

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, April 1, 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. Chairman Drake mentioned that today is SERB's 20<sup>th</sup> Anniversary with the doors opening for business on April 1, 1984.

I. APPROVAL OF MINUTES FOR PREVIOUS MEETING:

Vice Chairman Gillmor moved that the Board approve the minutes for the March 11, 2004 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:

1. Case 03-MED-01-0060                      Service Employees International Union, Local 47 and Cuyahoga Board of County Commissioners, Department of Development, Sanitary engineering Division

On February 26, 2004, the Employer filed a motion to stay negotiations. On March 8, 2004, the Employee Organization filed a memorandum in opposition. On March 17, 2004, the Employer submitted a supplementary filing on the motion to stay negotiations. On March 30, 2004, the Employer filed a withdrawal of its motion to stay negotiations. Board Member Verich moved that the Board construe the Employer's withdrawal as a motion to withdraw and grant the motion to withdraw the motion to stay negotiations. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied



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2. Case 03-REP-09-0167 Union Township Fire Department, Clermont County Part-Timers and Union Township Fire Department, Clermont County

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The substantial evidence is sufficient and the Employer has complied with the posting requirements set forth in Ohio Revised Code § 4117.05(A)(2). The Employer also filed objections maintaining the employees in question are casual employees and have not worked since August 2003. The Employee Organization confirms the employees in question have not worked since August 2003 and have never been regularly scheduled. Ohio Revised Code § 4117.01(C)(13) excludes casual employees from collective bargaining. Vice Chairman Gillmor moved that the Board dismiss without prejudice the Request for Recognition pursuant to O.R.C. § 4117.01(C)(13). 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-09-0178 Ohio Patrolmen's Benevolent Association and City of Olmsted Falls
4. Case 03-REP-12-0238 Stage Employees Local Union No. 48 of the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada AFL-CIO, CLC and University of Akron
5. Case 03-REP-03-0045 Teamsters Local 244 and Cuyahoga County Commissioners/Department of Human Services

In Case 03-REP-09-0178, the Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employee Organization has now filed a letter withdrawing the Petition for Representation Election. In Case 03-REP-12-0238, the Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employee Organization has now filed a letter withdrawing the Petition for Representation Election. In Case 03-REP-03-0045, the Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO (Intervenor) filed a motion to intervene maintaining it is the deemed-certified exclusive representative of the employees in question. The Employer filed objections and a position statement. On December 18, 2003, the Board granted the motion to intervene and directed the case to hearing to determine if the Petition for Representation Election was appropriate and for

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all other relevant issues, and directed the parties to mediation. As a result of mediation, the parties have executed a Settlement Agreement that includes withdrawal of the instant Petition for Representation Election. Board Member Verich moved that the Board approve the settlement agreement executed by the parties in Case 03-REP-03-0045, construe the Employee Organization's letter and withdrawals as motions to withdraw, grant the motions, and dismiss without prejudice the Petitions for Representation Election. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

6. Case 04-REP-02-0021                      Melvin B. Davis and Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and City of Jackson

The Petitioner filed a Petition for Decertification Election seeking to decertify the Incumbent Employee Organization as the Board-certified exclusive representative of certain employees of the Employer. The Petitioner failed to serve the Employer as noted in the Proof of Service. Pursuant to O.A.C. Rule 4117-5-01(H), Petitions for Decertification Election must be served upon both the Incumbent Employee Organization and the Employer. Vice Chairman Gillmor moved that the Board dismiss without prejudice the Petition for Decertification Election because the Employer was not served a copy of the petition. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

7. Case 03-REP-12-0235                      Fraternal Order of Police, Ohio Labor Council, Inc. and Hamilton Township Police Department, Warren County

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed a Petition for Amendment of Certification and has now filed a motion to withdraw the petition. Board Member Verich moved that the Board grant the Employee Organization's motion, and dismiss without prejudice the Petition for Amendment of Certification. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied

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8. Case 03-REP-08-0139 Northwest State Community College Education Association (OEA) and Northwest State Community College

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employer filed a Petition for Clarification of Bargaining Unit seeking to clarify the existing unit to exclude Safety & Security Officers who have historically been included in the unit, but are now performing duties that were subcontracted out by the Employer. The Employee Organization responded by filing a position statement opposing the clarification. The parties agreed to mediation. The Employer has since cancelled the April 13, 2004 mediation date. Vice Chairman Gillmor moved that the Board direct this case to hearing to determine bargaining-unit status of the employees in question, and direct the parties to mediation. Board Member Verich seconded the motion. Chairman Drake called for any discussion and commented that although one party has said they are not interested in participating in mediation, the Board still recommends mediation take place to try to settle this issue. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied    

9. Case 03-REP-09-0162 Fraternal Order of Police, Ohio Labor Council, Inc. and Tallmadge Local No. 2764, International Association of Fire Fighters and City of Tallmadge

- There were 8 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Tallmadge Local No. 2764, International Association of Fire Fighters received 0 votes
- Fraternal Order of Police, Ohio Labor Council, Inc received 8 votes and has prevailed in this election.

10. 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

- There were 15 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received 15 votes and has prevailed in this election.

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11. Case 03-REP-10-0206 William D. Cecil and Teamsters Local Union No. 957 and City of Clayton

- There were 5 ballots cast
- There were 0 challenged ballots
- Teamsters Local Union No. 957 received 1 vote
- No Representative received 4 votes and has prevailed in this election.

Board Member Verich moved that the Board certify the above-cited election results and certify each prevailing employee organization as the exclusive representative 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    

12. Case 04-REP-02-0019 Frank W. Taylor and Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of Chardon, April 21, 2004

The Petitioner filed a Petition for Decertification Election seeking to displace the Incumbent Employee Organization, which is the Board-certified exclusive representative of certain employees of the Employer. The parties entered into a Consent Election Agreement seeking an election on April 21, 2004. Vice Chairman Gillmor moved that the Board approve the Consent Election Agreement and direct an election be conducted on April 21, 2004. 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 03-UPL-10-0562 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO v. City of Warren

On October 27, 2003, the Charging Party filed an unfair labor practice charge against the Charged Party. On February 5, 2004, the Board found probable cause to believe a violation had occurred, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to unfair labor practice mediation. On February 20, 2004, the Charged Party filed a motion for deferral to the parties' grievance-arbitration procedure. On February 27, 2004, the Charging Party filed its reply in opposition to the motion for deferral.

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In *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92), the Board revised its deferral policy, providing three options when an unfair labor practice charge is filed: (1) dismiss the matter for all the usual reasons including but not limited to lack of jurisdiction, untimeliness, or because no probable cause exists to believe the law has been violated; (2) find probable cause exists and authorize the issuance of a complaint; or (3) retain jurisdiction and defer the matter for resolution through the grievance-arbitration procedure. A party wishing to have a case deferred to arbitration should file a motion for deferral with the Board immediately upon receipt of the charge. *Id.* "Deferral to an arbitrator's decision after probable cause has been found and a Complaint has been issued is not one of SERB's three options." *In re City of Norwood*, SERB 99-025 (10-8-99).

The motion for deferral was filed almost four months after the charge was filed. O.R.C. § 4117.12(B) mandates that the Board *shall* issue a complaint and *shall* conduct a hearing concerning an unfair labor practice charge if, following an investigation of the charge, it has probable cause to believe that an unfair labor practice has occurred. *SERB v Perkins*, 2001 SERB 4-9 (1st Dist Ct App, Hamilton, 6-22-01). Thus, the window for granting the motion for deferral was closed on February 5, 2004, when the Board found probable cause. Board Member Verich moved that the Board deny the motion for deferral. Vice Chairman Gillmor seconded the motion. 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	03-ULP-02-0081		<u>SERB v. Scioto County Board of Mental Retardation and Developmental Disabilities</u>
3.	Case	03-ULP-09-0498		<u>Cuyahoga County Sanitary Engineers Service Workers Association v. Cuyahoga County Board of Commissioners</u>
4.	Case	03-ULP-10-0523		<u>Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO v. Miami University</u>
5.	Case	03-ULP-08-0426		<u>SERB v. City of Strongsville, Chief Paul Haney, et al.</u>

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6. Case 03-ULP-06-0324 SERB v. International Union of Operating Engineers, Local 18-S

Vice Chairman Gillmor moved that the Board approve and adopt the settlement agreements, construe the settlement agreements as motions to withdraw, grant all of the motions to withdraw and dismiss, dismiss the complaints, dismiss with prejudice the unfair labor practice charges, and vacate the direction to a show cause hearing. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

7. Cases 03-ULP-06-0347 SERB v. Summit County  
03-ULP-07-0357 Children Services

Board Member Verich moved that the Board lift these cases from the tabled matters. Vice Chairman Gillmor 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 approve and adopt the settlement agreement, construe the settlement agreement as a motion to withdraw, grant the motion, dismiss the complaint, 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. Cases 03-ULP-11-0614 Gaelen K. Durant v. The Ohio State University – Physical Facility Building Services  
03-ULP-11-0615 Gaelen K. Durant v. Communications Workers of America, Local 4510

In Case 03-ULP-11-0614, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), (5), and (6) by harassing the Charging Party since November 26, 2001, not processing his grievances, and terminating his employment. Information gathered during the investigation revealed the Charging Party was terminated for absenteeism and performance issues, and was not engaged in any protected activities. Additionally, alleged violations prior to August 21, 2003, occurred more than 90 days before the charge was filed with the Board. In Case 03-ULP-11-0615, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised

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Code § 4117.11(B)(1), (2), (3), and (6) by failing to fairly represent the Charging Party by not filing his grievances and permitting the Employer to harass him. Information gathered during the investigation revealed the events giving rise to the charge occurred more than 90 days before the filing of the charge with the Board. Board Member Verich moved that the Board, in Case 03-ULP-11-0614, 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 all allegations occurring before August 21, 2003; and in Case 03-ULP-11-0615, dismiss the charge with prejudice as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

2. Case 03-ULP-11-0584 Fraternal Order of Police, Ohio Labor Council, Inc. v. Clinton County Sheriff

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against Deputies Stephanie Bivens, Addison Stonewall, and Pat Johnson because of their organizing efforts, and by issuing letters to proposed bargaining-unit employees in an effort to dissuade them from voting for the union. Information gathered during the investigation revealed a case of discrimination is established for Deputy Stonewall but not Deputies Bivens and Johnson. Additionally, the clear and concise issue raised by the Charged Party was resolved through an amended filing. 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 disciplining Deputy Addison Stonewall for his activities associated with unionizing, dismiss all other aspects of the charge for lack of probable cause, direct the parties to ULP mediation, and deny the Charged Party's motion as moot. 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>	

3. Cases 04-ULP-01-0030 Jefferson County Department of Job and Family Services v. Communications Workers of America, AFL-CIO

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04-ULP-01-0031

Jefferson County Department of Job and  
Family Services v. Patricia Cramblett

The unfair labor practice charges alleged the Charged Parties have violated Ohio Revised Code § 4117.11(B)(3) by bargaining in bad faith. Information gathered during the investigation revealed the Charged Parties responded to comments after the Charging Party appeared on a radio station, and the actions do not violate the statute. 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. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

4. Case 03-ULP-11-0606

Norton Firefighters Association, IAFF  
Local 4219, AFL-CIO v. City of Norton

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by denying information sought by the Union and reprimanding the President of the Union for filing a financial information request. Information gathered during the investigation revealed the Charged Party disciplined the Union President after he requested financial information for the purpose of collective bargaining. 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, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by reprimanding the President of the Union for filing a financial information request, 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   

5. Cases 03-ULP-12-0637

Chrysanthe S. Houchens v. Metro Health  
Medical Center

03-ULP-12-0638

Chrysanthe S. Houchens v. Ohio  
Council 8, American Federation of State,  
County and Municipal Employees, Local  
3360, AFL-CIO and Barbara Thomas

In Case 03-ULP-12-0637, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) through (8) by terminating the Charging Party for filing grievances. Information gathered during the investigation revealed the Charging Party was terminated for reasons other than exercising guaranteed rights. The Charging Party did not provide any evidence to support her allegations. Additionally, knowledge of the alleged violation prior to September 3, 2003, occurred more than 90 days before the charge was filed with the Board. In Case 03-ULP-12-0638, the unfair

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labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(B)(1), (2), (5), and (6) by failing to fairly represent the Charging Party. Information gathered during the investigation revealed the Charged Parties represented the Charging Party through her grievances. The Charged Parties' actions were not arbitrary, discriminatory, or in bad faith. Additionally, knowledge of the alleged violations prior to September 3, 2003, occurred more than 90 days before the charge was 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 regarding all allegations occurring prior to September 3, 2003. 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-11-0611 Fraternal Order of Police, Ohio Labor Council Inc. v. City of Euclid

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by bargaining in bad faith. Information gathered during the investigation revealed the increased package provided to members of the Teamsters union was not through negotiations, but awarded involuntarily and does not violate the statute. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

7. Case 04-ULP-01-0023 Sheri Florida v. Allen County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(3) by unfairly interpreting contract language, thereby interfering with the Charging Party's right to protections under the agreement. Information gathered during the investigation revealed the Charging Party was denied sick leave based on the Charged Party's interpretation of the contract. No statutory issue is evident. The grievance was not advanced to arbitration. Additionally, knowledge of 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. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied

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8. Cases 03-ULP-11-0579 David R. Potopsky v. Dalton Local Education Association, OEA/NEA
- 03-ULP-11-0580 David R. Potopsky v. Dalton Local Education Association, OEA/NEA and Tim Miller
- 03-ULP-11-0581 David R. Potopsky v. Ohio Education Association

The unfair labor practice charges alleged the Charged Parties have violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to fairly represent the Charging Party. Information gathered during the investigation revealed the Charged Parties represented the Charging Party for various grievances and negotiated settlements. The grievances were not advanced to arbitration based on the merits. Additionally, no information was provided demonstrating the Charged Parties' actions were 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   

9. Case 03-ULP-11-0575 International Brotherhood of Teamsters Local 284 v. The Ohio State University Medical Center

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by altering Helen Moore's work assignments and schedule, and disciplining her because she engaged in protected activities. Information gathered during the investigation revealed Ms. Moore did not receive any discipline, and her schedule was consistent with assignments before her organizing efforts. 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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10. Case 03-ULP-12-0657 Mose B. Cartier, Jr. v. Cincinnati Public Schools Board of Education, Marvin Koenig, and Stephanie Morton

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1) and (3) by terminating the Charging Party because he refused to change a student's grade and was not given an opportunity to have a union representative present. Information gathered during the investigation revealed the Charging Party was not terminated. Being relieved of the Charging Party's duties at one school is a contractual matter, and not a statutory violation. Additionally, the Charging Party was not entitled to union representation at the meeting because it was not investigatory. 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   

11. Case 03-ULP-11-0582 Oberlin Education Association, OEA/NEA v. Oberlin City 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 approving start-up girls soccer team, cross country team, and forensic team as club activities to be directed or supervised by parent volunteers. Information gathered during the investigation revealed the use of volunteers to perform duties not previously performed by bargaining-unit members is not a violation of the statute. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied

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12. Case 03-ULP-11-0576 MARCA Education Association, OEA/NEA v. Marion County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), (4), and (8) by issuing OEA President Stephanie Leffler a written reprimand and giving her a low performance evaluation because she engaged in protected activities. Information gathered during the investigation reveals Ms. Loeffler received discipline and a poor evaluation for engaging in protected activities. Additionally, no information was provided to support the Ohio Revised Code § 4117.11(A)(4) or (8) allegations occurred. 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), but not (4) and (8), by issuing OEA Local President Stephanie Leffler a written reprimand and giving her a low performance evaluation 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   

13. Case 03-ULP-12-0660 Freddie Campbell v. Municipal Foremen and Laborers Union, Local 1099

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(6) by denying the Charging Party arbitration of his grievance on September 11, 2003. Information gathered during the investigation reveals 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

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14. Case 03-ULP-11-0585 Fraternal Order of Police, Ohio Labor Council, Inc. v. Gallia County Sheriff

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by informing deputies that they could no longer take their cruisers home. Information gathered during the investigation reveals a contract dispute exists regarding allowing deputies to take their cruisers home. Vice Chairman Gillmor moved that the Board sua sponte defer the matter for resolution through the grievance-arbitration procedure and retain jurisdiction in accordance with *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). Board Member Verich seconded the motion. Chairman Drake called for any discussion and stated that she agrees with the recommendation and that this case is a matter that should be deferred. Chairman Drake called for the vote.

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

15. Case 03-ULP-11-0587 Bryan T. Lenzo v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to file a timely grievance over the Charging Party's termination. Information gathered during the investigation reveals the Charged Party did not timely file the termination grievance for the Charging Party. 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(B)(1) and (6) by failing to file a timely grievance over the Charging Party's termination after informing him it would, 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 \_\_

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16. Case 03-ULP-11-0628

Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Franklin County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), (5), and (8) by informing bargaining-unit employees of changes and increased costs to their health care coverage while the parties were in contract negotiations. Information gathered during the investigation reveals the Charged Party notified the bargaining-unit employees of the change before bringing it up to the Charging Party at the negotiating table. Additionally, no information was provided to support the Ohio Revised Code § 4117.11(A)(2) or (8) allegations occurred. 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 an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5), but not (2) and (8), by informing bargaining-unit employees of changes and increased costs to their health care coverage while the parties were in contract negotiations, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for any discussion, and expressed that she was happy to see that a SERB mediator has been involved in trying to settle this matter. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

17. Case 03-ULP-11-0629

Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Franklin County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), (5), and (8) by requiring all bargaining-unit employees to turn in their facility and bus keys at the completion of their work day. Information gathered during the investigation reveals the Charged Party's actions of requiring the keys to be turned in is de minimis and does not require bargaining. Additionally, the Charging party failed to show Ohio Revised Code § 4117.11(A)(2) and (8) violations occurred. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied

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18. Case 03-ULP-11-0630 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Franklin County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), (5), and (8) by requiring bus assistants to assist the bus drivers with pre-trip preparations. Information gathered during the investigation reveals the memorandum is a reminder of what the bus assistant duties are and does not constitute a change. Additionally, the Charging Party failed to show Ohio Revised Code § 4117.11(A)(2) and (8) 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   

19. Case 03-ULP-12-0648 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Fairland Local School District Board of Education

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

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

20. Case 04-ULP-01-0043 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, and Keith Profitt v. State of Ohio, Department of Rehabilitation and Correction, Lebanon Correctional Institution and Ernie Moore

21. Case 04-ULP-03-0141 Ohio Patrolmen's Benevolent Association v. City of Warrensville Heights

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22. Case 03-ULP-12-0672 Mayfield Education Association, OEA/NEA v. Mayfield City School District Board of Education
23. Case 03-ULP-11-0619 Buckeye Education Association, OEA/NEA v. Buckeye Local School District Board of Education

Board Member Verich moved that the Board construe the withdrawal as a motion to withdraw, grant all motions with prejudice in these cases, and in Case 03-ULP-11-0619, deny the motion to defer for resolution by grievance arbitration and the motion for extension of time to file a response as moot. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
       Affirmed X                              Denied   

VI. ADMINISTRATIVE MATTERS

Executive Director Pat Snyder announced that today is SERB's 20<sup>th</sup> Anniversary. The staff are preparing an internal celebration following the Board meeting. Vice Chairman Gillmor read a resolution the Governor's office prepared for SERB's anniversary, and it reads as follows:

**WHEREAS**, Today is the 20<sup>th</sup> anniversary of the creation of the State Employment Relations Board (SERB), which opened its doors on April 1, 1984; and

**WHEREAS**, SERB is committed to promoting orderly and constructive relationships among Ohio's public employers, public employees, and their labor representatives; and

**WHEREAS**, in the past twenty years, the Public Employees' Collective Bargaining Act has given Ohio's public sector a more peaceful labor relations systems; and

**WHEREAS**, The Bargaining Act has provided an important forum to resolve labor conflicts through the creative use of mediation, training, and statutory tools; and

**WHEREAS**, With Ohio's solid history of labor management cooperation in the public sector, we can all look forward to continued success in meeting workplace challenges peacefully through the collective bargaining process.

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**NOW, THEREFORE, I, BOB TAFT, Governor of the State of Ohio, do hereby designate**

**STATE EMPLOYMENT  
RELATIONS BOARD DAY  
APRIL 1, 2004**

Throughout the State of Ohio and encourage all Ohioans to join in congratulating the current and former members of the State Employment Relations Board, the employees of SERB, Ohio's public employees and employers, labor representatives, neutrals, and interested parties for the many successes of the past twenty years as they have worked together to enhance their relationship and to further advancement of the law.

On this 1<sup>st</sup> day of April, 2004

Bob Taft  
Governor

Chairman Drake thanked Vice Chairman Gillmor and Board Member Verich for serving on the Board and for being a part of SERB's celebration.

Executive Director Pat Snyder gave the Board a status report on the hard drive programming for our new 19 desktops hard drives. She said next week they will be programmed and then installed shortly thereafter.

Executive Director Snyder also gave a status report on the Clearinghouse programming, and said around April 12 and 13, 2004, SSI will have it all programmed for a test run from the data base. Once in place, this should help out SERB's Research and Training department, as well as, the other sections in retrieving valuable information to help our customers and internal reporting.

Executive Director Snyder next addressed the recommendation of purchasing computer software which entail CarePaqs for servers and an Anti-Spam Software. The CarePaqs would cover all five servers, including those newly purchased and for two older servers. The three new servers are already covered by a three-year warranty covering parts and labor and providing next-day on-site service in case of a breakdown; and although CarePaq offers four-hour on-site support, which is quicker service than the warranty, the cost of support for all three new servers would be \$2,490.00. It was mentioned that since the new servers are presumably less subject to breakdown, this support would seem less compelling to purchase than support for the two older servers. One server lost warranty protection in February 2004, and the other's coverage expires May 1, 2004. Without the warranty protection, breakdowns can be expensive, i.e., \$180 an hour for labor with a two-hour minimum, plus travel costs, plus surcharges for emergency responses that range from \$700-\$2,500, in addition to parts and labor. It was additionally mentioned that the cost of a year's support for the two older servers is \$1,440.00 for both, and the recommended Anti-Spam software is approximately \$310.00, with the low quotes to date received from the supplier CDW-G.

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Vice Chairman Gillmor moved that the Board authorize the purchase of CarePaq support for SERB's two older servers in an amount not to exceed \$1,440.00 and the Anti-Spam software in an amount not to exceed \$310.00, for a total not to exceed \$1,750.00. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

Executive Director Snyder mentioned the purchase of cubicle stackers for the Clerk's Office. In the past several months, Executive Director Snyder had facilitated discussions with staff in the Clerk's Office over the configuration of their office space. The staff have had ongoing concerns that their cubicles have not been adequately separated for optimum customer service to telephone customers. At Executive Director Snyder's request, the State Architect's Office of DAS sent a designer over to determine whether DAS Salvage equipment might be available to provide better customer service at minimal cost. At no charge, that office prepared plans for reconfiguring the office with salvaged furniture, as well as, new furniture. DAS also obtained a quote from the Thomas W. Ruff company for placing stackers on existing cubicles to add some privacy and noise buffering between desks. It was clear that the reconfiguration plans involving replacement furniture were cost prohibitive, totaling more than \$8,000 with new furniture and more than \$7,000 with salvaged goods, and entailing physical changes in the Clerk's Office space. The cost of acquiring stackers to separate cubicles currently in use is approximately \$835.00. The Clerk's Office staff is aware of level of separation that the stackers would provide and believe that they would be effective in solving their workspace problem. A 1% cost increase in steel products is expected as of April 26, 2004, and state agencies are periodically the subject of equipment purchase freezes before the end of the fiscal year. Executive Director Snyder requested the Board purchase the cubicle stackers before such a freeze takes place. Board Member Verich moved that the Board authorize the purchase of cubicle stackers for the Clerk's Office at a cost not to exceed \$835.00. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye                      GILLMOR Aye                      VERICH Aye  
Affirmed X                                  Denied   

Executive Director Snyder mentioned that the rental car mileage is increasing and is to be retroactive to the beginning of this fiscal year in July, 2003. The increase is approximately eight to ten cents per mile. This increase will definitely affect SERB's budget, especially when it involves the use of cars for our mediators per month.

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Executive Director Snyder updated the Board on SERB's involvement with Operation Feed, and how well it is doing. The 5-can dress-down-day incentive has been a great hit with everyone, which means that if a person brings in 5 cans or 5 items from the "items needed list," they receive a free dress down day to be used any day except for Board Meeting days. She mentioned that there will be an Ice Cream Social on April 15, 2004, which is when our next board meeting takes place. She asked that the Board members be involved with this fund-raiser as official "ice cream scoopers." Additionally, Executive Director Snyder mentioned that the Taco Salad function made \$104.50, and that there are many more functions coming up before Operation Feed ends in May.

Executive Director Snyder mentioned the power-point presentation she and Chairman Drake gave at the Ohio Federation of Teachers (OFT) conference in Toledo, Ohio. Both she and Chairman Drake thanked SERB's Mediator Debbie McCormick for helping to put the presentation together for them including some animation, which seemed to be a hit with several people attending the conference. The presentation included some discussion regarding experiences SERB has had with the OFT. Some comments from the President of OFT included that he had learned a lot about SERB from this presentation. Chairman Drake also mentioned that she is speaking on April 15, 2004 at the monthly meeting of the Public Sector Labor Relations Association in Cleveland, Ohio, and has again extended the invitation to Board Member Verich to attend this event with her. This speaking engagement was originally set for February 19, 2004, but was postponed for another time.

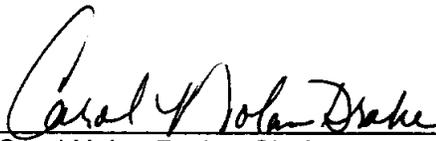
Executive Director Snyder mentioned that she received from the Office of Budget Management a notice requesting an Impact Statement from SERB on how the budget cuts will affect us, the impact it will have with the agency, and that the statement is due by Friday, April 2, 2004. She stated that SERB Division Managers will meet with their staff to obtain input to give to her for SERB's statement.

Executive Director Snyder confirmed that Labor Relations Specialist Amy Hughes will be leaving SERB, and that her last day is April 16, 2004. Ms. Hughes has been a great asset to the agency and she will be missed by all.

VII. 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 <u>Aye</u>	GILLMOR <u>Aye</u>	VERICH <u>Aye</u>
	Affirmed <u>X</u>	Denied <u>  </u>	

  
\_\_\_\_\_  
Carol Nolan Drake, Chairman

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PREVIOUS TABLED MATTERS

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