

State Employment Relations Board

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, October 14, 2004, at 10:00 a.m., at 65 East State Street, Columbus, Ohio. Present at the meeting were Chairman Drake, Vice Chairman Gillmor, and Board Member Verich.

I. APPROVAL OF MINUTES FOR PREVIOUS MEETINGS:

Vice Chairman Gillmor moved that the Board approve the minutes for the September 30, 2004 Board Meeting. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

Board Member Verich moved that the Board approve the minutes for the Special Board Meeting held October 7, 2004. Vice Chairman Gillmor 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-12-1434 Ohio Patrolmen's Benevolent Association and Lake County Narcotics Agency

The Employee Organization filed a notice to negotiate on April 30, 2003. A mediator was appointed on February 13, 2004, and a fact finder was appointed on February 26, 2004. On August 2, 2004, the Employee Organization filed a motion requesting that the Board issue an order directing the parties to the conciliation procedure. The Employer responded on August 12, 2004. Board Member Verich moved that the Board find that "Special Agents" and "Pharmacy Compliance Investigators" employed by the Employer are "deputy sheriffs" as defined by Ohio Revised Code § 4117.01(N) and order the parties to conciliation. 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 04-MED-01-0051 International Association of Fire Fighters,
Local 434 and City of Painesville

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

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

The Employer filed a letter July 23, 2004, in which it objected to the finding of the Bureau of Mediation that it has accepted a Fact-Finding Report issued on June 17, 2004, and requested that the Board determine whether the Employer's certification showing acceptance, accompanied by two additional documents indicating rejection, constituted a valid rejection within the meaning of Ohio Administrative Code Rule 4117-9-05(N). On July 28, 2004, the Employee Organization filed a response in opposition to the request. At issue is whether the Employer's certification that the fact-finding vote had been accepted constitutes a technical defect that the Board may exercise its discretion to waive under the authority of Ohio Administrative Code Rule 4117-1-02(E). Vice Chairman Gillmor moved that the Board deny the Employer's request to reverse its certification of the fact-finding vote. Board Member Verich seconded the motion. Chairman Drake called for discussion. Vice Chairman Gillmor stated that she was inclined to follow the Bureau of Mediation's recommendation, which is contained in the motion. Chairman Drake stated that the issues were not clear and that she would like to have the parties brief these facts and issues, especially concerning technical defect and undue prejudice. Board Member Verich stated that he could support the request for additional briefing on the case, and he moved that the Board table the pending motion. Vice Chairman Gillmor seconded the motion to table. Chairman Drake called for the vote.

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

Vice Chairman Gillmor moved that the Board require the Employer and the Employee Organization to file simultaneous briefs on the subject of whether the Employer's certification that the fact-finding vote had been accepted constituted a technical defect that the Board may exercise its discretion to waive under the authority of Ohio Administrative Code Rule 4117-1-02(E), with specific attention to whether undue prejudice would result from such an exercise of discretion, with the briefs due two weeks from the date of issuance of the directive. 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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III. REPRESENTATION MATTERS AT ISSUE:

1. Case 04-REP-08-0145 Fraternal Order of Police, Ohio Labor Council, Inc. and City of Mt. Healthy

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The substantial evidence is sufficient, and no objections have been filed. The Employer has complied with the posting requirements set forth in Ohio Revised Code § 4117.05(A)(2). 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-07-0126 Clayton Professional Firefighters, IAFF Local 4379 and City of Clayton
November 4, 2004

3. Case 04-REP-06-0110 Andrew Deikun and Plumbers and Pipefitters Local Union No. 219 and Summit County General Health District
November 17, 2004

Board Member Verich moved that the Board approve the Consent Election Agreements and direct elections to be conducted on the dates indicated. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

4. Case 04-REP-06-0096 Ohio Patrolmen's Benevolent Association and City of Bedford Heights

5. Cases 04-REP-07-0123 Ohio Patrolmen's Benevolent Association
04-REP-07-0124 and Hocking County Commissioners

In each case, the Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employee Organization has filed letters withdrawing each petition. Vice Chairman Gillmor moved that the Board construe the letters as motions to withdraw, grant all of the motions, and dismiss without prejudice all of the Petitions for Representation Election. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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- 6. Case 04-REP-06-0099 Fraternal Order of Police, Ohio Labor Council, Inc. and Guernsey County Sheriff
- 7. Case 04-REP-09-0153 Fraternal Order of Police, Lodge 38 and Miami University
- 8. Case 04-REP-09-0160 Communications Workers of America, Local 4322 and City of Beavercreek
- 9. Case 04-REP-09-0164 District 1199, The Social Service and Health Care Workers Union, SEIU, AFL-CIO and Mentor Public Library

In Case 04-REP-06-0099, the Employer filed a Petition for Amendment of Certification seeking to amend the existing unit to exclude Lieutenants. The Employee Organization filed a letter stating it does not oppose the amendment.

In Case 04-REP-09-0153, the parties jointly filed a Petition for Amendment of Certification seeking to amend the certification to remove the position of Criminal Investigator 1 from the existing bargaining unit, and to change the exclusive representative's Lodge number to 38.

In Case 04-REP-09-0160, the parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include Information Systems Coordinator and Planning Technician.

In Case 04-REP-09-0164, the parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect current contract language.

Board Member Verich moved that the Board approve the petitions 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

- 10. Case 04-REP-04-0076 Fraternal Order of Police, Ohio Labor Council, Inc. and Butler County Sheriff

The Employee Organization filed a Petition for Amendment of Certification and has now filed a motion to withdraw. Vice Chairman Gillmor moved that the Board grant the motion 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

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11. Case 04-REP-07-0120 Chauffeurs, Teamsters, Warehousemen & Helpers, Local Union No. 377 and Bazetta Township Road Department Employees Association and Bazetta Township, Trumbull County

The Rival Employee Organization filed an amended Petition for Representation Election seeking to displace the Bazetta Township Road Department Employees Association as the exclusive representative of certain employees of the Employer. The Employer filed objections asserting the employees in question are management level, seasonal, and casual employees. The case has been mediated. The parties' dispute remains. Board Member Verich moved that the Board direct this 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

12. Case 04-REP-03-0036 Stage Employees Union Local No. 48, I.A.T.S.E. and University of Akron

- There were 10 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Stage Employees Union Local No. 48, I.A.T.S.E. received 10 votes and has prevailed in this election.

13. Case 04-REP-04-0065 Madeira Education Association – OEA and Madeira City School District Board of Education

- There were 106 ballots cast
- There was 1 challenged ballot
- Madeira Education Association - OEA received 49 votes
- No Representative received 56 votes and has prevailed in this election.

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14. Case 04-REP-03-0056 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and Elida Local School District Board of Education

- There were 29 ballots cast
- There were 0 challenged ballots
- No Representative received 12 votes
- Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO received 17 votes and has prevailed in this election.

Vice Chairman Gillmor moved that the Board certify all of the election results and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining unit. 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-REP-10-0199 Professionals Guild of Ohio and Taylor Memorial Library, nka Cuyahoga Falls Library

Vice Chairman Gillmor moved that the Board deny the Petitioner's motion for oral argument and the Employer's motion to strike; adopt the Findings of Fact and Conclusions of Law in the Recommended Determination, finding that the Technology Manager position should not be excluded from the definition of "public employee" and from the bargaining unit as a "supervisor" as defined by O.R.C. § 4117.01(F) or as a "confidential employee" as defined by O.R.C. § 4117.01(K), but that the Technology Manager position should be excluded as a "management level employee" as defined by O.R.C. § 4117.01(L), and dismiss the Petition for Clarification of Bargaining Unit. Board Member Verich seconded the motion. Chairman Drake called for discussion and then stated that allegations of prejudice and error by the Administrative Law Judge had been raised by one of the parties, but she did not see any prejudice or error in the record, and the Administrative Law Judge presented an excellent review of the issue of subject matter jurisdiction. Board Member Verich agreed that the Administrative Law Judge had issued a well-written Proposed Order that was free of prejudice or error. Chairman Drake called for the vote.

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

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V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 04-ULP-06-0321 Defiance City Education Association,
OEA/NEA v. Defiance City School District
Board of Education

The amended unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against Patricia Gable for her exercise of guaranteed rights. The investigation reveals the negative evaluation by the Charged Party was for reasons other than Ms. Gable exercising guaranteed rights. 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

2. Case 04-ULP-06-0323 Ohio Patrolmen's Benevolent Association
v. City of Parma

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by insisting the Ohio Patrolmen's Benevolent Association execute an agreement that would be retroactive to the expiration of the old agreement. The investigation reveals the effective date of the contract has been consistent throughout the negotiation process. 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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3. Case 04-ULP-06-0356 Cheri Greene v. Ohio Council 8, American Federation of State, County and Municipal Employees, Dayton Public Service Union, Local 101, AFL-CIO

Case 04-ULP-06-0357 Cheri Greene v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO

The unfair labor practice charges allege the Charged Parties violated Ohio Revised Code § 4117.11(B)(6) by failing to take the Charging Party's grievance to arbitration. The investigation reveals the Charged Parties denied the grievance going to arbitration based on the merits of the case. No information was provided to demonstrate 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 _____

4. Case 04-ULP-07-0404 Fraternal Order of Police, Lodge #104 v. Montgomery County Sheriff

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally changing work schedules. The investigation reveals the Charged Party changed the work schedule without bargaining. No information was provided to support an Ohio Revised Code § 4117.11(A)(3) violation. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has occurred, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5), but not (3), by unilaterally changing work schedules, 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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7. Case 04-ULP-07-0426 Carol Rudolph v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by not permitting the Charging Party to attend an arbitration hearing. The investigation reveals the Charged Party reviewed the grievance in accordance with all applicable rules and procedures, and the Charging Party's internal appeal is still under review. 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 _____

8. Case 04-ULP-07-0429 Carol Rudolph v. State of Ohio, Department of Job and Family Services

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by interfering with the Charging Party's guaranteed rights. The investigation reveals the Family and Medical Leave Act leave matter is strictly contractual. No violation of the statute occurred. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

9. Case 04-ULP-03-0174 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 291 v. Willard City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing policies and procedures on automobile insurance for school vehicles and their storage by requiring employees to provide their own insurance as a condition of driving school vehicles to and from work. 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 the vote.

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

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10. Case 04-ULP-05-0279

Ohio Association of Public School
Employees, AFSCME Local 4, AFL-CIO v.
Cuyahoga County Community Mental
Health Board

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (5) by attempting to change the Charging Party's bargaining team, by refusing to negotiate while its unfair labor practice charge is pending, and by circulating an e-mail regarding the negotiations and strike plan to bargaining-unit employees. The Charging Party later withdrew the allegation on refusing to negotiate. The investigation reveals no evidence was provided to show the Charged Party attempted to interfere with the Charging Party's bargaining team, and the e-mail was addressed to the managers, not bargaining-unit members. Board Member Verich moved that the Board construe the Charging Party's request as a motion to withdraw the alleged refusal-to-bargain allegation, and dismiss all other aspects of the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

11. Case 04-ULP-05-0272

Communications Workers of America v.
Summit County Children Services Board

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(2) by interfering with the administration of the Charging Party. The investigation reveals no evidence was provided to show that the statute was violated, and the charge is untimely. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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12. Case 04-ULP-08-0481 Sandusky County Sheriff v. Ohio
Patrolmen's Benevolent Association

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by taking a permissive subject of bargaining to the statutory impasse procedure. The investigation reveals the statute does not restrict unresolved issues to only mandatory subjects of bargaining. The proposal for minimum manning is unresolved and appears to be properly pursued to fact finding. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

13. Cases 04-ULP-07-0416 Lorain Education Association, OEA/NEA v.
04-ULP-07-0417 Lorain City School District Board of
Education

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing a public complaint procedure and unilaterally subcontracting bargaining-unit work outside the bargaining-unit while the parties are engaged in negotiations. The investigation reveals the public complaint policy was originally adopted in December 1987, and the July 2004 revision did not contain any substantive changes. No bargaining-unit work was contracted outside the bargaining unit. Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

14. Case 04-ULP-06-0292 Civil Service Personnel Association, Inc. v.
City of Akron

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (6) by denying employees the right to representation during an investigation. The investigation reveals the three employees were not targets of the investigation, and none requested representation. Mr. Jackson was not disciplined. 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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15. Case 04-ULP-03-0187

Ohio Association of Public School
Employees, AFSCME Local 4, AFL-CIO
and Its Local 174 v. Princeton City School
District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing a time clock reporting system. The investigation reveals the use of a time clock does not materially affect wages, hours, terms, or conditions of employment, and the charge is untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

16. Case 04-ERC-01-0002

Louis D. Brown, III v. American Federation
of State, County and Municipal Employees,
Local 100, AFL-CIO

The noncompliance complaint alleges the Employee Organization violated Ohio Revised Code § 4117.19(D) by failing to produce requested information. The investigation reveals the request was made by someone other than Mr. Brown in July 2003. Mr. Brown was not a member of the Employee Organization, and did not provide any evidence he had requested any records. Board Member Verich moved that the Board find the Employee Organization to be in compliance and dismiss the complaint. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

17. Case 04-ERC-03-0004

Louis D. Brown, III v. American Federation
of State, County and Municipal Employees,
Local 100, AFL-CIO

The noncompliance complaint alleges the Employee Organization violated Ohio Revised Code § 4117.19(C) by not allowing the Complainant to run for union office. The investigation reveals Mr. Brown was not an active union member for one year prior to the nominations and was ruled ineligible pursuant to the Employee Organization's constitution. Vice Chairman Gillmor moved that the Board find the Employee Organization to be in compliance and dismiss the complaint. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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18. Case 04-ULP-09-0510 Mahoning Education Association of Developmental Disabilities v. Mahoning County Board of Mental Retardation and Developmental Disabilities
19. Case 04-ULP-06-0296 Ravenna Firefighters Association, IAFF Local 1340 v. City of Ravenna

Board Member Verich moved that the Board construe the notice as a motion to withdraw, and grant both of the motions to withdraw. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

20. Case 04-ULP-03-0178 Louis D. Brown, III v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 100, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to keep the Charging Party informed of the status of his grievance. The investigation reveals Mr. Brown was asked twice to submit information so that the Charged Party could forward his grievances to arbitration. The information was not provided. The charge is untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

21. Case 04-ULP-04-0245 Louis D. Brown, III v. City of Cleveland

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by refusing the Charging Party's request for arbitration and for information. The investigation reveals the Charged Party is not under any obligation to take an individual's grievance to arbitration, especially after the Union has withdrawn the grievance. 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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22. Case 04-ULP-03-0195 Ohio Patrolmen's Benevolent Association
v. Lucas County Sheriff's Office

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by confining Deputy Bill Park to certain duties and assignments in retaliation for filing grievances. The investigation reveals Deputy Park never filed a previous unfair labor practice charge, and he was aware of this change in assignment prior to filing a grievance. The charge is untimely filed. Vice Chairman Gillmor moved that the Board dismiss the Ohio Revised Code § 4117.11(A)(4) allegation and the change in assignment to "court runner" allegation 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, and dismiss all remaining Ohio Revised Code § 4117.11(A)(1) and (3) allegations as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

23. Case 04-ULP-03-0198 Professionals Guild of Ohio v. Franklin
County Children Services

24. Case 04-ULP-08-0487 Swanton Education Association, OEA/NEA
v. Swanton Local School District Board of
Education

25. Case 04-ULP-05-0274 Professionals Guild of Ohio v. Franklin
County Children Services

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

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

VI. ADMINISTRATIVE MATTERS

Compensatory Time and Overtime Compensation

Executive Director Pat Snyder provided a copy of the draft Compensatory Time and Overtime Compensation Policy consistent with directives issued by the Department of Administrative Services. The new policy clarifies SERB's policy on eligibility to receive overtime pay and/or compensatory time.

Executive Director Snyder also shared information regarding compensatory time "payouts". Beginning January 1, 2005, the payroll system will start tracking compensatory time accrual and usage. Overtime eligible employees will automatically receive payment for comp time hours in excess of 240 hours and for those hours not used within six months of accrual. For overtime-exempt employees, hours in excess of 120 and hours that have not been used within six months of accrual will be deducted from their balance.

Labor Relations Specialist 1

Executive Director Snyder updated the Board on the search process. Chairman Drake is continuing to interview applicants, and no offer has been extended.

Computer Equipment

Executive Director Snyder informed the Board that the servers and email server have been purchased and are being installed.

Administrative Rules

General Counsel Russ Keith stated that of the sixty-six rules, thirty-three required no change, and thirty-three were being amended. The "no change" rules were filed on October 4, 2004. The amendments are to be finalized and filed either October 15, or October 18, 2004. The public hearing is tentatively set for November 18, 2004, at 10:00 a.m. in the William R. Dennis Hearing Room at SERB.

Web Page Redesign

Executive Director Snyder stated the redesign by Mediator Debbie McCormick is progressing more quickly than first thought.

20th Anniversary – Developing Labor Law Forum

Chairman Drake said all but three presenters have been confirmed.

EEO

Executive Director Snyder informed the Board that SERB's EEO policy has been approved.

Miscellaneous

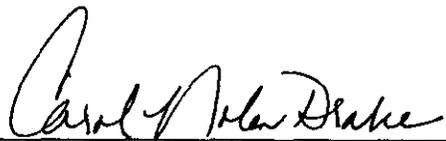
Executive Director Snyder informed the Board that we have a temporary, Justin Black, filling in during Donna Glanton's leave. It is being considered after Donna Glanton returns to keep him on to help out in the Representation Section until the vacant Administrative Assistant 1 position is filled.

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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