

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, January 8, 2004, 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 December 18, 2003 meeting. 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-09-0157 | <u>International Union, United Automobile, Aerospace, Agricultural Implement Workers of America (UAW) and Ohio Patrolmen's Benevolent Association and Cuyahoga County Sheriff's Department</u> |
| | | 03-REP-09-0190 | <u>Truck Drivers Union Local No. 407, IBT and Ohio Patrolmen's Benevolent Association and Cuyahoga County Sheriff's Department</u> |
| 2. | Case | 03-REP-09-0175
03-REP-09-0176 | <u>Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and City of Girard</u> |

State Employment Relations Board Minutes
January 8, 2004
Page 2 of 19

3. Case 03-REP-10-0194 Teamsters Local Union No. 637, IBT and Muskingum County Center for Seniors

In Case 03-REP-09-0157, 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. In Case 03-REP-09-0190, the Intervenor filed a Petition for Representation Election seeking to represent the same employees. The parties have entered into a Consent Election Agreement seeking an election on January 14 and January 15, 2004. In Cases 03-REP-09-0175 and 03-REP-09-0176, the Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization, which is the Board-certified exclusive representative of certain employees of the Employer. The parties have entered into a Consent Election Agreement seeking an election on January 29, 2004. In Case 03-REP-10-0194, 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 January 27, 2004. Board Member Verich moved that the Board construe Case 03-REP-09-0190 as a motion to intervene, grant the motion, approve the Consent Election Agreements, and direct the elections to be conducted on the dates as indicated. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

4. Case 03-REP-08-0137 Stage Employees Local Union No. 48, I.A.T.S.E. and University of Akron

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 Employee Organization filed a Withdrawal of Request for Recognition. Vice Chairman moved that the Board grant the withdrawal and dismiss without prejudice the Request for Recognition. 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-08-0140 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and its Local #769 and Mid-East Ohio Vocational School District
6. Case 03-REP-09-0168 Communications Workers of America, AFL-CIO and City of Cleveland

State Employment Relations Board Minutes
January 8, 2004
Page 3 of 19

- | | | | |
|-----|------|----------------|--|
| 7. | Case | 03-REP-09-0183 | <u>Robert Bycroft Education Association,
OEA/NEA and Columbiana County
Board of Mental Retardations and
Developmental Disabilities</u> |
| 8 | Case | 03-REP-10-0201 | <u>Ohio Nurses Association/United Nurses
Association and Lucas County Regional
Health District</u> |
| 9. | Case | 03-REP-10-0207 | <u>International Association of Fire Fighters,
Local 1536 and City of Wickliffe</u> |
| 10. | Case | 03-REP-10-0208 | <u>Ohio Council 8, American Federation of
State, County and Municipal Employees,
AFL-CIO and Mill Creek Metropolitan
Park District</u> |
| 11. | Case | 03-REP-10-0209 | <u>Butler Vocational Education Association
OEA/NEA and Butler Technology and
Career Development Schools</u> |

In Case 03-REP-08-0140, 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 reflect current contract language and to exclude Head Custodian. In Case 03-REP-09-0168, 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. In Case 03-REP-09-0183, 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 reflect current contract language. In Case 03-REP-10-0201, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties jointly filed a Petition for Amendment of Certification seeking to amend the certification to change the Employer's name. In Case 03-REP-10-0207, 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 Officer in Charge. In Case 03-REP-10-0208, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties jointly filed a Petition for Amendment of Certification seeking to amend the certification to change the Employer's name and to reflect classification title changes.

State Employment Relations Board Minutes
January 8, 2004
Page 5 of 19

that the Board vacate the December 18, 2003 Direction to Election Pursuant to Consent Election Agreement in Case No. 03-REP-09-0185, approve the Consent Election Agreement in Case No. 03-REP-09-0184, and direct elections to be conducted on January 22, 2004. 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-10-0192 Keith Brown and Service Employees International Union Local 47 and Lorain County Metro Parks

The Petitioner filed a Petition for Decertification Election seeking to decertify the Employee Organization, which is the Board-certified exclusive representative for certain employees of the Employer. The parties have entered into a Consent Election Agreement seeking an election on February 4, 2004. Vice Chairman Gillmor moved that the Board approve the Consent Election Agreement and direct an election to be conducted on February 4, 2004. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

15. Case 03-REP-09-0161 Fraternal Order of Police, Ohio Labor Council, Inc. and Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Miami County Commissioners

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 Incumbent Employee Organization filed a disclaimer of interest. The remaining parties have entered into a Consent Election Agreement seeking an election on February 5, 2004. Board Member Verich moved that the Board approve the Consent Election Agreement and direct an election to be conducted on February 5, 2004, and that the Board grant the Incumbent Employee Organization's disclaimer of interest insofar as it shall not appear as a choice on the ballot. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
January 8, 2004
Page 6 of 19

16. Case 03-REP-06-0099 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and its Local 309 and Fulton County Board of Mental Retardation and Developmental Disabilities

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 bargaining unit to exclude Community Support Coordinators and Case Managers pursuant to House Bill 94 (Ohio Revised Code 5126.15(A)). The Employee Organization filed a position statement opposing the amendment. The Employer filed a response. House Bill 94 (Ohio Revised Code 5126.15(A)) states: "Individuals employed or under contract as service and support administrators shall not be in the same collective bargaining-unit as employees who perform duties that are not administrative." The petition filed by the Employer states that affected classifications are Community Support Coordinators and Case Managers. The current certification excludes Case Managers from the bargaining unit. The Employer seeks to exclude Community Support Coordinators as well. Vice Chairman Gillmor moved that the Board approve the Petition for Amendment of Certification pursuant to House Bill 94 (Ohio Revised Code 5126.15(A) and exclude Community Support Coordinators from the existing unit. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

17. Case 03-REP-09-0158 Ohio Patrolmen's Benevolent Association and City of Findlay

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

State Employment Relations Board Minutes
January 8, 2004
Page 7 of 19

18. Case 03-REP-09-0165 Teamsters Local Union No. 957, and City of Englewood
- There were 17 ballots cast
 - There were 0 challenged ballots
 - Teamsters Local Union No. 957 received 7 votes
 - No Representative received 10 votes and has prevailed in this election.
19. Case 03-REP-05-0093 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, and Licking Metropolitan Housing Authority
- There were 8 ballots cast
 - There were 0 challenged ballots
 - Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 4 votes
 - No Representative received 4 votes and has prevailed in this election.
20. Case 03-REP-08-0154 Ohio Patrolmen's Benevolent Association, and Fraternal Order of Police, Ohio Labor Council, Inc., and Miami County Sheriff
- There were 70 ballots cast
 - There were 5 challenged ballots
 - No Representative received 0 votes
 - Ohio Patrolmen's Benevolent Association received 26 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 39 votes and has prevailed in this election.

Board Member Verich moved that the Board certify the election results and the prevailing employee organizations as the exclusive representatives of all employees in the relevant bargaining units. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
January 8, 2004
Page 8 of 19

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 02-ULP-10-0677 SERB v. City of Cincinnati

In the Proposed Order in this case, the Administrative Law Judge recommended that the Board find that the Respondent [City of Cincinnati] violated O.R.C. §§ 4117.11(A)(1) and (A)(5) by unilaterally changing the terms and conditions of employment for Assistant Police Chiefs by failing to promote Captain Gregoire to a vacancy in the position of Assistant Police Chief. The Respondent has filed exceptions that address a variety of issues, including the timeliness and ripeness for review of the unfair labor practice charge, the terms of a previously agreed upon collective bargaining agreement *vis-à-vis* a subsequent home rule charter amendment, and an alleged over-extension or misapplication of the *Toledo* decision. The Respondent has also filed a motion for oral argument. The Respondent requests the oral argument because of the "implications and complex issues presented in the matter." The motion is unopposed. Board Member Verich moved that the Board grant the motion for oral argument and direct the parties to appear before the Board at a date and time to be determined by the General Counsel in consultation with the parties. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

2. Case 03-ULP-06-0313 Fraternal Order of Police, Akron Lodge #7 v. City of Akron, Police Department

Vice Chairman Gillmor moved that the Board construe the letter as a motion to withdraw, grant the motion, and dismiss with prejudice the unfair labor practice charge. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 03-ULP-10-0523 . Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO v. Miami University

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) by interfering with, restraining, and coercing bargaining-unit members engaged in concerted activities for the purpose of collective bargaining by questioning employees of their intent to strike prior to striking. Information gathered during the investigation revealed the Charged Party's manner of questioning had a chilling effect on bargaining-unit members considering exercising their guaranteed rights. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice occurred, 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) by interfering with, restraining, or coercing bargaining-unit members engaged in concerted activities for the purpose of collective bargaining by questioning employees of their intent to strike prior to striking, 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

2. Case 03-ULP-08-0429 . Columbiana Local Association of School Support v. Columbiana Exempted Village School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally abandoning the past practice of allowing custodians to increase their hours. Information gathered during the investigation revealed the Charging Party requested to bargain the change in the past practice and the Charged Party refused. 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 abandoning the past practice of allowing custodians to increase their summer hours, 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

State Employment Relations Board Minutes
January 8, 2004
Page 10 of 19

3. Case 03-ULP-11-0595 Larry Dean Watkins v. Ohio Council 8,
American Federation of State, County
and Municipal Employees, Local 7, AFL-
CIO

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(6) by allowing the City of Toledo to transfer him. Information gathered during the investigation revealed the charge is untimely filed. 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

4. Cases 03-ULP-10-0537 Vernon Hempstead v. Cleveland City
School District Board of Education
03-ULP-10-0538 Vernon Hempstead v. National
Conference of Firemen & Oilers, Local
701, SEIU, AFL-CIO

In Case 03-ULP-10-0537, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(3), (4), and (5) by terminating the Charging Party without him being present at a predisciplinary hearing, and denying his right to the grievance process. In Case 03-ULP-10-0538, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(2) and (6) and the 14th Amendment by depriving the Charging Party's right to the grievance process. Information gathered during the investigation revealed the Charging Party was terminated for reasons other than engaging in protected activities. The Charging Party elected not to be at the predisciplinary hearing and did not notify either party he would not be at the hearing. The Charging Party did not file or attempt to file a grievance. 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

State Employment Relations Board Minutes
January 8, 2004
Page 11 of 19

5. Case 03-ULP-10-0557 International Brotherhood of Teamsters Union Local No. 377 v. Mahoning County Board of Commissioners and Child Support Enforcement Agency

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to bargain in good faith. Information gathered during the investigation revealed there was no evidence the Charged Parties have not bargained in good faith. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that unfair labor practices have 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

6. Case 03-ULP-10-0534 Columbus Education Association, OEA/NEA v. Columbus Board of Education and Marion-Franklin High School Principal Brian Terrell

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1) and (2) by attempting to interfere with the administration of the Charging Party, and attempting to interfere with an employee's guaranteed right to seek union assistance. Information gathered during the investigation revealed there is no evidence to support the allegations. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
January 8, 2004
Page 12 of 19

7. Case 03-ULP-10-0543 Wayne County Joint Vocational School Education Association, OEA/NEA v. Wayne County Joint Vocational School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to bargain in good faith over the compensation for two newly created positions, and by abolishing the two positions in bad faith. Information gathered during the investigation revealed when the parties were unable to agree on two newly created positions, the positions were abolished. No information was provided to support that a violation of the statute occurred. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

8. Case 03-ULP-09-0497 Lia Wolford and Edith McIntosh v. Transport Workers of America, Local 208 and Theotis James

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party. Information gathered during the investigation revealed the Charged Parties were representing all employees, and not just the Charging Parties. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties, and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

After the vote, Vice Chairman Gillmor moved that the Board amend the previous motion by deleting the finding that the charge was untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

State Employment Relations Board Minutes
January 8, 2004
Page 13 of 19

9. Cases 03-ULP-10-0530 Ted M. Baer v. State of Ohio,
Department of Youth Services
- 03-ULP-10-0531 Ted M. Baer v. Service Employees
International Union, District 1199

In Case 03-ULP-10-0530, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code §§ 4117.11(A)(1), (3), and (8) and (B)(2) and (6) by improperly allowing the Charging Party's position to be bumped, resulting in him being laid off and his position being posted. In Case 03-ULP-10-0531, the unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code §§ 4117.11(A)(1), (3), and (8) and (B)(2) and (6) by failing to fairly represent the Charging Party by allowing his position to be bumped into, resulting in him being laid off and his position being posted. Information gathered during the investigation revealed the Charging Party was not engaged in any protected activities resulting in his lay off. The matter is strictly contractual and not a statutory violation. The Charging Party's grievance was processed through Step 3, but too much time elapsed before the grievance was appealed to Step 4, no extensions had been requested or granted, and the grievance was not withdrawn. Board Member Verich moved that the Board, in Case 03-ULP-10-0530, 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-10-0531, 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)(6), but not (B)(2), by failing to pursue the Charging Party's 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

10. Case 03-ULP-07-0382 Huron Classified Employees
Association, OEA/NEA v. Huron City
School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally altering procedures for employees' physicals, and retaliating against employees for seeking assistance with respect to the changes. The charge was amended on October 6, 2003, to include the termination of Ms. Rhonda Kluding and Ms. Sharon Zvosec for seeking assistance in the original charge. Information gathered during the investigation revealed the allegations regarding Ms. Carol Klein are untimely filed. The investigation also revealed that the Charged Party's actions have interfered with Ms. Kluding's right to seek union assistance and that Ms. Zvosec and Ms. Kluding were terminated in retaliation for exercising guaranteed rights. No information was provided to support an Ohio Revised Code § 4117.11(A)(5) violation occurred. Vice Chairman Gillmor moved that the Board dismiss the allegations

State Employment Relations Board Minutes
January 8, 2004
Page 14 of 19

regarding Ms. Klein with prejudice as untimely filed, 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), but not (5), by interfering with Ms. Kluding's right to seek union assistance, and by terminating Ms. Zvosec and Ms. Kluding in retaliation for exercising their 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

11. Case 03-ULP-10-0517 Mark Schrieber v. Lorain County Career Center

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by threatening to terminate the Charging Party because he filed a grievance. Information gathered during the investigation revealed the Charged Party threatened to terminate the Charging Party if he continued to pursue his grievance to arbitration. The Charging Party has not received any harm for filing the grievance. 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), but not (3), by attempting to intimidate, coerce, or restrain the Charging Party in the exercise of guaranteed rights, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

12. Case 03-ULP-09-0456 Daniel J. Springer v. Lancaster Support Association

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party. Information gathered during the investigation reveals there is no evidence the Charged Party's actions were arbitrary, discriminatory, or in bad faith. The Charged Party is processing a grievance over the reduction in force, which affected the Charging 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

State Employment Relations Board Minutes
January 8, 2004
Page 15 of 19

13. Case 03-ULP-08-0427 Lynette D. Taylor v. Toledo Area Regional Transit Authority

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by terminating the Charging Party's employment in retaliation for engaging in protected activity. Information gathered during the investigation reveals the Charged Party's actions were for reasons other than Charging Party 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 __

14. Case 03-ULP-03-0135 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 517 v. Clearview Local School District Board of Education

On June 19, 2003, the Board deferred this matter to arbitration while retaining jurisdiction. On October 31, 2003, the arbitrator issued his decision. Neither party has asked the Board to review the decision. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice as having been resolved through the parties' grievance-arbitration process. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

15. Case 03-ULP-09-0488 Communications Workers of America, Local 4501 v. The Ohio State University

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) by failing to pay a Charging Party's representative for the time spent representing a grievant. Information gathered during the investigation reveals the Charging Party has failed to respond to requests for information. Board Member Verich moved that the Board dismiss the charges with prejudice because the Charging Party has failed to pursue the matter. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

State Employment Relations Board Minutes
January 8, 2004
Page 16 of 19

16. Case 03-ULP-10-0554 Pamela S. D'Amore v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party. Information gathered during the investigation reveals the Charging Party has failed to respond to requests for information. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice because the Charging Party has failed to pursue the matter. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

17. Case 03-ULP-10-0524 State Council of Professional Educators, OEA/NEA v. State of Ohio, Department of Rehabilitation and Correction
18. Case 03-ULP-10-0516 Cleveland Heights Teachers Union, Local 795 v. Cleveland Heights-University Heights City School District Board of Education
19. Case 03-ULP-10-0525 Canton Professional Education Association, OEA/NEA v. Canton City School District Board of Education
20. Case 03-ULP-12-0641 Woodmore Education Association, OEA/NEA v. Woodmore Local School District Board of Education
21. Case 03-ULP-09-0499 Brunswick Fire Fighters, Local 3568, IAFF v. City of Brunswick

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

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

VI. ADMINISTRATIVE MATTERS

Executive Director Snyder congratulated Chairman Drake on her first anniversary on the Board and announced that the staff would have a celebration after the meeting adjourned. Vice Chairman Gillmor and Board Member Verich applauded her for a good year.

State Employment Relations Board Minutes
January 8, 2004
Page 17 of 19

Executive Director Snyder announced that SERB had received the highest possible honors for its achievements in the Combined Charitable Campaign: a Gold Bar with Two Stars for reaching its dollar goal, increasing payroll deductions, and increasing its per capita giving over the previous year. The agency increased its participation rate from 52.8% in 2002 to 77.8% in 2003 and its total dollar contribution from \$6,416 in 2002 to \$8,585.89 in 2003. A letter from the Combined Charitable Campaign specially saluted the efforts of SERB's Campaign Chairman Jackie Murray.

Chairman Drake shared her proposed format for the agency's 20th Anniversary Forum to be held this year at a date to be announced. The proposed day-long program for representatives of labor and management and neutrals would include recognition of current and previous Board members, a review of significant SERB opinions and court decisions, a panel discussion covering the first 20 years of collective bargaining under Ohio Revised Code Chapter 4117, afternoon breakout sessions focusing on developments in education, conciliation and issues affecting safety forces, as well as city, county, township and state issues, and a panel discussion on the future of collective bargaining and mediation. Vice Chairman Gillmor confirmed that the program will not be financed through public funds, but that attendees will cover the cost through registration fees.

Executive Director Snyder advised that the Bureau of Mediation intends to survey parties who have used its training resources for interest-based bargaining, for example, to determine how useful our services actually are. Bureau Administrator Dale Zimmer stated that it is difficult to measure the absence of labor problems, which is the desired result of training, but the Bureau can interview parties who have used its processes. Vice Chairman Gillmor noted that our budget does not support an in-depth statistical study, but she would be interested in seeing the anecdotal evidence from those we train. She verified with Administrator Zimmer her understanding that although the Bureau can respond to traditional bargaining settings immediately, there is a time lag of around 4-6 weeks for interest-based or modified-traditional bargaining due to the training required, and we want to be sure that this approach is effective.

Board Member Verich reported that he had spoken with Dean Richard Aynes of the University of Akron School of Law about the law school's interest in having the agency present a class or conduct a hearing that would inform law students of SERB's role in administering public sector collective bargaining laws. The Executive Director will follow up with Dean Aynes for more specifics and inform the Board.

Regarding the building lease, Executive Director Snyder reported that DAS Risk Management had completed its review, and the lease does not contain any insurance requirements.

Executive Director Snyder reported that due to the efforts of Mary Queen Cool, who directs IT operations for the Ohio Attorney General's office, the Labor Relations Section is again able to print our probable cause files for trial directly through their Intellivue access, and SERB's Clerk's Office does not have to perform this task, which is particularly helpful with our current understaffing.

State Employment Relations Board Minutes
January 8, 2004
Page 18 of 19

Chairman Drake reported that she had been involved in an ongoing dialogue with FMCS representatives in hopes of devising ways that the health care issues might be dealt with more effectively in bargaining. Among strategies under discussion is for mediators to specifically train the parties in the use of joint labor-management committees to assist in resolving health care issues.

Executive Director Snyder advised the Board that procedures had been put in place to comply with a new Budget Bill requirement, effective January 1, 2004, that public agencies are not to contract with parties against whom the Auditor of State has issued findings for recovery that are unresolved, except in limited circumstances. She also announced that Administrative Law Judge Beth Shillington would begin working a full-time schedule, effective January 12, 2004.

Executive Director Snyder recommended that the Board authorize Donna Glanton, Jackie Murray and Mary Robertson to act on behalf of the Board by certifying the mailing of the directives and orders of the Board. Board Member Verich moved that the Board approve the recommendation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

Finally, Executive Director Snyder read and recommended that the Board adopt a resolution honoring Melvin E. Feinberg, a Supervisory Attorney at Region 8 of the National Labor Relations Board, on his retirement from the agency after nearly 35 years of service. Vice Chairman Gillmor moved that the Board adopt the resolution. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

Vice Chairman Gillmor moved that the Board go into executive session pursuant to Ohio Revised Code § 121.22(G)(1), to discuss the employment of public employees. Board Member Verich seconded the motion. Chairman Drake called for the roll-call vote.

Roll Call Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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

Roll Call Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
January 8, 2004
Page 19 of 19

VIII. ADJOURNMENT

Vice Chairman Gillmor moved that the Board adjourn the meeting. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye
Affirmed X

GILLMOR Aye
Denied

VERICH Aye



Carol Nolan Drake, Chairman