STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, June 24, 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 June 10, 2004 meeting. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

Vice Chairman Gillmor also moved that the Board amend the minutes for the May 20, 2004 meeting, reflecting under Administrative Law Judge Recommendations in Case 02-ULP-02-0084, that the discussion should read as follows: "Chairman Drake stated that she thought the Board should wait for the conciliator's award. Vice Chairman Gillmor stated that General Counsel Russ Keith had given a different recommendation on the case, and if the case were to be delayed further, she would want to confer with the General Counsel before voting. General Counsel Keith stated that the parties are fulfilling their bargaining requirements and that the Board did not need to wait for the conciliation award to act on the pending matter". 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. Closing 712 Mediation Cases

A listing of 712 mediation cases, beginning with Case No. 98-MED-03-0208 and ending with 03-MED-10-1316, not consecutively numbered, were submitted to the Board for closing. Board Member Verich moved that the Board close 712 mediation cases beginning with Case No. 98-MED-03-0208 and ending with Case No. 03-MED-10-1316, not consecutively numbered. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

I. REPRESENTATION MATTERS AT ISSUE:

1. Case 04-REP-03-0058 — International Union, United Automobile, Aerospace, Agricultural Implement Workers of America, UAW and Perkins Township Highway Department, Erie County

The Employee Organization filed an amended Request for Recognition seeking to represent certain employees of the Employer. The substantial evidence is sufficient, and the the Employer has filed objections. The Employer filed a position statement maintaining the request is defective. The Employee Organization filed a response. The affidavit provided by the Employer affirms the person who signed the certified mail receipt is a clerical employee of the Employer. The Employer's objections are untimely because 21 days from March 30, 2004, is April 20, 2004, and the Employer's objections were filed on April 22, 2004. Vice Chairman Gillmor moved that the Board certify the Employee Organization as the exclusive representative of all employees in the bargaining unit. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

2. Case 04-REP-03-0039 — Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and City of Miamisburg

The Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization, which is the Board-certified exclusive representative of certain employees of the Employer. The parties have entered into a Consent Election Agreement seeking an election on July 8, 2004. Board Member Verich moved that the Board approve the Consent Election Agreement and direct an election to be conducted on July 8, 2004. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

3. Case 04-REP-02-0023 Unified Support Staff and Social Services and Communications Workers of America, AFL-CIO and Summit County Children Services

The Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization, which is the deemed-certified exclusive representative of certain employees of the Employer. The showing of interest is sufficient. The Incumbent Employee Organization filed a position statement opposing the petition. The Incumbent Employee Organization maintained that the Interim and Conciliation Agreement that bars the filing of the instant petition. The Incumbent Employee Organization also confirmed that the conciliation award has not been issued. The Incumbent Employee Organization is not willing to consent to an election. The "Interim and Conciliation Agreement" is a settlement agreement resolving a work stoppage. Based on the terms of the agreement, the parties do not currently have a collective bargaining agreement, and the Petition for Representation Election is not barred by contract. Vice Chairman Gillmor moved that the Board direct an election to be conducted at a date, time, and place determined by the Representation Section in consultation with the parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

4. Case 04-REP-02-0035 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Noble County Department of Job and Family Services

5. Case 04-REP-05-0090 Westlake City Hall Employee's Association and City of Westlake

6. Case 04-REP-05-0091 Fraternal Order of Police, Ohio Labor Council, Inc. and Miami County Commissioners

7. Case 04-REP-06-0093 International Association of Fire Fighters, Local 2507 and Madison Township, Franklin County

In Case 04-REP-02-0035, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect changes in job titles. On May 20, 2004, the Board remanded this case back to the Representation Section for further investigation. The parties have confirmed Child Support Case Managers are not performing any duties that would exclude them pursuant to Ohio Revised Code § 5126.15(A) (HB 94). The proposed amendment is appropriate.

In Case 04-REP-05-0090, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to exclude Clerk of Commissions and to reflect current contract language. The proposed amendment is appropriate.

In Case 04-REP-05-0091, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect negotiated changes to the existing bargaining unit. The proposed amendment is appropriate.

In Case 04-REP-06-0093, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include Captains. The proposed amendment is appropriate.

Board Member Verich moved that the Board approve the jointly filed Petitions for Amendment of Certification, and amend the units accordingly. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

8. Case 04-REP-04-0075 Fraternal Order of Police, Ohio Labor Council, Inc. and City of Broadview Heights

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. The Employer responded by filing objections. The Employee Organization filed a motion to withdraw. Vice Chairman Gillmor moved that the Board grant the motion to withdraw, and dismiss without prejudice the Petition for Amendment of Certification. 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-REP-12-0242 Ohio Federation of Teachers and Owens Community College

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer responded by filing objections contending that the employees in the petitioned-for bargaining unit do not have a community of interest. The Employer also filed a Petition for Representation Election. A conference call was conducted for the purpose of executing a consent election agreement; however, the parties could not reach an agreement concerning an appropriate bargaining unit. A mediation conference was held May 10, 2004. The parties' dispute remains. Board Member Verich moved that the Board direct the matter to hearing to determine an appropriate bargaining unit and for all other relevant issues. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 03-ULP-07-0384 SERB v. St. Clairsville-Richland Local School District Board of Education

2. Case 03-ULP-09-0432 SERB v. City of Lima

3. Case 03-ULP-10-0548 SERB v. Copley-Fairlawn Support Staff Association, OEA/NEA and Kappy Chermak

4. Case 04-ULP-01-0035 Lancaster School Support Association, OEA/NEA v. Lancaster City School District Board of Education

Vice Chairman Gillmor moved that the Board approve and adopt the settlement agreements, construe the settlement agreements as motions to withdraw and dismiss, grant the motions, dismiss the complaints, and dismiss with prejudice the unfair labor practice charges. Board Member Verich seconded the vote. Chairman Drake called for the vote.

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

Chairman Drake asked General Counsel Russ Keith about the status of the Fort Frye case. Mr. Keith stated that the Ohio Supreme Court affirmed the Court of Appeals, thereby reversing SERB's finding of no violation. The Court agreed with SERB and the union that SERB is not bound by the remedy in the federal court case. Mr. Keith said that when the case is remanded to sERB, it will be sent to the Hearing Section to take evidence and determine the appropriate remedy.

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 04-ULP-03- Johnnie Hannah v. Metro Regional Transit Authority

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (2) by interfering with the union election. Information gathered during the investigation revealed the Charged Party had a right to remove non-approved material from the bulletin 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. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

2. Case 04-ULP-03-0149 Rodney G. Lemon v. State of Ohio, Department of Rehabilitation and Correction, Mansfield Correctional Institution and Warden M. Bradshaw

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1) and (3) by terminating an employee because he exercised his rights under the Federal Family Medical Leave Act (FMLA). Information gathered during the investigation revealed the Charging Party failed to support his allegations, and exercising rights under FMLA is not a guaranteed right under Ohio Revised Code Chapter 4117. 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 __

3. Case 04-ULP-02-0094 Timothy Rigabar v. West Chester Township, Butler County

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11A)(1), (2), (3), and (4) by terminating the Charging Party in retaliation for his strong union knowledge and background, which employees were using in their decision to unionize, and threatening others contemplating unionizing. Information gathered during the investigation revealed the Charging Party was terminated during his probationary period for reasons other than exercising guaranteed rights. Knowledge of the alleged violation regarding the shooting comment 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 regarding the alleged threat made in late October or early November 2003. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

4. Case 04-ULP-01-0028 Fraternal Order of Police, Ohio Labor Council, Inc. and FOP Lodge 48 v. City of Fairborn

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by issuing Officer Gary Mader a counseling memorandum for engaging in union activity, threatening additional discipline, inquiring about union activities, and denying him representation. Information gathered during the investigation revealed Mr. Mader was not engaged in protected activities for which he received the counseling. Mr. Mader requested a union representative after he received the counseling. Additionally, demanding Mr. Mader follow the chain of command pursuant to General Order 12.1 is not a violation of 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 __

5. Cases 04-ULP-02-0091 Laurie Piekarski, Trena Harrison, Wendy Rutan and Diana Faris v. State of Ohio, Bureau of Workers' Compensation

04-ULP-02-0092 Laurie Piekarski, Trena Harrison, Wendy Rutan and Diana Faris v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

In Case 04-ULP-02-0091, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), and in Case 04-ULP-02-0092, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(1) and (6) by entering into an agreement regarding the consolidation of the Akron and Canton offices. Information gathered during the investigation revealed the charges are untimely filed. Board Member Verich moved that the Board dismiss the charges 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 __

6. Case 04-ULP-01-0036 International Brotherhood of Teamsters, Local 637 v. Muskingum County Center for Seniors

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by failing to grant a wage increase to employees in a bargaining-unit pending a representation election. Information gathered during the investigation revealed maintaining the status quo during the election process in this instance 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 03-ULP-12-0676 Twinsburg Education Association, OEA/NEA v. Twinsburg 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 unilaterally establishing an Internet-usage policy that includes a disciplinary provision. Information gathered during the investigation revealed no new disciplinary component was introduced. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for any discussion and wanted to express her thanks to Labor Relations Specialist Gary Kennedy for obtaining more information in the investigation of this case as it was remanded at the last Board meeting. The additional information was helpful to reaching a decision in this case. Chairman Drake called for the vote.

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

8. Case 03-ULP-12-0677 Twinsburg Support Staff Association, OEA/NEA v. Twinsburg 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 unilaterally establishing an Internet-usage policy that includes a disciplinary provision. Information gathered during the investigation revealed no new disciplinary component was introduced. 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 _

9. Case 04-ULP-03-0130 Jefferson County Department of Job and Family Services v. Communications Workers of America, AFL-CIO

Board Member Verich moved that the Board remand this case for further investigation. 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-ULP-02-0085 Owens Faculty Association, AFT-OFT and Angela L. Ondrus v. Owens Community College and President Dr. Christa Adams, et al.

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 when they engaged in direct dealing with bargaining-unit employees. Information gathered during the investigation revealed the Charging Parties failed to support the allegations. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Board Member Verich seconded the motion and called for the vote.

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

11. Case 04-ULP-02-0114 Owens Faculty Association, AFT-OFT v. Owens Community College, President Dr. Christa Adams, and Chief Negotiator Daniel R. Hauenstein

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to bargain in good faith. Information gathered during the investigation revealed the comment made in February 2004, regarding contact hour equalization, was not in response to any specific formal proposal. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Vice Chairman Gillmor seconded the motion. Chairman Drake called for any discussion and wanted to verify that what the statutory provision covered in this case. Chairman Drake called for the vote.

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

12. Case 04-ULP-02-0086 National Conference of Firemen and Oilers, Local 100, IBFO v. Akron 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 failing to bargain in good faith. Information gathered during the investigation revealed the custodians working during calamity days is a contractual matter and no statutory issues are present. 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 __

13. Case 04-ULP-01-0049 Ann Miller v. Copley-Fairlawn Support Staff Association, OEA/NEA

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(2) and (6) by negotiating and signing a memorandum of understanding to the collective bargaining agreement that was not presented to the membership for ratification. 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 __

14. Case 04-ULP-01-0044 Ann Miller v. Copley-Fairlawn City School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(2) and (8) by adding a new provision to a successor agreement that was ratified by the union membership and resulted in immediate changes to the current agreement. The Charged Party filed a motion to dismiss. Information gathered during the investigation revealed the charge was untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice as untimely filed, and deny the Charged Party's motion to dismiss. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

15. Case 04-ULP-03-0123 James S. Nelson v. City of North Royalton

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), (4), and (6) by discriminating against the Charging Party in retaliation for his exercise of guaranteed rights. Information gathered during the investigation revealed the Charging Party was suspended for reasons other than engaging in protected activities. No information was provided to support an Ohio Revised Code § 4117.11(A)(6) violation occurred. Events occurring in 2001 through 2003 took place 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 for events occurring prior to December 2003. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

16. Case 03-ULP-12-0673 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 4710 v. State of Ohio, Department of Rehabilitation and Correction, Grafton Correctional Institution

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) through (A)(8) by violating a grievance settlement and eroding the bargaining unit. Information gathered during the investigation revealed the Charging Party is obligated to re-file the grievance at Step 4 pursuant to the settlement. The matter is strictly contractual. The Charged Party's actions do not violate Ohio Revised Code Section 4117.11(A)(1) and (5), and no information was provided to support the remaining allegations. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

17. Case 04-ULP-03-0125 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Cuyahoga Falls

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) by interfering with, restraining, or coercing Officer Capps in his exercise of guaranteed rights. Information gathered during the investigation revealed the form used for the internal investigation could have a chilling effect on representation during interviews. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by requiring the signing of an Internal and Confidential Investigative form during investigatory interviews, 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 __

18. Case 04-ULP-03-0124 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Cuyahoga Falls

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing a well-established term or condition of employment, and refusing to bargain in good faith prior to making the change. Information gathered during the investigation revealed the retiree healthcare is not related to bargaining-unit employees' wages, hours, and terms or conditions of employment. 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 any discussion and wanted to verify that the retirees are not represented by the Charging Party, and Investigation Administrator Alan Bonham confirmed that this information was correct. Chairman Drake called for the vote.

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

19. Cases 03-ULP-12-0663 Spencer T. Bendle v. Edison Local School District Board of Education

04-ULP-01-0056 Spencer T. Bendle v. Edison Local School District Board of Education

In Case 03-ULP-12-0663, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by threatening to take legal action if the Charging Party filed a grievance. Information gathered during the investigation revealed a credibility issue exists regarding the threat. In Case 04-ULP-01-0056, the unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by reducing the Charging Party's work schedule and wages because his teaching license expired while not treating similarly situated employees who have not engaged in protected activities in the same manner. Information gathered during the investigation revealed the Charging Party's workload was reduced because he failed to renew his teaching license, and the Charged Party did not take action to recover his wages. Board Member Verich moved that the Board in Case 03-ULP-12-0663, find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), but not (3), by threatening to take legal action to recover wages paid to Mr. Bendle if he filed or pursued a grievance, and direct the parties to ULP mediation; and in Case 04-ULP-01-0056, 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 __

20. Case 03-ULP-12-0671 Twinsburg Support Staff Association, OEA/NEA v. Twinsburg City School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by eliminating Penny Toohey's bus router duties in retaliation for the Charging Party filing an unfair labor practice charge, and Ms. Toohey's exercise of guaranteed rights. Information gathered during the investigation revealed the Charged Party's actions of removing the bus router duties was in direct response to the filing of unfair labor practice charge in Case 03-ULP-12-0636, and Ms. Toohey engaging in protected activities. 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), (3), and (4) by eliminating Penny Toohey's bus router duties in retaliation for OEA filing an unfair labor practice charge and Ms. Toohey's exercise of guaranteed rights, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

21. Case 04-ULP-03-0183 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Newark

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by engaging in direct dealing with bargaining-unit employees by unilaterally distributing a survey. Information gathered during the investigation revealed addressing the issue with employees of taking two days off without pay is a mandatory subject of bargaining, that should have been addressed with the Charging Party first. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by engaging in direct dealing with bargaining-unit employees by unilaterally distributing a survey regarding interest in taking a two-day furlough without pay as the Charged Party was preparing for negotiations, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

22. 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 4501

On April 1, 2004, the Board dismissed the charges for lack of probable cause and as untimely filed. On May 25, 2004, the Charging Party filed an untimely motion for reconsideration. The Charging Party did not provide any new information, and failed to serve the motion on the Charged Parties. Vice Chairman Gillmor moved that the Board deny the Charging Party's Motion for Reconsideration 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 __	

23.	Cases	04-ULP-05-0289	John Barradale v. South Euclid-Lyndhurst City School District Board of Education
		04-ULP-05-0290	John Barradale v. Ohio Association of Public School Employees, AFSCME, Chapter 110, AFL-CIO
24.	Case	04-ULP-06-0311	Teamsters Local Union No. 436 v. Ohio Turnpike Commission
25.	Case	04-ULP-04-0227	Nicole L. Solomonoff v. International Brotherhood of Teamsters, Local 20
26.	Case	04-ULP-04-0226	Nicole L. Solomonoff v. City of Toledo
27.	Case	04-ULP-05-0263	Parkway Education Association v. Parkway School District Board of Education

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

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

VI. TABLED MATTERS

1.	Case	04-ULP-03-0163	Ohio Patrolmen's Benevolent Association v. Portage County Sheriff

Vice Chairman Gillmor moved that this case be lifted from the table. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to implement portions of a deemed-accepted fact-finding report and to execute a draft of the collective bargaining agreement. Information gathered during the investigation revealed that the Charged Party did not engage in manipulative or abusive negotiations or surface bargaining. 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 _

VII. ADMINISTRATIVE MATTERS

Executive Director Pat Snyder mentioned that the FY 2006-07 IT Plan was filed June 15, 2004. The list of proposed IT projects and their estimated costs will go to the Office of Budget Management. Although current projections don't fund these projects, the Plan will demonstrate what the agency would be able to do with adequate funding.

Executive Director Snyder discussed computer upgrades. She stated that they are being completed in ten days as opposed to several months, and some glitches have occurred and are being corrected. The Intellivue upgrade is being installed, and training is being conducted now. One feature in the upgrade that will be installed next month is the new search component. The new firewall was also installed, along with the Windows 2003 upgrade on the new servers.

Executive Director Snyder advised that an Excel program developed by Administrative Assistant Jackie Murray is expected to replace the Access program developed by Expert Micro Systems, Inc., for preparing Minutes and Agendas. As a result, the agency will not need to spend the $3,500 it conditionally authorized at the last meeting, for additional work on the Access system. The Excel program will serve as a tracking device, much as the Access system was designed to do, but will not require external programming at additional cost. The Excel project will be developed in the new fiscal year. Vice Chairman Gillmor mentioned that the State of Ohio gives out awards to employees and agencies for new ideas that can save time and money and suggested that we nominate Jackie Murray for an Ohio Award for Excellence. She said she would be happy to assist in the nomination. Executive Director Snyder also recommended that the Board seek quotes for continued IT service in FY '05 and in the meantime extend its agreement

with Sophisticated Systems, Inc on a month-to-month basis during FY 2005 in the amount not to exceed $8,800.00, for a time period not to extend beyond August 31, 2004. Vice Chairman Gillmor moved that the Board seek the lowest and best quotes for IT service during FY 2005 and in the meantime authorize the continuation of IT support services by Sophisticated Systems, Inc., on a month-to-month basis during FY '05 in an amount not to exceed $8,800.00 for a time period not to extend beyond August 31, 2004, at an hourly rate of $50.00, with the understanding that such services will be generally provided on-site from 8:30 a.m. to 12:30 p.m. Monday through Friday, or other times as mutually agreed. 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 advised that the agency had received an extension to submit its EEO Plan to the Division of Administrative Services to July 15, 2004. She mentioned two areas of proposed improvement: timely performance evaluations and position descriptions. These will be worked on and updated.

Executive Director Snyder said that Investigations Administrator Alan Bonham had reported that we are receiving many inquiries as to the length of time an investigation takes place. Mr. Bonham noted that it used to take 150 days to complete a case, and now takes approximately 240 days because we are down one investigator. Vice Chairman Gillmor asked the question how many hours it takes to do an investigation on a case, how many hours the current investigators work, and the impact of a supervisor also investigating a large number of cases. Mr. Bonham also informed the Board that priority cases are handled immediately, and that the classification for the Labor Relations Specialists for the agency requires that they investigate a certain amount of cases, while still maintaining the quality of work that is expected of them. It was further discussed that the Board may want to reevaluate the time it takes to investigate and complete an unfair labor practice case before the Board takes action on it.

Executive Director Snyder suggested that the Board Goals for FY '05 could be discussed at the next meeting. Chairman Drake said that she is obtaining a copy of the Federal Mediation Conciliation Service (FMCS) five-year strategic plan as a reference.

Executive Director Snyder gave the Board a draft copy of SERB's new letterhead, designed by Jackie Murray and created in Microsoft Word. The letterhead could be printed out on our printers to save some printing costs for the agency. If the Board likes the design, the agency would keep some current letterhead in the blue ink for special letters that the agency sends out. She asked for the Board's input on the new design. Vice Chairman Gillmor suggested that their degrees be placed by each Board member's name.

Executive Director Snyder briefly mentioned that the comp-time/overtime policy be reviewed at the next board meeting. Vice Chairman Gillmor would like to review the policy with the fiscal office before discussing this at the next meeting.

VIII. ADJOURNMENT

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

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

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Carol Nolan Drake, Chairman

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