

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, April 15, 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 April 1, 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:

There were no Mediation matters for this Board Meeting

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 03-REP-10-0210 Avon Professional Fire Fighters, IAFF
Local 4310 and City of Avon

The Employee Organization filed an amended Request for Recognition seeking to represent certain employees of the Employer. The request is supported by proper substantial evidence, and the Employer has complied with the posting requirements set forth in Ohio Revised Code (O.R.C.) § 4117.05(A)(2)(a). No objections or petitions have been filed as provided in O.R.C. § 4117.05(A)(2)(b)(i), (ii), (iii), or (iv). Board Member Verich moved that the Board certify the Employee Organization as the exclusive representative of all employees in the bargaining unit. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

State Employment Relations Board Minutes
April 15, 2004
Page 2 of 23

2. Case 03-REP-08-0144 Teamsters Local No. 348 and Portage Area Regional Transportation Authority (PARTA), May 7, 2004
3. Case 03-REP-12-0239 Fraternal Order of Police, Ohio Labor Council, Inc. and Ohio Patrolmen's Benevolent Association and City of Cleveland, May 4, 2004
4. Case 04-REP-01-0010 Ohio Patrolmen's Benevolent Association and City of Struthers, May 6, 2004

In Case 03-REP-08-0144, the Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. This case was coordinated with Case No. 03-REP-10-0197 and directed to hearing. The Employee Organization withdrew Case No. 03-REP-10-0197. As a result of mediation efforts, the parties entered into a Consent Election Agreement in Case No. 03-REP-08-0144 seeking an election on May 7, 2004. In Case 03-REP-12-0239, 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 entered into a Consent Election Agreement seeking an election on May 4, 2004. In Case 04-REP-01-0010, the Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The parties entered into a Consent Election Agreement seeking an election on May 6, 2004. Vice Chairman Gillmor moved that the Board approve the Consent Election Agreements and direct elections to be conducted on the dates as indicated. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

5. Case 04-REP-03-0057 North Union Education Association, OEA/NEA and North Union Local Board of Education

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization and the Employer jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect abolished positions, newly created positions, job title changes, and specific exclusions. Board Member Verich moved that the Board approve the jointly filed petition and amend the unit accordingly. 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
April 15, 2004
Page 3 of 23

6. Case 03-REP-12-0237 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Summit County Fiscal Office

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 Board had also received substantial evidence as defined in Ohio Administrative Code Rule 4117-3-02(B)(2) demonstrating that a majority of the employees in the described bargaining unit do not wish to be represented by the Employee Organization. As a result, the Board directed an election to be conducted at a date, time, and place determined by the Representation Division in consultation with the parties. The Employee Organization has filed a letter withdrawing the Request for Recognition. Vice Chairman Gillmor moved that the Board rescind the February 26, 2004 Direction to Election, construe the Employee Organization's letter as a motion to withdraw, grant the motion, 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

7. Cases 03-REP-07-0127 Youngstown State University Association of Classified Employees (YSU-ACE) and
03-REP-08-0156 Youngstown State University

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. In Case No. 03-REP-07-0127 the Employer filed a Petition for Amendment of Certification seeking to amend the existing bargaining unit to reflect the creation of new positions, the elimination of existing classifications, and changes in job duties. The Employee Organization filed a position statement in opposition. The Employer filed a response. In Case No. 03-REP-08-0156 the Employee Organization filed a Petition for Amendment of Certification seeking to amend the existing unit by including and excluding various positions. The Employer filed a response. On March 11, 2004, the Board consolidated the cases, directed them to hearing to determine an appropriate bargaining unit and for all other relevant issues, and directed the parties to mediation. The parties met at the University on March 19, 2004, to review the bargaining unit and finalize all positions in dispute. A mediation session was held March 24, 2004, at the SERB offices. As a result of mediation, the Employer filed a Motion to Withdraw the Petition for Amendment of Certification in Case No. 03-REP-07-0127, and the Employee Organization filed a Notice to Withdraw Case No. 03-REP-08-0156. The

State Employment Relations Board Minutes
April 15, 2004
Page 4 of 23

parties have also filed a joint Petition for Amendment of Certification (Case No. 04-REP-03-0059) resolving all issues in the two instant cases. Board Member Verich moved that the Board rescind the March 11, 2004 Direction to Hearing, construe the Employee Organization's notice to withdraw as a motion, grant the Employee Organization's and Employer's motions to withdraw, and dismiss without prejudice the Petitions for Amendment of Certification in Case Nos. 03-REP-07-0127 and 03-REP-08-0156. Vice Chairman Gillmor seconded the motion. Chairman Drake called for any discussion, and stated how pleased she was to hear the mediation was successful in settling this matter. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

8. Case 02-REP-08-0143

Medina County Achievement Center
Employees Association, OEA/NEA and
Medina 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 certification to create a separate bargaining unit for employees performing service and support administration duties pursuant to HB 94 (Ohio Revised Code 5126.15 (A)). The Employee Organization filed a response opposing the amendment. The case was directed to hearing to determine an appropriate bargaining unit and for all other relevant issues, and the parties were directed to mediation. As a result of mediation, the parties executed a Settlement Agreement, but did not dispose of the Petition for Amendment of Certification filed by the Employer. The parties have filed a joint Petition for Amendment of Certification (Case No. 04-REP-03-0038) pursuant to the Settlement Agreement, and the Employer has filed a Motion to Dismiss the instant petition. Vice Chairman Gillmor moved that the Board approve the Settlement Agreement executed by the parties, grant the Employer's Motion to Dismiss, and dismiss without prejudice the Petition for Amendment of Certification. Board Member Verich seconded the motion. Chairman Drake called for any discussion and commented that again she was pleased the matter was settled due to the mediation efforts. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

State Employment Relations Board Minutes
April 15, 2004
Page 5 of 23

9. Case 03-REP-11-0228 Clermont County Fraternal Order of Deputy Sheriffs and Fraternal Order of Police, Ohio Labor Council, Inc. and Clermont County Sheriff

- There were 44 ballots cast
- There was 1 challenged ballot
- No Representative received 0 votes
- Clermont County Fraternal Order of Deputy Sheriffs received 14 votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received 29 votes and has prevailed in this election.

10. Cases 03-REP-09-0157
03-REP-09-0190
(Run-Off election) International Union, United Automobile, Aerospace, Agricultural Implement Workers of America (UAW) Truck Drivers Union Local No. 407, IBT and Ohio Patrolmen's Benevolent Association and Cuyahoga County Sheriff's Department

- There were 407 ballots cast
- There were 2 challenged ballots
- International Union, United Automobile, Aerospace, Agricultural Implement Workers of America (UAW) received 142 votes
- Ohio Patrolmen's Benevolent Association received 263 votes and has prevailed in this election.

Board Member Verich moved that the Board certify the election results and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining units. Vice Chairman Gillmor 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. Cases 03-ULP-09-0457 thru 03-ULP-09-0460
03-ULP-09-0462 thru 03-ULP-09-0470
03-ULP-09-0472
03-ULP-09-0474 thru 03-ULP-09-0482
- SERB v. Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO and Gwen Albright, et al.

Vice Chairman Gillmor moved that the Board approve and adopt the settlement agreement, construe the settlement agreement as a motion to dismiss, grant the motion, dismiss the complaint, and dismiss with prejudice the unfair labor practice charges. Board Member Verich seconded the motion. Chairman Drake called for any discussion and stated how pleased she was that the Administrative Law Judge was able to mediate and resolve the issues in these cases. 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-12-0678
- International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW Region 2-B v. Cuyahoga County Sheriff's Department

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to bargain the termination of Bobby Hoover. Information gathered during the investigation revealed no bargaining agreement was in effect, and the proper recourse was to appeal through the State Personnel Board of Review. 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

State Employment Relations Board Minutes
April 15, 2004
Page 7 of 23

2. Case 04-ULP-01-0054 Michelle M. Hatch v. Toledo Federation of Teachers

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 in a grievance matter that led to the loss of her job and home. Information gathered during the investigation revealed the Charged Party did not take the Charging Party's grievance to arbitration based on the merits. 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

3. Case 03-ULP-11-0593 Fraternal Order of Police, Ohio Labor Council, Inc. v. Clinton County Sheriff

The unfair labor practice charges alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (2) by observing union brochures during the Union's organizing effort, grabbing the brochures, asking "what the hell is this crap," demanding to know who brought the brochures, and throwing them in the trash can. Information gathered during the investigation revealed the Charged Party's actions interfered with, restrained, or coerced the employees in their attempt to form, join, or participate in a union. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate with Case 03-ULP-11-0584, 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 (2) by inquiring about the responsibility for the Union organizing brochures before throwing them out, 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

State Employment Relations Board Minutes
April 15, 2004
Page 8 of 23

4. Case 03-ULP-11-0590 Mahoning Education Association of Developmental Disabilities, OEA/NEA v. Mahoning 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) and (5). Information gathered during the investigation revealed the Charged Party assigned bargaining-unit duties to nonbargaining-unit employees. 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 assigning bargaining-unit duties to nonbargaining-unit employees, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for any discussion and wanted to clarify that it was a deemed-certified unit prior to the statutory change. It was confirmed by Labor Relations Administrator Alan Bonham that the unit was deemed certified. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

5. Case 03-ULP-12-0666 Mark Bogadi 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), (2), (3), (4), and (5) by failing to fairly represent the Charging Party by not timely processing his grievance. 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

State Employment Relations Board Minutes
April 15, 2004
Page 9 of 23

6. Case 03-ULP-11-0620 Cloverleaf Education Association,
OEA/NEA v. Cloverleaf Local 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 engaging in bad-faith bargaining. Information gathered during the investigation revealed the information contained in the newspaper article does not have a negative impact on negotiations since the parties have not started negotiations. 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 03-ULP-11-0621 Lakeland Faculty Association, OEA/NEA
v. Lakeland Community College

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally creating a new assessment/monitoring process for members teaching on-line courses. Information gathered during the investigation revealed the matter is strictly contractual, and no statutory 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

State Employment Relations Board Minutes
April 15, 2004
Page 10 of 23

8. Case 03-ULP-11-0622 Mohawk Education Association,
OEA/NEA v. Mohawk Local 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 retaliating against Nelle Nutter for engaging in union activity. Information gathered during the investigation revealed Ms. Nutter may have been disciplined for engaging in protected activities. No information was provided to support the Ohio Revised Code § 4117.11(A)(5) allegation 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 (5), by retaliating against Nelle Nutter for engaging in union activity, 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

9. Cases 04-ULP-01-0053 Kim R. Watson v. State of Ohio,
Department of Rehabilitation and
Correction, North Coast Behavioral
Health Care

04-ULP-02-0059 Kim R. Watson v. Service Employees
International Union, District 1199

In Case 04-ULP-01-0053, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (6). Information gathered during the investigation revealed the Charged Party has only received one grievance and is processing it. Knowledge of the alleged violation regarding the signing bonus occurred more than 90 days before the charge was filed with the Board. In Case 04-ULP-02-0059, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(6) by keeping the Charging Party from presenting the Charging Party's grievances and having them adjusted without the intervention of the bargaining representative. Information gathered during the investigation revealed the Service Employees International Union, District 1199 did not process one of the Charging Party's grievances, and put the other one on hold before ever discussing it at a grievance meeting. The Service Employees International Union, District 1199 has failed to properly represent the Charging Party. Board Member Verich moved that the Board, in Case 04-ULP-01-0053, 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 signing bonus; and in Case 04-ULP-02-0059, find probable cause to believe an unfair labor practice has been committed, authorize the

State Employment Relations Board Minutes

April 15, 2004

Page 11 of 23

issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by keeping the Charging Party from presenting her grievances and having them adjusted without the intervention of the bargaining representative, 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 04-ERC-03-0003 Tena R. Bethel v. J & K Subway

11. Case 04-ULP-03-0134 Tena R. Bethel v. J & K Subway

The noncompliance complaint alleged the Employer has violated Ohio Revised Code § 4117.19, and the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11, by terminating the Complainant/Charging Party for eating when she was not on a break, and by not taking action on a sexual harassment complaint. Pursuant to Ohio Revised Code §§ 4117.12 and 4117.19, information gathered during the investigation revealed the complaint and unfair labor practice charge are not within the jurisdiction of SERB as the Complainant/Charging Party is not a public employee, and the Employer/Charged Party is not a public employer. Vice Chairman Gillmor moved that the Board, in Case 04-ERC-03-0003, dismiss the complaint with prejudice for lack of jurisdiction, and in Case 04-ULP-03-0134, dismiss the charge with prejudice for lack of jurisdiction. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

12. Case 03-ULP-11-0588 American Association of University Professors – University of Akron v. University of Akron

Board Member Verich moved that the Board remand this case to the Investigation Division. 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
April 15, 2004
Page 12 of 23

13. Case 03-ULP-12-0670 Sherry R. Brainard v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Vanessa Brown, and Robert Robinson

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(B)(1) and (6) by refusing to process the Charging Party's grievance. Information gathered during the investigation reveals the Charged Parties investigated the Charging Party's grievance and decided it was unsupported and in conflict with the contract. The Charging Party was advised timely and did not file a grievance on her own. Knowledge of the alleged violations regarding not filing a civil rights complaint in May 2002, occurred more than 90 days before the charge was filed with the Board. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties, and as untimely filed regarding the May 2002 allegations. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

14. Case 04-ULP-01-0051 Communications Workers of America, AFL-CIO v. Jefferson County Department of Job and Family Services

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(5) by bargaining in bad faith when it issued a statement to the media in violation of the negotiation guidelines. Information gathered during the investigation reveals the Charged Party was responding to statements made by the Charging Party. No details about what transpired in negotiations were revealed. 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

State Employment Relations Board Minutes
April 15, 2004
Page 13 of 23

15. Case 03-ULP-11-0617 Louis D. Brown, III v. City of Cleveland and Tony Washington

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1), (2), (3), (4), and (6) by denying the Charging Party's attempt to file a grievance because of his exercise of guaranteed rights. Information gathered during the investigation reveals the Charging Party was not harmed, and the decision not to process his grievance was for reasons other than exercising guaranteed rights. The Charging Party failed to show the Ohio Revised Code § 4117.11(A)(2) 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 Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

16. Case 03-ULP-12-0658 Harrison Professional Fire Fighters, Local 3204 v. City of Harrison

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing the terms and conditions of the contract regarding holiday pay. Information gathered during the investigation reveals the collective bargaining agreement between the parties includes a grievance procedure culminating in final and binding arbitration. A grievance regarding the alleged unilateral change has been filed and is proceeding through the grievance procedure. In interpreting contract provisions such as Article 29.3, the arbitrator will determine whether the holiday pay has been changed. Board Member Verich 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). 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-11-0613

Ohio Council 8, American Federation of State, County and Municipal Employees, Locals 3560 and 3560A, AFL-CIO v. Morgan County Department of Job and Family Services, Child Support Enforcement Agency and Morgan County Board of County Commissioners

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1) and (5) by bargaining in bad faith by unilaterally implementing a copayment when the parties had not reached impasse. Information gathered during the investigation reveals that the collective bargaining agreement between the parties includes a grievance procedure culminating in final and binding arbitration. A grievance regarding the alleged unilateral change has been filed and is proceeding through the grievance procedure. In interpreting contract provisions such as Articles 23 and 26, the arbitrator will determine whether copayment on medical insurance has been violated. Vice Chairman Gillmor moved that the Board grant the Charging Party's motion and sua sponte defers 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 the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

18. Case 03-ULP-12-0645

International Association of Firefighters, Local 2550 v. Shawnee Township, Allen County

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by repudiating the parties' Family and Medical Leave Act provision. Information gathered during the investigation reveals the matter is strictly contractual, and no statutory violation exists. The information failed to show an Ohio Revised Code § 4117.11(A)(3) violation 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

State Employment Relations Board Minutes
April 15, 2004
Page 15 of 23

19. Case 03-ULP-11-0632 Ohio Patrolmen's Benevolent Association v. City of Bellevue

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by repeatedly refusing to stop tape recording grievance hearings. Information gathered during the investigation reveals Case 03-ULP-11-0632 is a duplicate filing of Case 03-ULP-09-0451. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice as being a duplicate filing. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

20. Case 03-ULP-11-0633 Ohio Patrolmen's Benevolent Association v. City of Bellevue

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to proceed with a grievance following the Charging Party's objection to tape recording the hearing. Information gathered during the investigation reveals the Charged Party admits to closing the grievance at Step 3 and now refuses to arbitrate the grievance. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate with Case 03-ULP-09-0451, 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 bargaining in bad faith by failing to proceed with a grievance to arbitration following the objection by the Charging Party to tape recording the proceeding, 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

State Employment Relations Board Minutes
April 15, 2004
Page 16 of 23

21. Case 03-ULP-12-0644 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 reducing the hours for the Lunch/Playground Aide position. Information gathered during the investigation reveals the unilateral change of working hours without bargaining is a violation of the statute. 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 reducing the hours of the Lunchroom/Playground Aide position, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

22. Case 04-ERC-01-0001 Laurie Piekarski, Wendy Rutan, Trena Harrison, and Diana Faris v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The noncompliance complaint alleged the Employee Organization has violated Ohio Revised Code § 4117.19(C) by entering into an agreement that eliminated benefits, and failing to adhere to its constitution and bylaws with regard to a vote on the elimination of benefits. Information gathered during the investigation reveals the Employee Organization did not fail to file pursuant to Ohio Revised Code § 4117.19 its constitution and by-laws, and a grievance has been filed over the contractual issues. Board Member Verich moved that the Board dismiss the complaint with prejudice. 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
April 15, 2004
Page 17 of 23

23. Case 04-ULP-02-0060 Ohio Patrolmen's Benevolent Association v. Toledo-Lucas County Port Authority

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing health insurance coverage changes, and refusing to negotiate health insurance during contract negotiations. Information gathered during the investigation reveals the Charged Party implemented the change pursuant to its contract interpretation. Contract interpretation is at issue, and no statutory violation is present. Maintaining current contract language is not bad-faith bargaining. 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

24. Case 04-ULP-02-0063 Norwood Firefighters Association, Local 445, IAFF v. City of Norwood

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (5), and (8) by failing to sign and implement the successor collective bargaining agreement within thirty days of the Charged Party providing its council members with the final version of the contract. Information gathered during the investigation reveals the Charged Party's legislative body received the final contract on December 23, 2003, and failed to act within the statutory thirty days. No information was provided to support an Ohio Revised Code § 4117.11(A)(8) violation occurred. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5), but not (8), by failing to accept the agreement that its legislative body failed to timely approve or reject, 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

State Employment Relations Board Minutes
April 15, 2004
Page 18 of 23

25. Cases 04-ULP-01-0033 Fraternal Order of Police, Ohio Labor Council, Inc. v. Clark County Commissioners
- 04-ULP-01-0047 Fraternal Order of Police, Ohio Labor Council, Inc. v. Clark County Sheriff

In Case 04-ULP-01-0033, the unfair labor practice charge alleged the Clark County Commissioners have violated Ohio Revised Code § 4117.11(A)(1) and (5) by attending and interfering with contract negotiations between the Charging Party and the Clark County Sheriff. In Case 04-ULP-01-0047, the unfair labor practice charge alleged the Clark County Sheriff has violated Ohio Revised Code § 4117.11(A)(1) and (5) by allowing the Clark County Commissioners to participate in the negotiations. Information gathered during the investigation reveals Cathy Balas and Sharon Wahl, who are employees of the Commissioners, and members of the Sheriff's negotiating team, were acting in the interest of the Clark County Commissioners and not the Clark County Sheriff during negotiations. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate the cases, authorize the issuance of a complaint, refer the matter to an expedited hearing to determine if the Clark County Commissioners violated Ohio Revised Code § 4117.11(A)(1) and (5) by attending and interfering with contract negotiations between the Charging Party and the Clark County Sheriff, and to determine if the Clark County Sheriff violated Ohio Revised Code § 4117.11(A)(1) and (5) by allowing the Clark County Commissioners to disrupt negotiations by acting in the interests of the Clark County Commissioners' representative, 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 __

26. Case 04-ULP-01-0052 Tommie L. Woods, Jr., v. State of Ohio, Department of Youth Services, Scioto Juvenile Correction Facility
27. Case 03-ULP-12-0643 Stan Cox v. Paulding County Board of Mental Retardation and Developmental Disabilities
28. Case 04-ULP-02-0078 Twinsburg Fire Fighters, Local 3630, IAFF v. City of Twinsburg

Board Member Verich moved that the Board dismiss the charges with prejudice because the Charging Parties have failed to pursue the matters. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

State Employment Relations Board Minutes
April 15, 2004
Page 19 of 23

29. Case 04-ULP-02-0066 City of Twinsburg v. Twinsburg Fire Fighters, Local 3630, IAFF

Vice Chairman Gillmor moved that the Board construe the Charging Party's letter as a motion to withdraw, and grant the motion with prejudice. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

30. Case 03-ULP-10-0521 Hudson City School District Board of Education v. Hudson Education Association and David Spohn

On December 18, 2003, the Board dismissed the referenced unfair labor practice charge. The charge alleged that the Charged Parties violated Ohio Revised Code § 4117.11(B)(5) by encouraging employees to engage in an illegal, partial strike. On February 20, 2004, the Charging Party filed a motion for reconsideration of the Board's decision. A review of the original investigation and new information reveals probable cause exists for believing a violation occurred. Board Member Verich moved that the Board grant the motion for reconsideration, find probable cause to believe an unfair labor practice has been committed, consolidate this case with Case 03-ULP-11-0618, authorize the issuance of a complaint, refer the matter to hearing to determine whether the Charged Parties violated Ohio Revised Code § 4117.11(B)(5) by inducing or encouraging the bargaining-unit members to engage in an illegal, partial strike during the Open House, 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 __

31. Cases 03-ULP-10-0542 John T. Fischbach v. City of Toledo
03-ULP-11-0616 John T. Fischbach v. City of Toledo

32. Case 03-ULP-09-0438 Northwood Local Schools Support Personnel Association, OEA/NEA and Letha Dale v. Northwood Local School District Board of Education

Vice Chairman Gillmor moved that the Board, in Cases 03-ULP-10-0542 and 03-ULP-11-0616, construe the letter for reconsideration as a motion for reconsideration, and deny the motions for reconsideration with prejudice. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

State Employment Relations Board Minutes
April 15, 2004
Page 20 of 23

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| 33. | Case | 04-ULP-01-0046 | <u>Ohio Patrolmen's Benevolent Association v. City of Trotwood</u> |
| 34. | Cases | 04-ULP-03-0179 | <u>Marcie L. Cohen v. Ohio Education Association</u> |
| | | 04-ULP-03-0180 | <u>Marcie L. Cohen v. Liberty Association of School Employees</u> |
| | | 04-ULP-03-0181 | <u>Marcie L. Cohen v. Vice President Richard Svetlak</u> |

Board Member Verich moved that the Board construe the letter as a motion to withdraw, and grant the motions with prejudice. 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>	

VI. ADMINISTRATIVE MATTERS

Executive Director Pat Snyder updated the Board stating that the 19 new desktops are starting to be installed. Executive Director Snyder also mentioned that a technician came in to discuss the Clearinghouse upgrades, and that a "wish list" has been given to them to see if the items on the list can be done. They will also explore looking into a web-based Clearinghouse in the future to be added to this system. The upgrade on the system will continue through May as it will be tested to make sure it is working properly, and it will be more efficient for the Research and Training department to do its work.

Executive Director Snyder discussed budget updates. She said that she has been asked by the Office of Budget Management for a listing of any line items for FY 2005 be given to them, as well as an impact statement regarding the 6% cut and what effect it will have on our agency.

Executive Director Snyder announced that the new Fiscal Officer, Sandy Stiffler, will be starting on Monday, April 19, 2004. Executive Director Snyder said that Ms. Stiffler is well qualified for the position and that the staff is excited to have her start. Executive Director Snyder also paid special attention to Ms. Danetta Babbs for the hard work she has done during this time that we have been without a Fiscal Officer, and read a special resolution that would be presented to Ms. Babbs later that day. Vice Chairman Gillmor moved that the Board adopt this resolution. 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>	

State Employment Relations Board Minutes
April 15, 2004
Page 21 of 23

Executive Director Snyder also read a special resolution to be presented to Labor Relations Specialist Amy K. Hughes on Friday, April 16, 2004. Ms. Hughes is leaving the agency to spend more time with her son and family. The resolution reads as follows:

WHEREAS, Amy K. Hughes has toiled tenaciously at SERB since November 1988, and

WHEREAS, Amy K. Hughes has steadily talked with hundreds of parties and investigated hundreds of unfair labor practice cases; and

WHEREAS, Amy K. Hughes has produced hundreds of Reports of Investigation and run out of gas only once, on an election; and

WHEREAS, Amy K. Hughes has also produced a son, one Ryan Edward, with whom she would like to spend more time; and

WHEREAS, Amy K. Hughes is as tenacious in her desire to be a stay-at-home mom as she has been in the ULP recommendations she has made over the years; therefore,

BE IT RESOLVED THAT: We, the State Employment Relations Board in adopting this resolution salute Amy K. Hughes for her long and faithful service and wish her much joy in the adventure of parenting.

WHEREUNTO we have set our hands and seal this 15th Day of April, 2004.

Carol Nolan Drake, J.D., Chairman
Karen L. Gillmor, Ph.D., Vice Chairman
Michael G. Verich, J.D., Member
Pat Snyder, Executive Director

Executive Director Snyder said Ms. Hughes will be greatly missed by all. Board Member Verich moved that the Board adopt this resolution. 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>	

Executive Director Snyder has asked the Board to change their calendar to reflect that the May 26, 2004 Board meeting has been changed to May 20, 2004. The May 13, 2004 Board Meeting is the week before this meeting, and all packets of materials will still be given to them in a timely manner.

State Employment Relations Board Minutes
April 15, 2004
Page 22 of 23

Vice Chairman Gillmor commented that she had recently observed the meeting of another public board, whose members were less congenial with each other and their staff. She noted that the SERB Board is respectful when it considers alternative recommendations on cases and other matters. She thanked Chairman Drake and Board Member Verich for making it a pleasure to sit on SERB's Board with them.

Chairman Drake mentioned that she and Board Member Verich would be speaking at the Public Sector Labor Relations Association monthly meeting later that evening in Cleveland, Ohio. They will be speaking on SERB's functions in administering the State's labor laws.

Executive Director Snyder mentioned that later in the day there would be an Ice Cream Social benefiting Operation Feed. The Board members have been asked to be the official ice cream scoopers for the event. Everyone was encouraged to participate in this event. Other Operation Feed events also coming up are the Word Search Puzzles for \$1.00 a piece and due back to the committee on April 20 with a prize of \$25.00 certificate from FYE. On April 30, 2004, is the Make and Take Card Workshop Lunch costing \$5.00, which entails making a nice card either for Mother's Day or for any other day and enjoying a nice lunch while making your card. On May 4, 2004, is the Salad and Dessert Day, and on May 7, the Silent Auction, where baskets of goodies, will be auctioned off to the highest bidder. A bake sale will also take place on May 7, 2004. The Dress Down days already have netted 700 pounds worth of food being donated and more is coming in all the time. This seems to be a favorite function for the staff to participate in. Employees who bring in 5 cans of an item for Operation Feed, receive a Dress Down sticker to be used for any day except a Board meeting day.

Vice Chairman Gillmor asked whether the "Take Your Child to Work Day" would be scheduled for April 22, 2004. Executive Director Snyder said it can also be changed to another day, and there was some staff interest in holding SERB's during the summer when the children attending would not have to miss school to attend. Program ideas included a mock mediation and some other structured programming. Executive Director Snyder will present these ideas to the staff and will let the Board know what has been suggested.

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 Aye GILLMOR Aye VERICH Aye
Affirmed X Denied



Carol Nolan Drake, Chairman

State Employment Relations Board Minutes
April 15, 2004
Page 23 of 23

PREVIOUS TABLED MATTERS

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