

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, March 17, 2005, at 10:00 a.m., at 65 East State Street, Columbus. Present at the meeting were Chairman Carol Nolan Drake, Vice Chairman Karen L. Gillmor, and Board Member Michael G. Verich.

I. APPROVAL OF MINUTES FOR PREVIOUS MEETING:

Vice Chairman Gillmor moved that the Board approve the minutes for the March 3, 2005 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-02-0159 Fraternal Order of Police, Ohio Labor
05-REP-02-0020 Council, Inc. and Clinton County Sheriff

On February 27, 2004, the Employee Organization filed a Notice to Negotiate in Case 04-MED-02-0159. On April 16, 2004, a mediator was appointed. On April 20, 2004, the Employee Organization filed a request for fact finding. On May 4, 2004, a fact finder was appointed. On January 4, 2005, a conciliator was appointed. On February 8, 2005, a Petition for Decertification Election was filed in Case 05-REP-02-0020.

On February 10, 2005, the Employer filed a motion to stay negotiations involving the Employee Organization. The Employer questioned whether the Employee Organization maintains majority status in the unit. The Employee Organization did not file a response to the motion. Board Member Verich moved that the Board grant the motion to stay the negotiations in Case 04-MED-02-0159 pending disposition of Case 05-REP-02-0020, and expedite the processing of the representation case. Vice Chairman Gillmor seconded the motion. Chairman Drake then called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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2. Case 04-MED-08-0733 International Union, United Automobile, Aerospace, Agricultural Implement Workers of America, UAW and Perkins Township Highway Department, Erie County

On August 5, 2004, the Employee Organization filed a Notice to Negotiate. On October 1, 2004, a mediator was appointed. On January 10, 2005, the Employer, in an unfair labor practice case before the Board, filed a motion to stay negotiations involving the Employee Organization. The Employer has also filed an appeal with the Franklin County Court of Common Pleas regarding a representation matter, Case 04-REP-03-0058, involving these parties; the Court has not granted a motion to stay the Board's order certifying the Employee Organization as the exclusive representative. On February 14, 2005, the Employee Organization, in the unfair labor practice case, filed a response to the motion to stay negotiations and a motion to file the response instanter. On February 16, 2005, the Employer filed a motion to stay negotiations in this mediation case. Vice Chairman Gillmor moved that the Board grant the Employee Organization's motion to file a response instanter and deny the Employer's motion to stay negotiations. Board Member Verich seconded the motion. Chairman Drake then called for the vote.

Vote:	DRAKE <u>Aye</u>	GILLMOR <u>Aye</u>	VERICH <u>Aye</u>
	Affirmed <u>X</u>	Denied <u> </u>	

3. Case 04-MED-05-0572 American Association of University Professors – Kent State Chapter and Kent State University

On May 6, 2004, the Employee Organization filed a Notice to Negotiate that indicated the parties had a mutually agreed upon dispute settlement procedure ("MAD"). The parties collectively bargained toward a new collective bargaining agreement from May 2004 to September 2004. From September 27, 2004 to November 10, 2004, the parties engaged in a fact-finding process under the MAD with Fact-Finder Rob Stein. On November 10, 2004, the parties created a MAD to cover the parties voting upon and the notification regarding the fact-finder's report.

On January 25, 2005, the Employee Organization filed a motion to deem the fact-finding report accepted in a case involving the Employer. On February 7, 2005, the Employer replied to the motion. On February 22, 2005, the Employee Organization filed a reply. On February 24, 2005, the Employer filed a surreply. Board Member Verich moved that the Board dismiss the Employee Organization's motion to deem the fact-finding report accepted because it was part of a MAD and not part of the statutory fact-finding procedure. Vice Chairman Gillmor seconded the motion. Chairman Drake called for any discussion and asked Mediation Administrator Dale Zimmer what the end result is to the parties based on this recommendation. Mr. Zimmer replied that they have three options; the parties can file an unfair labor practice charge, file a grievance, or continue to negotiate and reach an agreement. Mr. Zimmer also stated that from the MAD standpoint, the parties could also speak to a FMCS mediator to help them settle the matter as the parties had done prior to fact-finding. Chairman Drake then asked whether this recommendation is consistent with past rulings by the Board, and Mr. Zimmer answered that it was consistent with them.

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Chairman Drake then called for the vote.

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

On February 25, 2005, the Employee Organization filed a notice of intent to picket with the picketing to take place on March 9, 2005. On March 2, 2005, the Employer filed a motion to find picketing unauthorized in a case involving the Employee Organization. On March 11, 2005, the Employee Organization filed a memorandum in opposition to the Employer's motion.

Vice Chairman Gillmor moved that the Board dismiss the Employer's motion to find picketing unauthorized pursuant to Ohio Revised Code § 4117.23 because the Board does not have authority to determine if picketing in the absence of a strike is unauthorized. Board Member Verich seconded the motion. Chairman Drake called for any discussion and asked whether there have been any SERB opinions issued in the past addressing similar facts as she did not see anything cited in the recommendation to the Board. General Counsel Russ Keith stated none have been issued to his knowledge. Chairman Drake wanted to make sure she understood that the Board is strictly voting on the issue of whether the picketing in this case was authorized. Board Member Verich asked General Counsel Russ Keith if the Board can act on this matter based on the recommendation presented. Mr. Keith stated that there is no specific wording in Ohio Revised Code § 4117.23 regarding picketing, and the Board's action is limited in this area. He further stated that strike notification is specific in the statute, and that Ohio Revised Code § 4117.11 discusses picketing and striking together, but does not mention picketing with striking in other sections; therefore, he agrees with the recommendation being presented at this meeting. Chairman Drake then called for the vote.

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

III. REPRESENTATION MATTERS AT ISSUE:

1. Cases 04-REP-09-0156 Teamsters Local 436 and Fairlawn
 05-REP-01-0002 Service Association and City of Fairlawn

In Case 04-REP-09-0156, the Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization from its status as exclusive representative of certain employees of the Employer. The Incumbent Employee Organization filed a letter disclaiming interest. The Employer and the Incumbent Employee Organization confirmed no contract exists.

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As a result of the Employer's agreement to voluntary recognition, the Rival Employee Organization filed a Request for Recognition in Case 04-REP-09-0156. The Employer filed objections stating that it would only agree to voluntary recognition in the unit as originally certified. The Employee Organization then filed another Request for Recognition in Case 05-REP-01-0002 for the bargaining unit as originally certified. The substantial evidence is sufficient, and no objections were filed. The Employer has complied with the posting requirements. Board Member Verich moved that the Board grant the Incumbent Employee Organization's Disclaimer of Interest in Case 04-REP-09-0156, dismiss the Petition for Representation Election and Request for Recognition as moot, and certify the Rival Employee Organization as the exclusive representative of all employees in the bargaining unit in Case 05-REP-01-0002. 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-REP-09-0173 Fraternal Order of Police, Ohio Labor
 04-REP-09-0174 Council, Inc. and Ohio Patrolmen's
 04-REP-09-0175 Benevolent Association and City of
 04-REP-09-0176 Ravenna
 April 12, 2005

- 3. Case 04-REP-06-0108 Ohio Patrolmen's Benevolent
 Association and City of Kent
 April 20, 2005

- 4. Case 04-REP-06-0098 International Brotherhood of Teamsters
 Local 114, AFL-CIO and City of Franklin
 April 19, 2005

- 5. Case 04-REP-07-0120 Chauffeurs, Teamsters, Warehousemen
 and Helpers, Local Union No. 377 and
 Bazetta Township Road Department
 Employees Association and Bazetta
 Township, Trumbull County
 April 13, 2005

Vice Chairman Gillmor moved that the Board approve the Settlement Agreement in Case 04-REP-06-0098, grant the Incumbent Employee Organization's Disclaimer of Interest and approve the Settlement Agreement in Case 04-REP-07-0120, approve all Consent Election Agreements, and direct elections to be conducted on the dates indicated. Board Member Verich seconded the motion. Chairman Drake called for any discussion as asked if all the signatures on the settlements had been received. Mr. Keith indicated that they have been received. Chairman Drake then called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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6. Case 05-REP-02-0018 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Greene County Commissioners, Sanitary Engineering Office
7. Case 05-REP-02-0026 Professionals Guild of Ohio and Athens County Board of Mental Retardation and Developmental Disabilities

In Case 05-REP-02-0018, 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 Environmental Services Attendant, and to change the title of Litter Collection Crew Leader to Environmental Crew Leader.

In Case 05-REP-02-0026, 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 certification to create a separate bargaining unit for the Service and Support Specialists.

Board Member Verich moved that the Board approve the jointly filed 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

8. Case 04-REP-11-0216 Chauffeurs, Teamsters, Warehousemen and Helpers, Local Union No. 377 and Springfield Township, Mahoning County

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employer responded by filing objections, maintaining the employees in question are exempt per the statute. A conference call was conducted for the purpose of executing a Consent Election Agreement, and the parties could not reach an agreement as to an appropriate bargaining unit. Vice Chairman Gillmor moved that the Board direct this matter to hearing to determine an appropriate bargaining unit and for all other relevant issues, and direct the parties to 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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9. Case 04-REP-12-0217 Teamsters Local 436, AFL-CIO and Chester Township, Geauga County

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employer responded by filing a position statement contending the proposed bargaining unit contains supervisory and management level employees. A conference call was conducted for the purpose of executing a Consent Election Agreement, and the parties could not reach an agreement as to an appropriate bargaining unit. Board Member Verich moved that the Board direct this matter to hearing to determine an appropriate bargaining unit and for all other relevant issues, and direct the parties to 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 05-REP-02-0027 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO and Holmes County Engineer

The Employee Organization is the deemed-certified exclusive representative of certain employees of the Employer. The parties have jointly filed a Motion to Revoke Certification, and have confirmed no contract exists. Vice Chairman Gillmor moved that the Board grant the jointly filed motion and revoke the Employee Organization's certification. Board Member Verich seconded the motion. Chairman Drake called for any discussion and asked General Counsel Keith whether certification of a deemed-certified unit could be revoked without a petition from a rival organization. He responded that granting the jointly-filed motion was consistent with the Ohio Supreme Court's ruling in *Brecksville*. Chairman Drake called for the vote.

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

11. Case 04-REP-09-0161 Teamsters Local 436, IBT and Cuyahoga County Sanitary Engineers Service Workers Association and Cuyahoga County Sanitary Engineer

- There were 45 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Teamsters Local 436, IBT received 15 votes
- Cuyahoga County Sanitary Engineers Service Workers Association received 30 votes and has prevailed in this election.

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

- There were 5 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received 0 votes
- Ohio Patrolmen's Benevolent Association received 5 votes and has prevailed in this election.

13. Case 03-REP-07-0131 Ohio Patrolmen's Benevolent Association and Lorain County Sheriff's Employees' Association and Lorain County Sheriff

- There were 86 ballots cast
- There were 0 challenged ballots
- No Representative received 1 vote
- Lorain County Sheriff's Employees' Association received 21 votes
- Ohio Patrolmen's Benevolent Association received 64 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 ___

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IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 04-ULP-02-0063 SERB v. City of Norwood

Vice Chairman Gillmor moved that the Board adopt the Findings of Fact and Conclusions of Law in the Proposed Order, finding that the Respondent violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) when it failed to recognize the parties' collective bargaining agreement, and issue an Order, with a Notice to Employees, requiring the Respondent to: cease and desist from interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117, and refusing to bargain collectively with the exclusive representative of its employees, by failing to recognize the parties' collective bargaining agreement, and from otherwise violating Ohio Revised Code §§ 4117.11(A)(1) and (A)(5); recognize the collective bargaining agreement between the Norwood Firefighters Association, Local 445 IAFF and the City of Norwood; post for sixty days in all of the usual and normal posting locations where bargaining-unit employees represented by the Norwood Firefighters Association, Local 445, IAFF work, the Notice to Employees furnished by the Board; and notify the Board in writing within twenty calendar days from the date the Order becomes final of the steps that have been taken to comply therewith. 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-05-0248 Canton Professional Fire Fighters Association, Local 249, IAFF v. City of Canton, Division of Fire and Fire Chief James W. Scott, Jr.

3. 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

4. Case 03-REP-12-0250 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Local 100 and Airport Firemedics Union and City of Cleveland

Board Member Verich moved that the Board approve and adopt the settlement agreements, construe the letter and settlement agreements as motions to withdraw, grant all motions, and dismiss with prejudice the unfair labor practice charges and the Petition for Representation Election. 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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V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 04-ULP-08-0480 Orange Township Firefighters, IAFF Local 3816 v. Orange Township, Delaware County

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (5), and (8) by failing to bargain in good faith by changing terms and conditions of employment without bargaining. Information gathered during the investigation revealed the position was negotiated out of the contract and was not being performed by Lt. A.J. Miller. No information was provided to support that an Ohio Revised Code § 4117.11(A)(8) violation occurred. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

2. Case 04-ULP-08-0448 Waynesville Noncertified Employees Association, OEA/NEA v. Wayne Local School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally revising the job descriptions for the Charged Party's Special Needs, Teacher's, and Media Aides. Information gathered during the investigation revealed the changes were a result of federal and state legislation. The Charging Party was aware of the changes but did not demand to bargain. No information was provided to support that Ohio Revised Code § 4117.11(A)(1) and (3) violations occurred. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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3. Case 04-ULP-11-0649 Crestline Education Association, OEA/NEA v. Crestline Exempted Village School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally assigning bargaining-unit work to nonbargaining-unit employees. Information gathered during the investigation revealed no evidence to support the Ohio Revised Code § 4117.11(A)(1) and (5) violations occurred. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

4. Cases 04-ULP-09-0488 Linda Bookbinder v. Ledgemont Local School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by adding classes to the Charging Party's schedule in retaliation for her engaging in protected activities. Information gathered during the investigation revealed the Charging Party's schedule was changed due to operational needs and not due to the Charging Party exercising her guaranteed rights. 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 __

5. Case 04-ULP-09-0489 International Brotherhood of Teamsters, Local 284 v. The Ohio State University Medical Center

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) by not allowing the Charging Party's representative to organize during break and lunch times. Information gathered during the investigation revealed the Charging Party's representative was provided two alternative sites that were not in patient-care areas for its organizing activity. 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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6. Case 04-ULP-09-0503 Stephen A. Coulter v. City of Heath

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against the Charging Party in regard to a promotion due to his engaging in protected activity as a union representative. 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 __

7. Case 04-ULP-09-0546 Perkins Education Association, OEA/NEA v. Perkins Local School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by dealing directly with bargaining-unit employees, and failing to bargain. Information gathered during the investigation revealed the Charged Party did not deal directly with bargaining-unit employees, but it may have unilaterally reassigned bargaining-unit work to nonbargaining-unit employees without bargaining with the exclusive representative. 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 failing to bargain over the reassignment of bargaining-unit work to nonbargaining-unit employees, 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 __

8. Case 04-ULP-11-0653 Perkins Education Association, OEA/NEA v. Perkins Local School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by refusing to meet with the Charging Party's President for informal Level 1 grievance discussions pursuant to the collective bargaining agreement, and by discriminating against Frank Laudonia in retaliation for his exercise of guaranteed rights. Information gathered during the investigation revealed the Charged Party has refused to meet at two separate Level 1 informal grievance discussions, and may have retaliated against Mr. Laudonia for his exercise of guaranteed rights. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate with Case 04-ULP-09-0546, 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 failing and refusing to meet with the Charging Party for informal Level 1 grievance discussions pursuant to the

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collective bargaining agreement, and by discriminating against Frank Laudonia in retaliation for his 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

9. Case 04-ULP-09-0547 Timothy E. Troutman v. City of Toledo, Division of Water Distribution, and Acting Manager Robert L. Johnson

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(A)(3) and (7) by directing the Charging Party to perform duties outside the Charging Party's job classification, and by discriminating against him for exercising guaranteed rights. Information gathered during the investigation revealed the Charging Party was not engaged in protected activities. No evidence was provided to support that an Ohio Revised Code § 4117.11(A)(7) violation occurred. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

10. Case 04-ULP-09-0508 Ohio Patrolmen's Benevolent Association v. Lucas County Sheriff

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by discriminating against Deputy Bill Park for exercising his guaranteed rights when the Charged Party disciplined him for following procedures. Information gathered during the investigation revealed Deputy Park was disciplined for reasons other than exercising guaranteed rights, specifically for failing to follow proper procedures when transporting prisoners to and from the Lucas County Correction Center. 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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11. Case 04-ULP-10-0601 Lancaster School Support Association, OEA/NEA v. Lancaster 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 attempting to intimidate and negotiate directly with bargaining-unit employees. Information gathered during the investigation revealed no information that the Charged Party attempted to bargain with the bargaining-unit employees, but a credibility issue exists as to whether the Charged Party's Supervisor of Food Services made threats to the employees in the cafeteria. 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 (5), by attempting to interfere with, restrain, or coerce employees in the exercise of their 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

12. Case 04-ULP-11-0616 National Conference of Firemen and Oilers, Local 701 v. Cleveland 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 laying off twenty-one bargaining-unit members instead of sixteen bargaining-unit members, recalling five, but not paying them back benefits or pay. Information gathered during the investigation revealed the matter is contractual, and no statutory violation occurred. The matter has been resolved through the grievance-arbitration 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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13. Case 04-ULP-07-0415 Sharon B. Dickerson v. University of Toledo

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by criticizing, harassing, and threatening the Charging Party with discipline because she filed a grievance. Information gathered during the investigation revealed the Charging Party was not harmed or threatened. 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

14. Case 04-ULP-08-0438 Communications Workers of America, Local 4530 v. University of Toledo and Randall McElfresh

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1) by unilaterally changing the terms of the contract regarding seniority. Information gathered during the investigation revealed there is no evidence to demonstrate the Charged Parties changed the seniority provision of the contract. Also, the Charging Party did not demand to bargain the perceived change. 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

15. Case 04-ULP-11-0610 Fraternal Order of Police, Ohio Labor Council, Inc. v. Clinton County Sheriff

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by dealing directly with bargaining-unit employees and bypassing the exclusive bargaining representative. Information gathered during the investigation revealed the Charged Party's agreement with bargaining-unit employees addresses hours, and terms and conditions of employment. 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 an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by engaging in direct dealing with two bargaining-unit employees and bypassing the exclusive bargaining representative, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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16. Case 04-ULP-10-0584 City of Painesville v. Water Treatment Plant Operators II's

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(3) by failing to bargain in good faith. Information gathered during the investigation revealed that after some delay, the parties did enter into negotiations. 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

17. Cases 04-ULP-12-0719 Water Treatment Plant Operators II's v. City of Painesville

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by failing to bargain in good faith. Information gathered during the investigation revealed the Charged Party may have refused to bargain with the Charging Party's designated representative. 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 interfering with the Charging Party's selection of a bargaining representative and failing to bargain in good faith, 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

18. Case 04-ULP-09-0521 United Steelworkers of America, Local 9187 v. Stark County Department of Job and Family Services

On January 13, 2005, the Board dismissed the charge with prejudice for lack of probable cause to believe that an unfair labor practice had been committed by the Charged Party. On March 1, 2005, the Charging Party filed a timely request for reconsideration. No new information was provided that was not already addressed in the original investigation. Board Member Verich moved that the Board construe the letter as a motion for reconsideration and deny the motion with prejudice. 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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19. Case 05-ULP-01-0031 Greenville Water, Wastewater and Water Distribution Employees Association v. City of Greenville
20. Case 05-ULP-02-0073 Ohio Patrolmen's Benevolent Association v. City of Bellefontaine
21. Case 04-ULP-12-0693 Municipal Construction Equipment Operator's Labor Council v. City of Cleveland
22. Case 04-ULP-08-0439 Fraternal Order of Police Lodge 2 v. City of Canton
23. Case 05-ULP-01-0035 City of Cincinnati v. Queen City Lodge No. 69, FOP Non-Supervisors Unit
24. Case 04-ULP-11-0652 North Central Education Association, OEA/NEA v. North Central Local School District Board of Education
25. Case 04-ULP-11-0624 Olmsted Falls Firefighters, IAFF Local 2373, AFL-CIO v. City of Olmsted Falls
26. Case 04-ULP-11-0661 City of Cambridge v. Fraternal Order of Police, Ohio Labor Council, Inc. Lodge 10
27. Case 05-ULP-02-0116 Nelsonville-York Education Association, OEA/NEA v. Nelsonville-York City School District Board of Education
28. Case 04-ULP-11-0640 Ohio Patrolmen's Benevolent Association v. City of Girard
29. Case 04-ULP-12-0706 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Mt. Vernon
30. Case 05-ULP-01-0018 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO v. Canton City School District Board of Education

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31. Case 04-ULP-11-0612 International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America, UAW v. Cuyahoga County Sheriff's Office

Vice Chairman Gillmor moved that the Board construe the letters and notices as motions to withdraw, and grant 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

32. Case 04-ULP-07-0407 Jon C. Hobbs v. Service Employees International Union, District 1199

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 unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(6) by denying the Charging Party's appeal to arbitration. Information gathered during the investigation revealed the Charging Party's grievance was not arbitrated based on the merits. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. By January 31, 2004, the Charging Party knew his grievance was not being arbitrated. The charge was not timely 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

VI. ADMINISTRATIVE MATTERS

Follow-up from House Subcommittee Hearing

Executive Director Pat Snyder thanked the Board for its unanimous attendance at the agency's budget hearing before the House Agriculture and Development Subcommittee. At the House Subcommittee Hearing, a few questions were presented to Chairman Drake. Chairman Drake followed up with a letter to Representative Michael Skindell, who wanted SERB's thoughts on raising the subscription rate for the *SERB Quarterly*. Executive Director Snyder also reported that the Board has requested a few corrections for the Senate Redbook, which profiles the agency and its budget. Executive Director Snyder passed out a listing of all of the Senate Finance and Financial Institutions Committee members to the Board members for their information. Chairman Drake

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thanked the other Board members for attending the budget hearing as it showed great respect to the subcommittee members. She noted that some other agencies attending did not have the representation SERB did, and the Board's full attendance made a favorable impression on the subcommittee members.

OSU Statistics Department Meeting

Executive Director Snyder mentioned that the statisticians from the OSU Statistics Department, which SERB contracted with to input data and crunch numbers for the 2004 Health Care Cost Report, will be coming to the April 7, 2005 Board meeting to give their views and suggestions on our survey.

Update on Clearinghouse Request for Quotes

Executive Director Snyder stated that Chairman Drake has reviewed quotes the agency received. Executive Director Snyder is checking references from the quotes received to select a vendor to draft a Request for Quotes to make the Clearinghouse web-based.

Computer Updates for This Fiscal Year

Executive Director Snyder reported that she will be gathering information from Sayfee and the managers at their Managers' meeting on March 22, 2005, as to any needed end-of-the-year computer upgrades/purchases.

Status of Clerks Office Position

Executive Director Snyder reported the agency is working towards getting the Customer Service Assistant's position, vacated by Tina McNeal, filled as quickly as possible. Until the position is filled, Jackie Murray is spending a lot of time working hands-on in the Clerks Office to help make sure all runs smoothly, and Sandy Iversen is doing additional Board work to back up Ms. Murray, such as attending Board Meetings for her.

Resignation of Debbie McCormick

Mediator Debbie McCormick has resigned her position with SERB. Her last day will be April 1, 2005. Ms. McCormick will be going into the private sector, as a Chief Technology Officer/Technology and Design Specialist, which entails information architecture, graphic design and also the business, quality control, and the research end of software development. She will be greatly missed by all, and as in tradition when one leaves, there will be a going-away potluck for her. Mediation Administrator Dale Zimmer mentioned that he will be looking for someone experienced in the mediation field as they are stretched to the limit and working to prioritize assignments so that contract negotiations can be promptly handled. Negotiations are always a priority for the Bureau, and Administrator Zimmer stated that he will submit a schedule for the next three months to the Board of what the Bureau of Mediation will be handling.

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Vice Chairman Gillmor asked to what Ms. McCormick referred in her resignation letter when she stated that "the State's budget situation has resulted in the stagnation of salaries and the absence of professional development." Executive Director Snyder and Administrator Zimmer explained that Ms. McCormick had been hired in at Step One, received a step increase after her probationary period, and then step increases were frozen. Vice Chairman Gillmor expressed regret over the salary situation, said she understood why this opportunity was good for Ms. McCormick, and wished her the very best.

COLERA Pension Workshop on April 19, 2005

Chairman Drake mentioned to the Board for informational purposes that COLERA is presenting a workshop on pension issues, including a lunchtime program on Social Security proposals, on April 19, 2005. This workshop is credited with 4.5 CLE hours and costs only \$40.00.

Operation Feed

Executive Director Snyder invited the Board members to an ice cream social scheduled on April 7, 2005, after the Board Meeting. The proceeds will go to Operation Feed. The employees have enjoyed the Board members' participation in the past for this event, and invite them to attend again. Other events are coming up for Operation Feed, such as a bake sale and a card-making luncheon, and as usual there is the incentive for dress down days by bringing in five items of food or making a monetary donation.

Update on SB 56

General Counsel Keith gave an update on SB 56 to the Board. This bill excludes Ohio School Facilities Commission employees from coverage under Ohio Revised Code Chapter 4117. This bill is headed to the Governor for signature, and SERB will handle pending representation matters consistent with its disposition.

VIII. ADJOURNMENT

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

Vote: DRAKE Aye
Affirmed X

GILLMOR Aye
Denied

VERICH Aye



Carol Nolan Drake, Chairman