

State Employment Relations Board
State of Ohio

December 17, 2004
Minutes

I. APPROVAL OF MINUTES OF THE PREVIOUS MEETING:

Vice Chairman Gillmor moved that the Board approve the minutes of the previous meeting. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Cases 04-MED-10-1138 Ohio Patrolmen's Benevolent Association
04-MED-10-1139 and City of Ravenna
04-MED-10-1140
04-MED-10-1141
04-REP-09-0173
04-REP-09-0174
04-REP-09-0175
04-REP-09-0176

Board Member Verich moved that the Board grant the Employer's motion to stay negotiations in each mediation case pending disposition of Cases 04-REP-09-0173, 04-REP-09-0174, 04-REP-09-0175, and 04-REP-09-0176, and expedite the processing of the representation cases. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

2. Cases 04-MED-08-0755 American Federation of State, County and
04-REP-09-0165 Municipal Employees, Ohio Council 8,
Local 101 and City of Vandalia

Vice Chairman Gillmor moved that the Board grant the Employer's motion to stay negotiations pending disposition of Case 04-REP-09-0165, and expedite the processing of the representation case. 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
December 17, 2004
Board Meeting Minutes
Page 3 of 12

7. Case 03-REP-12-0242 Ohio Federation of Teachers and Owens
Community College
February 8, 2005

Vice Chairman Gillmor moved that the Board approve the Settlement Agreement in Case 04-REP-02-0020, the Memorandum of Agreement in Case 04-REP-12-0242, and the Consent Election Agreements and direct elections to be conducted on the dates indicated. 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-REP-03-0062 Truck Drivers, Chauffeurs and Helpers
Local Union No. 100 and Lakota School
Support Association, OEA/NEA and Lakota
Local School District

The Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization, which is the Board-certified exclusive representative of certain employees of the Employer. The Incumbent Employee Organization filed a position statement asserting the petition was a severance and lacked evidence in support as set forth in *In re State of Ohio*, SERB 95-012 (6-30-95). The Rival Employee Organization contended that an amended Petition for Representation Election was filed on April 27, 2004, seeking to represent the entire unit of employees in question. The Clerks Office had no record of receiving the amended petition. The Rival Employee Organization produced a copy that appeared to be time stamped, but the time stamp was illegible and incomplete. The mail log from April 27 and April 28, 2004, did not reflect receipt of the amended filing. The investigator never received the amended petition. A conference call was conducted. The Incumbent Employee Organization and Employer did not receive a copy of the amended petition.

The parties' collective bargaining agreement expired June 30, 2004. The Rival Employee Organization's amended petition, if received and processed, would have been outside the window period per Ohio Revised Code § 4117.07(C)(6). The March 31, 2004 filing was filed within the window period, but lacked evidence in support of the severance.

Board Member Verich moved that the Board dismiss without prejudice the Petition for Representation Election because the Rival Employee Organization failed to provide evidence to support the severance as set forth in *In re State of Ohio*, SERB 95-012 (6-30-95). 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
December 17, 2004
Board Meeting Minutes
Page 5 of 12

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 04-ULP-08-0437 Madison Southern Local School District Board of Education v. Ohio Association of Public School Employees, AFSCME Local 292, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(8) by failing to file a proper notice of intent to picket. The investigation reveals the picketing was informational only. 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-08-0453 Southern Local School District Board of Education v. Ohio Association of Public School Employees, AFSCME Local 287, AFL-CIO and President Ann Meister

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(2) by attempting to cause the Charging Party to accept favorable summer hours for secretaries in order to arrange favorable summer hours for custodial employees. The investigation reveals the Charging Party failed to show how the Charged Parties caused or attempted to cause it to violate the statute. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. 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-ULP-09-0545 Old Fort Local School District Board of Education v. Old Fort Local Education Association, OEA/NEA

Vice Chairman Gillmor recuses. The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2), (3), and (6) by bargaining in bad faith, using delaying tactics in negotiations and mediations, and lying during negotiations. The investigation reveals the charge is untimely. Board Member Verich moved that the Board dismiss the charge with prejudice as untimely filed. Chairman Drake seconded the motion and called for the vote.

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

State Employment Relations Board
December 17, 2004
Board Meeting Minutes
Page 6 of 12

4. Case 04-ULP-04-0240 International Association of Fire Fighters
Local 1267 v. City of North Olmsted

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally modifying terms and conditions of employment. The investigation reveals the employees were threatened if they exercised their guaranteed rights, and the terms and conditions of employment were unilaterally modified by the Charged Party. No information was provided to demonstrate an Ohio Revised Code § 4117.11(A)(3) violation. The Charged Party filed a motion to defer. 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), but not (3), by unilaterally modifying terms and conditions of employment, and attempting to interfere with employee rights by making threats to take action in the event the Charging Party pursued its claims, deny the motion to defer, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

5. Case 04-ULP-05-0276 Bedford Heights Fire Fighters, Local 1497
v. City of Bedford Heights

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(5) by unilaterally reducing minimum staffing. The investigation reveals management has the right to determine size of the work force, and minimum manning levels are addressed in the collective bargaining agreement. The issue is contractual with no evident statutory issues. 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
December 17, 2004
Board Meeting Minutes
Page 8 of 12

9. Case 04-ULP-08-0440 Ohio Association of Public School Employees/AFSCME Local 4, AFL-CIO v. Forest Hills Local School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against Mary Young in retaliation for the exercise of guaranteed rights. The investigation reveals Ms. Young was reprimanded for exercising guaranteed rights. 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 (3) by discriminating against Mary Young in retaliation for her exercise of guaranteed rights, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

10. Case 04-ULP-05-0278 Communications Workers of America, Local 4501 v. Pickaway County Child Support Enforcement Agency/Department of Job and Family Services

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

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

11. Case 04-ULP-06-0298 Ohio Council 8, American Federation of State, County and Municipal Employees, Local 2461, AFL-CIO v. Clermont County Board of Commissioners

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to negotiate a collective bargaining agreement when the Charged Party resumed operation of its Water District. The duty to bargain with the Charging Party after the Charged Party took over operations of the Water District appears to be one of first impression. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate with Case 04-ULP-02-0116, 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 refusing to negotiate a collective bargaining agreement when the Charged Party resumed operation of its Water District, 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
December 17, 2004
Board Meeting Minutes
Page 9 of 12

12. Case 04-ULP-09-0516 Reynoldsburg City School District Board of Education v. Reynoldsburg Education Association, OEA/NEA

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(5) and (8) by inducing and encouraging bargaining-unit members to engage in an illegal partial strike and by not issuing a ten-day strike notice. The investigation reveals no evidence that the teachers were required to be at orientation or that the teachers participated in a partial strike. 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-09-0517 Reynoldsburg City School District Board of Education v. Reynoldsburg Education Association, OEA/NEA

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by making false and misleading statements in an effort to publicly smear the Charging Party regarding negotiations over a successor agreement. The investigation reveals no ground rules existed, and the Charged Party issued a press release in response to the Charging Party's press release. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

14. Case 04-ULP-10-0571 Terry L. Brooks v. State of Ohio, Department of Rehabilitation and Correction, Heartland Behavioral Healthcare

15. Case 04-ULP-10-0549 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 4710 v. State of Ohio, Department of Rehabilitation and Correction, Grafton Correctional Institution

State Employment Relations Board
December 17, 2004
Board Meeting Minutes
Page 10 of 12

16. Case 04-ULP-09-0544 Thomas A. West v. State of Ohio, Department of Rehabilitation and Correction, Heartland Behavioral Healthcare

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice because the Charging Parties have failed to pursue the matters. 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-09-0540 Highland Education Association, OEA/NEA v. Highland Local School District Board of Education
18. Case 04-ULP-08-0435 American Association of University Professors, University of Akron Chapter v. The University of Akron
19. Case 04-ULP-09-0528 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Youth Services, Ohio River Valley Juvenile Correctional Facility
20. Case 04-ULP-07-0397 Twinsburg Education Association, OEA/NEA v. Twinsburg City School District Board of Education
21. Cases 04-ULP-11-0663 Summit County Sheriff v. Summit County Sheriff's Supervisor Association
04-ULP-11-0664 Summit County Sheriff v. Fraternal Order of Police, Lodge 139
22. Case 04-ULP-10-0566 Edison Local Education Association, OEA/NEA v. Edison Local School District Board of Education
23. Case 03-ULP-10-0519 Shadyside Education Association, OEA/NEA v. Shadyside Local School District Board of Education
24. Case 03-ULP-11-0585 Fraternal Order of Police, Ohio Labor Council, Inc. v. Gallia County Sheriff

