed the unfair labor practice charge for lack of probable cause to believe that an unfair labor practice charge has been committed by the Charged Party. On September 18, 2003, the Charging Party filed a request for reconsideration of the Board's decision. A review of the original investigation reveals that the Charging Party has failed to raise issues warranting reversal of the dismissal. Board Member Verich moved that the Board construe the Charging Party's letter as a motion for reconsideration and deny the motion with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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Vice Chairman Gillmor moved that the cases be tabled until the next meeting. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

VII. ADMINISTRATIVE MATTERS

Executive Director Pat Snyder announced that Kristin Pontious had resigned from her position as minicomputer operations technician, effective December 5, to accept the position of Municipal Tax Commissioner with the City of Circleville.

Executive Director Snyder also reported, in response to a question from Vice Chairman Gillmor from the previous Board meeting, that replacement of the agency's scanner with a new model would cost approximately \$8,000. The agency will instead enter a one-year repair/replacement contract with Veritec for \$1,100.

Also regarding technology, Executive Director Snyder reported that the Technology Review Committee had heard a presentation that week from Archives One, a vendor proposing an electronic vaulting system for backing up SERB's computer system off site. The Committee requested references and instructed Anderson Reed to explore whether other vendors were currently providing this service to other Ohio agencies and/or had state term contracts.

Executive Director Snyder noted Chairman Drake's presentation to staff at the November 17, 2003 Steering Committee meeting, in which she outlined in writing ten areas of commitment she saw for the Board. Chairman Drake furnished copies of the handout to the other Board members for review and comment.

Executive Director Snyder told the Board that all section chiefs had been requested to verify by Friday, November 21, 2003, that all phone lines in their areas of responsibility were being used, and had been urged to work with Anderson Reed to delete excess data from their F drives, but maintain back-up consistent with the agency's records retention schedule. She also announced that the agency's holiday event will be a potluck on December 18, 2003.

Chairman Drake reported a visit from Dr. Vernon Sykes regarding SERB's experience with Kent State University's extern program. She reported a positive experience with the program. Agency personnel involved with the program have been invited to a reception December 3, 2003, honoring graduates.

The Board meeting closed with a presentation by each of the section chiefs regarding section goals for the remainder of FY 2004, followed by a question-and-answer session with the full Board, as noted:

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Bureau of Mediation: Tom Worley, substituting for Bureau Chief Dale Zimmer, reviewed the section's goals of greater availability during strikes, continuing efforts in building labor-management cooperation, updates to Bureau publications, and professional development.

He distributed the final report on the Croatia project, in which the Bureau last spring trained six mediators from Croatia under the auspices of the Croatian Mediation Grant Training Program, sponsored through USAID and World Learning, Inc. Vice Chairman Gillmor urged wider publicity for the program. Mr. Worley said that Mediator Debbie McCormick is creating a web site for the project. General Counsel Keith indicated that work is underway to allow SERB to access grant funds.

Regarding strikes, Mr. Worley noted that they are lasting longer, particularly where unions provide strike benefits, and negotiations involve complex issues such as health care benefits. In answer to a question from Board Member Verich regarding the Bureau's needs, Mr. Worley advocated the addition of a mediator (filling an existing vacancy) and urged additional training for willing parties who have frequent labor-management disputes. Vice Chairman Gillmor expressed concern about delays in the ability to respond to requests for mediation, and said she would like to see data on whether staff time spent in training results in fewer disputes.

Labor Relations Section: Section Administrator Alan Bonham shared numerical goals for case-processing and indicated that Board feedback would be sought quarterly on any recommended improvements to reports prepared by labor relations specialists. Vice Chairman Gillmor expressed interest in accessing the agency's Intellivue database from home, so that data referenced but not included in meeting packets could be reviewed without making paper copies. In response to questions about the current status of ULP and REP cases, Mr. Bonham distributed case tracking sheets and said that in the future, he would make these available a week before each meeting.

Fiscal: Fiscal Specialist Danetta Babbs reviewed her goals for helping managers meet performance review deadlines, tracking inventory, collaborating with section chiefs to establish accurate section budgets, and familiarize herself with OPERS and FMLA regulations. In response to a request from Vice Chairman Gillmor, she indicated she could provide budget spreadsheets that project future obligations in addition to past expenditures.

Clerk's Office/IT: Section Administrator Anderson Reed reviewed his section's goals for promoting teamwork, bringing case closings up to date, analyzing SERB business processes, and projecting its current and future computer/network needs. Executive Director Snyder commented that the computer/network analysis was particularly critical since no funds had been budgeted for computer needs. Chairman Drake complimented the Clerk's Office for its teamwork efforts and noted the importance of its operation to the entire agency.

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Research & Training: Section Administrator Cheri Alexander reviewed her section's timetables for keeping the Clearinghouse database current and accurate, and updating agency publications. She indicated that she would be exploring the possibility of having contracts sent to SERB electronically, rather than having them sent in hard copy and then scanning them. Chairman Drake noted the importance of health care as an issue and raised the possibility of hosting a health insurance seminar next year, perhaps in combination with the Developing Labor Law Conference currently planned for the summer or fall of 2004.

Finally, Chairman Drake noted that the Board would discuss the draft administrative rules during the next Board meeting.

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



Carol Nolan Drake, Chairman