

State Employment Relations Board  
State of Ohio

January 13, 2005  
Board Meeting Minutes

The State Employment Relations Board met on Thursday, January 13, 2005, 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 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:

There were no Mediation cases for this meeting.

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 04-REP-10-0198 Ohio Patrolmen's Benevolent Association  
and Hocking County 911

The Employee Organization has 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). 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



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6. Case 04-REP-09-0169 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and City of Miamisburg  
February 17, 2005

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 \_\_\_\_\_

7. Case 04-REP-09-0166 Fraternal Order of Police, Ohio Labor Council, Inc. and Butler County Sheriff

8. Case 04-REP-11-0213 Municipal Foremen & Laborers' Union Local No. 1099 and City of Parma Heights

9. Case 04-REP-12-0220 Fraternal Order of Police, Ohio Labor Council, Inc. and City of Xenia

In Case 04-REP-09-0166, the Employee Organization filed a Petition for Amendment of Certification seeking to amend the existing unit to include Paramedics. The Employer filed a letter stating it does not oppose the amendment.

In Case 04-REP-11-0213, the parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include Supervisor Mechanic.

In Case 04-REP-12-0220, the parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect the classification change from Lieutenant to Captain.

Vice Chairman Gillmor moved that the Board approve the petitions and amend the units accordingly. 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-REP-09-0164 District 1199, The Social Service and Health Care Workers Union, SEIU, AFL-CIO and Mentor Public Library
- There were 37 ballots cast
  - There were 0 challenged ballots
  - No Representative received 4 votes
  - District 1199, The Social Service and Health Care Workers Union, SEIU, AFL-CIO received 33 votes and has prevailed in this election.
13. Case 04-REP-09-0177 Fraternal Order of Police, Ohio Labor Council, Inc. and City of Springboro
- There were 4 ballots cast
  - There were 0 challenged ballots
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 0 votes
  - No Representative received 4 votes and has prevailed in this election.
14. Case 04-REP-08-0136 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and City of Oakwood
- There were 4 ballots cast
  - There were 0 challenged ballots
  - Fraternal Order of Police, Ohio Labor Council, Inc. received 0 votes
  - No Representative received 0 votes
  - Ohio Patrolmen's Benevolent Association received 4 votes and has prevailed in this election.

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15. Case 04-REP-03-0041 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of Painesville

- There were 30 ballots cast
- There were 0 challenged ballots
- No Representative received 12 votes
- Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 18 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 unit. 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 88-ULP-04-0200 SERB v. Fort Frye City School District Board of Education

On December 9, 2004, the parties filed a settlement agreement. Vice Chairman Gillmor moved that the Board approve and adopt the settlement agreement and construe the settlement agreement as a final determination of damages in this case. 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-03-0188 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Rehabilitation and Correction, Belmont Correctional Institution

3. Case 04-ULP-03-0135 Lorain City School District Board of Education v. National Conference of Firemen and Oilers, Local 103

4. Cases 03-ULP-12-0664 National Conference of Firemen and Oilers, Local 103 v. Lorain City School District Board of Education  
04-ULP-03-0152

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5. Case 03-ULP-09-0487 SERB v. International Brotherhood of Teamsters Local 100 and Lydia Combs
6. Case 03-ULP-11-0590 SERB v. Mahoning County Board of Mental Retardation and Developmental Disabilities

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

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

7. Cases 01-REP-06-0142 through Ohio Civil Service Employees Association,  
01-REP-06-0147 AFSCME Local 11, AFL-CIO and State of Ohio

Vice Chairman Gillmor moved that the Board remand the six petitions to the Representation Section for processing. 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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V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 04-ULP-08-0444 Ohio Council 8, American Federation of State, County and Municipal Employees, Local 2198 AFL-CIO v. Stark County Engineer

The unfair labor practice charge alleges the Charging Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by interfering with, restraining, or coercing employees in the exercise of their guaranteed rights. The investigation reveals bargaining-unit employees were engaged in protected activity with the Employer's knowledge and were transferred. 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), (2), and (3) by interfering with, restraining, or coercing employees in the exercise of their guaranteed rights by transferring an employee and union officials to locations away from the main garage in retaliation for their exercise of guaranteed rights, and interfering with the administration of the union, 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                   

2. Case 04-ULP-08-0477 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 621 v. Minford 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 and failing to renew Freda Sexton's contract. The investigation reveals Ms. Sexton's contract was not renewed for reasons other than 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

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3. Case 04-ULP-06-0299 International Union of Operating Engineers  
Local 20 v. Cincinnati Metropolitan  
Housing Authority

The unfair labor practice charge alleges the Charging Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing a change to the existing drug policy. The investigation reveals the policy change materially affects terms and conditions of employment and should have been bargained. 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 failing to bargain a proposed change to the Substance Abuse (Drug) Policy, 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 \_\_\_\_\_

4. Case 04-ULP-10-0588 Chad H. Galliger v. Ohio Council 8,  
American Federation of State, County and  
Municipal Employees, Local 101, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by interfering with his guaranteed rights. The investigation reveals the Charging Party failed to timely follow the internal Union procedures for fair share rebate and failed to timely challenge the Union's decision with the State Employment Relations Board. No information was provided to support an Ohio Revised Code § 4117.11(B)(6) violation. 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 \_\_\_\_\_

5. Case 04-ULP-10-0587 Chad H. Galliger v. City of Xenia

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by interfering with his guaranteed rights. The investigation reveals the charge is untimely filed. Board Member Verich moved that the Board dismiss the charge with prejudice as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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6. Case 04-ULP-08-0436 Robert E. Decker v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 321

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to fairly represent him. The investigation reveals the contract did not permit the discipline to be grieved. The Union managed to get the Charging Party's job reinstated with a reprimand, instead of being terminated. The Charged Parties' 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 Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

7. Case 04-ULP-07-0383 Greater Cincinnati Building and Construction Trades Council v. Cincinnati Metropolitan Housing Authority

The unfair labor practice charge alleges the Charging Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to bargain a proposed change to the Substance Abuse (Drug) Policy. The investigation reveals that the Charged Party incorporated significant wording changes into the existing policy that would have an effect on terms and conditions of employment. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, coordinate with Case 04-ULP-06-0299, 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 failing to bargain a proposed change to the Substance Abuse (Drug) Policy, 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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8. Case 04-ULP-09-0522 Leslie Tietz, et al. v. Communications Workers of America, Local 4546, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) by restraining and coercing the Charging Parties in the exercise of their guaranteed rights by assessing an excessive fine against them for allegedly crossing an authorized picket line. The investigation reveals the Charging Parties have not yet been assessed fines nor have the Charging Parties exhausted all of the internal union procedures. The investigator recommended that the Board dismiss the charge without prejudice because it is prematurely filed. General Counsel Russ Keith presented an alternative recommendation. 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 whether the Charged Party violated Ohio Revised Code § 4117.11(B)(1) by restraining and coercing the Charging Parties in the exercise of their guaranteed rights by assessing an excessive fine against them for allegedly crossing an authorized picket line, and direct the parties to unfair labor practice mediation. Board Member Verich seconded the motion. Chairman Drake asked Alan Bonham, Investigations Section Administrator, if the investigator had any issues with the alternative recommendation. Mr. Bonham's response was "No." Chairman Drake called for the vote.

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

9. Case 04-ULP-06-0359 Defiance City Education Association, OEA/NEA v. Defiance 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 an 8-period school day schedule. The investigation reveals the matter is contractual and has implications of a statutory violation. Board Member Verich moved that the Board 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

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10. Case 04-ULP-07-0422

Ohio Federation of Teachers, AFT, AFL-CIO v. Great Oaks Institute of Technology and Career Development

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against Byron Tudor, Tara Setser, Jeff Stein, Steve Chambers, and Beth Johnson for actively and openly supporting the Union. The investigation reveals the individuals were active in organizing the Union. Mr. Tudor and Ms. Johnson did not have their contracts renewed, and Mr. Stein, Ms. Chambers, and Ms. Setser were terminated. A credibility issue exists regarding why the teachers were let go, whether the Charged Party knew they were organizing, and why they were not hired back. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3), by non-renewing the teaching contracts of Mr. Byron Tudor and Ms. Beth Johnson and terminating Mr. Jeff Stein, Mr. Steve Chambers, and Ms. Tara Setser in retaliation for exercising 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           

11. Case 04-ULP-10-0558

Toledo Federation of Teachers, AFL-CIO, Local 250 v. Toledo Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (5), and (7) by unilaterally eliminating the entire substitute teacher bargaining unit in a layoff causing a lockout. The investigation revealed the layoff procedures are addressed in the contract. The Charging Party assisted the Charged Party in drafting and signing-off on the layoff notice prior to it being distributed. No statutory 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

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12. Case 04-ULP-06-0297

Ohio Civil Service Employees Association,  
AFSCME Local 11, AFL-CIO v. State of  
Ohio, Department of Transportation

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (4), (5), and (8) by refusing to provide union representation at investigatory interviews and refusing to provide requested documentation to fairly represent its bargaining-unit members. The investigation reveals the Charged Party did not permit a qualified union representative to attend the investigatory interviews. The representative provided by the Charged Party was not permitted to speak during the interview process. A credibility issue exists between what the parties provided in their responses. No information was provided to support the Ohio Revised Code § 4117.11(A)(4) or (5) allegations or the allegation about not getting required documentation. 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), (2), and (8), but not (4) and (5), by refusing to provide qualified Union representation at investigatory interviews and not permitting the representative to speak during the interview process, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

13. Case 04-ULP-06-0303

Flor Argheta-Gomes v. Cleveland Heights  
Teachers Union, Local 795

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party by negotiating a verbal seniority provision. The investigation reveals the Charged Party and the Employer met to determine a fair and equitable process for assigning teachers due to restructuring the schools. No evidence was provided to demonstrate the Charged Party's action were arbitrary, discriminatory, or in bad faith. 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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14. Case 04-ULP-09-0521 United Steelworkers of America,  
Local 9187 v. Stark County Department of  
Job and Family Services

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by interfering with Nancy Weirich's guaranteed rights to carry out her duties as Union President and discriminated against her after she filed a grievance. The investigation reveals Ms. Weirich was not harmed when she was counseled on her work performance. 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           

15. Case 04-ULP-06-0304 Lisle P. Sloan v. Cuyahoga County  
Commissioners, Jimmy Dimora, et al.

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (3), (4), (6), (8), and (B)(3) and (6), by not timely processing his grievances, by harassing him and by not giving him overtime. The investigation reveals the allegations occurred in 2003 and are untimely filed. The Employer did process the grievances that it was aware of; the Charging Party was not awarded overtime because of a clerical error, not for exercising guaranteed rights; and the Charging Party alleged racial discrimination for exercising guaranteed rights. The Ohio Revised Code § 4117.11(B)(3) and (6) allegations are against the Union not the Employer. 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, as untimely filed, and for lack of jurisdiction regarding the racial discrimination allegation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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16. Case 04-ULP-06-0305 Lisle P. Sloan v. Service Employees International Union Local 47, Michael Murphy, et al.  
04-ULP-06-0306 Lisle P. Sloan v. Service Employees International Union, District 1199 and Jeff Narten

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(6), and (A)(3) and (8), by failing to properly process the Charging Party's grievances. The investigation revealed the Union processed his grievances. No evidence was provided to show the Union's actions were arbitrary, discriminatory, or in bad faith. The grievances were filed in 2003. The Charging Party could have advanced the grievances on his own if he thought the Union was not processing them properly. The charges are also untimely filed. The Ohio Revised Code § 4117.11(A)(3) and (8) allegations do not apply to the Union. 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, 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 \_\_\_\_\_

17. Case 04-ULP-06-0334 Malcolm Spencer v. National Conference of Firemen and Oilers, Local 200

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by restraining the Charging Party in the exercise of his guaranteed rights by failing to process his monthly dues and timely file his grievances, which prevented him from remaining in good standing with the Union, and by failing to hold a fair and impartial hearing at trial court. The investigation reveals the allegations about the 2002 grievances and the 2003 dues issues are untimely. The Charged Party was not part of the trial-court allegation. 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, and as untimely filed regarding the 2002 and 2003 allegations. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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18. Case 04-ULP-06-0295 Parma Education Association, OEA/NEA v. Parma 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 passing a resolution suspending and eliminating supplemental contract positions. The investigation reveals the Charged Party transferred bargaining-unit duties to nonbargaining-unit employees without bargaining. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally passing a resolution suspending and eliminating supplemental contract positions, reassigning bargaining-unit work to employees outside the bargaining unit, 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 \_\_\_\_\_

19. Case 04-ERC-06-0005 Malcolm Spencer v. National Conference of Firemen and Oilers, Local 200

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(C)(1) and (4) by failing to allow him access to fully examine the Charged Party's accounts and records for the past 10 years and not being afforded an equal right to run for office. The investigation reveals the Charging Party was granted immediate access to records readily available and then offered to view the remaining records on two separate occasions. The Charged Party notified the Charging Party why he was ineligible to run for Union office. The Charged Party is in compliance. Board Member Verich moved that the Board find the Charged Party 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 \_\_\_\_\_

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20. Case 04-ULP-05-0291 Perry Education Association, OEA/NEA v. Perry Local School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by threatening employees with layoffs if they did not ratify the tentative agreement and by announcing to the media that the employees had ratified the tentative agreement prior to their voting. The investigation reveals the original and amended charge did not contain a clear and concise statement regarding the allegations of direct dealing and threats of layoffs. The Charging Party failed to demonstrate the Charged Party violated the statute. Vice Chairman Gillmor moved that the Board dismiss the alleged direct-dealing and threat-of-layoffs allegations for failure of the Charging Party to provide a clear and concise statement of the facts, and dismiss all other allegations 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 \_\_\_\_\_

21. Case 04-ULP-11-0613 Fraternal Order of Police, Lodge 139 v. Yamini K. Adkins

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by dealing directly with bargaining-unit members during negotiations. The investigation reveals the letter to the collective bargaining representatives did not contain any information regarding negotiations other than notifying the recipients that the Charged Party was the Employer's official collective bargaining representative. 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-05-0282 April Blubaugh v. City of Twinsburg

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by calling the Charging Party into a meeting after stating her intention to file a grievance and denying her union representation. The investigation reveals a credibility issue exists as to what happened at the meeting with the Chief, whether representation was denied, and whether the meeting could have resulted in discipline, all of which should be addressed at hearing. The Charging Party did not suffer harm from the meeting. 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), but not (3), by calling the Charging Party into a meeting after stating her intention to file a grievance in an attempt to restrain her from engaging in protected activities and by denying her union representation, direct the parties to ULP mediation, 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           

23. Case 04-ULP-05-0286 Covoya Edwards v. Ohio Council 8,  
American Federation of State, County and  
Municipal Employees, Local 1938, AFL-  
CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by refusing to file a grievance or an appeal to the Employer's civil service committee. The investigation reveals the Charging Party did not have a contractual right to file a termination grievance since she had not been on the job for three years. The Charging Party could have filed one on her own, but did not. The Union did not restrain or coerce the Charging Party in exercising her guaranteed rights. No evidence was provided to demonstrate an Ohio Revised Code § 4117.11(B)(2) violation. The Union's actions were not arbitrary, discriminatory, or in bad faith. 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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24. Case 04-ULP-06-0322

Jefferson County Board of Mental  
Retardation and Developmental Disabilities  
v. Service Employees International Union,  
District 1199

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (3) by attempting to bypass the Charging Party's designated representative to bargain health insurance and by accusing the Charging Party of having personal monetary interest in the health insurance selection. The investigation reveals the parties were not in contract negotiations, and no proposals were made. The comments, if made, do not rise to the level of a violation. 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           

25. Case 04-ULP-06-0307

Fraternal Order of Police, Capital City  
Lodge No. 9 v. Franklin County Sheriff's  
Office

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (5) by denying an employee his right to union representation. The investigation reveals Deputy Wade requested Union representation but was denied, and he was compelled to write IOC's. No information was provided to support Ohio Revised Code § 4117.11(A)(2), (3), and (5) violations. 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), but not (2), (3), and (5), by denying Deputy Wade his right to union representation, 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

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26. Case 04-ULP-06-0301 John Kranz v. Barberton City School District Board of Education
- 04-ULP-06-0302 John Kranz v. Barberton Education Association, OEA/NEA

In Case 04-ULP-06-0301, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (8) by non-renewing the Charging Party and placing his position into a represented bargaining-unit without notice and taking such action without filing with the State Employment Relations Board; and in Case 04-ULP-06-0302, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (2) by interfering with his right to bargain with the school and bargaining his terms and conditions of employment without contacting him. The investigation reveals the school suspended the contracts for 4 positions. The School and Union were able to place the positions in the existing bargaining unit. The negotiated the terms and conditions of employment and filed with the State Employment Relations Board for amendment of certification of the bargaining unit. The Charged Parties did not violate the statute. 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           

27. Case 04-ULP-06-0308 Lima Education Association, OEA/NEA v. Lima City School District Board of Education

On September 30, 2004, the Board deferred this charge to the party's grievance-arbitration process and retained jurisdiction. On November 30, 2004, the Charging Party filed a motion for review and requested that SERB continue its deferral and retain jurisdiction for an additional 60-day period. Board Member Verich moved that the Board grant the motion for review and retain jurisdiction over the matter through the 60-day period. 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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28. 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
- 04-ULP-06-0357 Cheri Greene v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO
29. Case 04-ULP-02-0065 Michael Newton v. Norwood City School District Board of Education
30. Case 04-ULP-03-0139 MARCA Education Association, OEA/NEA v. Marion County Board of Mental Retardation and Developmental Disabilities

Vice Chairman Gillmor moved that the Board construe the letters as motions for reconsideration and deny all motions with prejudice. 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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31. Case 04-ULP-05-0248 Canton Professional Fire Fighters, Local 249, IAFF v. City of Canton – Division of Fire and Fire Chief James W. Scott, Jr.

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (3) by removing Captain Vince Harris and Fire Fighter/Paramedic Marc Jackson from the City's HAZ/MAT team because they filed a grievance. The investigation reveals the charge is untimely. On November 23, 2004, the Board dismissed the charge with prejudice as untimely filed. On December 27, 2004, the Charging Party filed a timely motion for reconsideration. The Charging Party asserts the timeline should start when the letter was received, not when it was written. On December 29, 2004, the Charged Party filed a memorandum in opposition to the motion. The investigation reveals the timeline should have begun on February 2, 2004, and the charge is timely filed. As a result, Captain Harris and Fire Fighter/Paramedic Jackson were engaged in protected activity with the Charged Party's knowledge and were harmed. The Charged Party has not provided a persuasive rebuttal to the presumption anti-union animus. Board Member Verich moved that the Board grant the motion for reconsideration, 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 Parties violated Ohio Revised Code § 4117.11(A)(1) by removing Captain Vince Harris and Fire Fighter/Paramedic Marc Jackson from the City's HAZ-MAT team because they filed and pursued a grievance, 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 \_\_\_\_\_

32. Case 04-ULP-07-0412 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Rehabilitation and Correction, Belmont Correctional Institution
33. Case 04-ULP-11-0650 Fraternal Order of Police, Ohio Labor Council, Inc. v. Jackson Township Trustees, Stark County
34. Case 04-ULP-11-0645 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Tallmadge
35. Case 04-ULP-08-0469 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Mental Retardation and Developmental Disabilities, Warrensville Developmental Center



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**State Car Purchase** – Board Member Verich moved that the Board authorize the expenditure of funds not to exceed \$12,750 for the purchase of a 2005 Ford Taurus, excluding a five-year extended warranty, for assignment to the Bureau of Mediation. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

**Intranet** – Executive Director Snyder reported on the Intranet web site that the Computer Users Group has been trying out. This Intranet would allow individual sections to have mini web pages to post documents and important information, would allow individuals to directly input requests into the room schedule, and serve as a vehicle for agency announcements and collecting attendance information. The Computer Users Group would continue to test this program and reconvene and make suggestions before it is rolled out to the staff.

**Intellinetics' walk-through** – Executive Director Snyder reported the results of the "walk-through" of the Clerks Office. Intellinetics' staff representatives pointed out the fact that individual sections can put documents into Intellivue via "virtual file," meaning the documents would not have to be scanned in at the Clerks Office. Intellinetics is sending a couple of people over to the managers meeting Tuesday to talk about how this feature would work.

**Temporary employee** – Executive Director Snyder reported on the progress of the temp who is preparing ULP records for off-site storage, and would then assist in preparing old equipment for salvage.

**Oak Hills Update** – General Counsel Russ Keith informed the Board that the First Appellate District had upheld the Board's decision in the *Oak Hills* mid-term bargaining case and that at this point the proposed amended rules have gone into effect and JCARR's jurisdiction over the no-change rules has expired.

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