

State Employment Relations Board
State of Ohio
April 21, 2005
Board Meeting Minutes

The State Employment Relations Board met on Thursday, April 21, 2005, at 10:02 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:

1. Cases 05-MED-03-0192 Miamisburg Association of School
05-REP-03-0034 Employees, OEA/NEA and Miamisburg
City School District Board of Education

The Employee Organization filed a Notice to Negotiate on March 4, 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. Board Member Verich moved that the Board, in Case 05-MED-03-0192, grant the motion to stay the negotiations pending disposition of Case 05-REP-03-0034, and expedite the processing of the representation case. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 05-REP-01-0008 Fraternal Order of Police, Ohio Labor
Council, Inc. and City of Avon

The Employee Organization filed an Opt-in Request for Recognition seeking to represent certain employees of the Employer and add them to an existing unit. The substantial evidence is sufficient, and no objections have been filed. The Employer has complied with the posting requirements set forth in Ohio Revised Code § 4117.05(A)(2). Vice Chairman Gillmor moved that the Board certify the Employee Organization as the exclusive representative of all employees subject to the request, and add them to the Employee Organization's existing unit. 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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2. Case 05-REP-02-0017 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Barberton Health District
3. Case 05-REP-03-0040 Fraternal Order of Police, Ohio Labor Council, Inc. and Washington County Sheriff's Office
4. Case 05-REP-04-0050 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Hocking County Department of Job and Family Services

In Case 05-REP-02-0017, the Employee Organization is the deemed-certified exclusive representative of certain employees of the Employer. The parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect current contract language.

In Case 05-REP-03-0040, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to remove the positions of Dietician and Control Clerk, which no longer exist.

In Case 05-REP-04-0050, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include Program Specialist.

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

5. Case 04-REP-11-0210 Great Oaks Federation of Teachers, OFT-AFT, AFL-CIO and Great Oaks Institute of Technology and Career Development

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer responded by filing a Petition for Representation Election. A conference call was conducted, and the case was mediated on April 7, 2005. The Employer asserts that the proposed bargaining unit omits employees that share a community of interest. The Employee Organization asserts the Employer seeks to include employees that are supervisors or management level employees. The parties have not reached an agreement concerning an appropriate bargaining unit. Vice Chairman Gillmor moved that the Board direct the matter to hearing to determine an appropriate bargaining unit and for all other relevant issues. 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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8. Case 04-REP-09-0185 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc., Lodge 139 and Summit County Sheriff
- There were 207 ballots cast
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Ohio Patrolmen's Benevolent Association received 35 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc., Lodge 139 received 172 votes and has prevailed in this election.
9. Case 04-REP-09-0183 Fraternal Order of Police, Ohio Labor Council, Inc. and Bus Sales, Truck Drivers, Warehousemen & Helpers Local Union No. 637 and Licking County Sheriff
- There were 12 ballots cast
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 5 votes
 - Bus Sales, Truck Drivers, Warehousemen & Helpers Local Union No. 637 received 7 votes and has prevailed in this election.
10. Case 04-REP-09-0184 Fraternal Order of Police, Ohio Labor Council, Inc. and Bus Sales, Truck Drivers, Warehousemen & Helpers Local Union No. 637 and Licking County Sheriff
- There were 76 ballots cast
 - There were 0 challenged ballots
 - No Representative received 1 vote
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 35 votes
 - Bus Sales, Truck Drivers, Warehousemen & Helpers Local Union No. 637 received 40 votes and has prevailed in this election.

Vice Chairman Gillmor moved that the Board certify the election results and certify the prevailing employee organization as the exclusive representative of all employees in the relevant bargaining unit. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 04-ULP-09-0491 John Scott Kearns v. The Ohio State University

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by allowing documents to be presented at an arbitration hearing. The investigation reveals the Charging Party was represented by a union attorney who did not object to the documents at the hearing. No violation of the statute was established. 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 05-ULP-03-0149 Michael C. Means v. Beacon Pointe Rehabilitation Center

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by terminating the Charging Party. The investigation reveals Mr. Means works for a private company. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of jurisdiction. 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-12-0713 Fraternal Order of Police, Lodge #139 v. James B. McCarthy

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by bargaining in bad faith when the Charged Party issued a statement to the media during negotiations in violation of the established ground rules. The investigation reveals the Charged Party was bound by the ground rules but unilaterally issued a press release. 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 issuing a statement to the press in violation of the established ground rules, 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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4. Case 04-ULP-12-0717 Dover City School District Board of Education v. Dover Education Association, OEA/NEA and Robert Andrews

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1), (2), and (3), by dealing directly with a Board Member and interfering with the Charging Party's selection of its bargaining team. The investigation reveals the Board Member was not on the negotiations team, and specific proposals were not discussed. No information was provided to support the Ohio Revised Code § 4117.11(B)(2) or (3) allegations. 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 _____

5. Case 04-ULP-09-0533 Service Employees International Union, District 1199 v. Avon Lake Public Library

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against employees attending a pro-union meeting by docking their pay and not docking the pay of employees who attended an anti-union meeting. The investigation reveals the charge is untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice 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 _____

6. Case 04-ULP-09-0529 Cincinnati Federation of Teachers v. Cincinnati Public 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 Kamel Koochaki in retaliation for his exercise of guaranteed rights. The investigation reveals Mr. Koochaki's protected activity occurred after the alleged harm, and the charge is untimely filed. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party and as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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7. Case 04-ULP-11-0623 Lima Education Association, OEA/NEA v. Lima 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 dealing directly with members of the bargaining unit regarding a new schedule associated with the Small Schools program. The investigation reveals the Charged Party engaged in direct dealing. 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 dealing directly with bargaining-unit members regarding a new schedule associated with the Small Schools program, 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-12-0668 International Brotherhood of Teamsters, Local 377, John Caroline, Kim Adkins, Joanna Oliver, Katherine Petraglia, and Lester Szabados v. Mahoning County Department of Job and Family Services, and Mahoning County Commissioners

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (5) by bargaining in bad faith. The investigation reveals no evidence to support the allegations. The Commissioners are 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. 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-10-0580 Kathleen Ann Piero v. Salem City 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 retaliating against the Charging Party for engaging in protected, concerted activities by transferring her to a less desirable position. The investigation reveals the Charging Party was transferred for operational needs, not for 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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10. Case 04-ULP-07-0421 Northwest State Community College Education Association, OEA/NEA v. Northwest State Community College and Dr. Betty Young

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (3), (4), and (5) by refusing to bargain over implementation of a Student Success Advocate (SSA) Program, dealing directly with bargaining-unit employees, and threatening union representatives when confronted over the issue. The investigation reveals the College implemented changes midterm without the union agreeing to the changes. A credibility issue exists on the alleged threat and should be addressed at hearing. The College's creation of a seniority list for the purpose of layoffs is also questionable. No information was provided to support Ohio Revised Code § 4117.11(A)(3) and (4) violations. 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 Parties violated Ohio Revised Code § 4117.11(A)(1) and (5), but not (3) and (4), by demanding midterm bargaining over an SSA Program in bad faith, and interfering with, restraining, or coercing the Charging Party's representative in the exercise of guaranteed rights by threatening to eliminate the Student Services Department and lay off the representative, 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

11. Cases 04-ULP-10-0602 Northwest State Community College Education Association, OEA/NEA v. Northwest State Community College

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally implementing a Student Success Advocate (SSA) Program and dealing directly with bargaining-unit employees. The investigation reveals the change to the support personnel is de minimis and no harm was demonstrated. The Charged Party, however, did deal directly with bargaining-unit members. 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 dealing directly with bargaining-unit employees in an attempt to secure a change in job duties, dismiss the alleged August 13, 2004 statement that the Charging Party refused to bargain because the charge lacks a clear and concise statement of facts regarding the allegation, dismiss all other allegations with prejudice for lack of probable cause, 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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12. Case 04-ULP-10-0603

Northwest State Community College
Education Association, OEA/NEA v.
Northwest State Community College

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally implementing a Student Success Advocate (SSA) program, changing and imposing additional duties on bargaining-unit employees, particularly union leaders, informing bargaining-unit members that the Charging Party refused to bargain over the SSA program, and retaliating against the Charging Party's leaders for opposing the Charged Party's unilateral implementation of the SSA program. The investigation reveals the Charged Party did unilaterally implement changes after attempting to force the Charging Party into midterm bargaining. The Charged Party took adverse action against the Charging Party's leadership for opposing the SSA program. The allegation concerning the August 13, 2004 statement lacks a clear and concise statement of facts. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate the case with Cases 04-ULP-07-0421, 04-ULP-10-0602, and 04-ULP-01-0057, 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 (5) by unilaterally implementing a Student Success Advocate (SSA) program, changing and imposing additional duties on bargaining-unit employees, particularly union leaders, in retaliation for opposing the Charged Party's SSA program, dismiss the alleged August 13, 2004 statement that the Charging Party refused to bargain with prejudice because the charge lacks a clear and concise statement of the facts regarding the allegation, 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

13. Cases 04-ULP-09-0514
04-ULP-11-0656

Ohio Association of Public School
Employees, AFSCME Local 4, AFL-CIO v.
Greenfield Exempted Village School
District Board of Education

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by interfering with, restraining, and coercing Lisa Fryer in the exercise of her guaranteed rights by engaging in surveillance of her at union meetings and by discriminating against her by suspending her for her exercise of guaranteed rights. The investigation reveals no evidence union meetings were under surveillance, and Ms. Fryer's suspension was for reasons other than her exercising guaranteed rights. Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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14. Case 04-ULP-11-0620

Mary Albayati v. State of Ohio, Department of Rehabilitation and Correction, North Central Correctional Institution and Captain Everson

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (2), (4), (5), (7), and (8) by retaliating against the Charging Party when Captain Everson initiated an investigation of her conducting union business after she wrote up incident reports on Captain Everson and Corrections Officer Carmichael. The investigation reveals the Charging Party's guaranteed rights were not violated, and no information was provided to support the Ohio Revised Code § 4117.11(A)(2), (4), (5), (7), or (8) allegations. 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-12-0670

Queen City Lodge No. 69, Fraternal Order of Police v. City of Cincinnati

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by failing to promote from the relevant eligible list to fill two vacancies and unilaterally changing the qualifications in the advertising for the two positions. The investigation reveals the issues are not ripe for the Board since the positions have not been filled. Vice Chairman Gillmor moved that the Board dismiss the charge without prejudice as prematurely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

16. Case 04-ULP-12-0676

Sarah Anne Vigil v. Cleveland City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (4), (5), (6), and (7) by interfering with the Charging Party's guaranteed rights by ignoring her position as the official Union Representative. The investigation reveals the issues appear to be strictly contractual and are being pursued through the grievance arbitration process. The allegations before September 9, 2004, are untimely filed. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe an unfair labor practice has been committed by the Charged Party and as untimely filed regarding incidents alleged to have occurred before September 9, 2004. 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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17. Case 04-ULP-12-0677 Sarah Anne Vigil v. Cleveland Teachers Union, Local 279

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2), (3), and (6) by failing to fairly represent the Charging Party. The investigation reveals the Charged Party has processed all of the Charging Party's grievances. No information was provided to demonstrate the Charged Party violated the statute or that its actions were 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 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

18. Case 04-ULP-10-0568 City of North Olmsted v. International Association of Fire Fighters Local 1267

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by refusing to bargain in good faith by bypassing the Charging Party's selected representative and dealing directly with the legislative body. The investigation reveals the letter appears to bypass the Charging Party's representative and deal directly with the legislative body. 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(B)(3) by attempting to bypass the Charged Party's representative and deal directly with its legislative body, 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

19. Cases 04-ULP-12-0686 American Association of University Professors – Kent State Chapter v. Kent State University and President Carol A. Cartwright

04-ULP-12-0697 American Association of University Professors – Kent State Chapter v. Kent State University

Vice Chairman Gillmor moved that the Board grant the motions to withdraw. 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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20. Case 04-ULP-07-0425 Owens Faculty Association, AFT-OFT v. Owens Community College and Dr. Christa Adams, President

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by dealing directly with bargaining-unit employees and unilaterally changing the existing wages, hours, and terms and conditions of Basil Zeiuton's employment. The investigation reveals Mr. Zeiuton's part-time position is not in the bargaining-unit, and the Charged Parties did not have an obligation to negotiate the change. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe 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 _____

21. Case 04-ULP-09-0506 Union Local Association of Classroom Teachers, OEA/NEA v. Union Local 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 refusing to bargain. Vice Chairman Gillmor 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). Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

22. Case 04-ULP-11-0633 Service Equipment and Maintenance Employees, Local 1 v. City of Cleveland

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (5), and (6) by violating the agreement when it randomly drug tested non-safety-sensitive employees. The investigation reveals the employees guaranteed rights were not violated, and no evidence was provided to support the Ohio Revised Code § 4117.11(A)(5) and (6) allegations. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe 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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23. Case 04-ULP-07-0420

Holgate Teachers Association, OEA/NEA
v. Holgate 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 eliminating and/or reducing the bargaining-unit work of employees for engaging in protected activity in a manner contrary to the terms of the contract and verbally threatening an employee. The investigation reveals the implementation of the reduction in force ("RIF") is contractual, the conversation does not appear to be a threat, but the bargaining-unit employees who engaged in protected activity appeared to be targeted for the RIF. The Charged Party did not respond to the allegations of the charge. 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), but not (5), by eliminating and/or reducing the bargaining-unit work of employees for engaging in protected activities, dismiss all other allegations, 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

24. Case 04-ULP-11-0644

Ohio Civil Service Employees Association,
AFSCME Local 11, AFL-CIO, Its
Local 4900 and Gary Willis v. State of
Ohio, Department of Rehabilitation and
Correction, London Correctional Institution,
Warden Cooper, and Captain Foster

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(3) and (8) by discriminating against Mr. Willis regarding his work assignments in violation of the contract. The investigation reveals Mr. Willis' assignments were for operational needs and not for his exercise of guaranteed rights. The alleged violations prior to September 2004, are untimely filed. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe an unfair labor practice has been committed by the Charged Parties and as untimely filed regarding events occurring prior to September 2004. 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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25. Case 04-ULP-11-0646 Mary Lou Dunn v. City of Brook Park

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (4), (5), and (8) by violating the Charging Party's guaranteed rights to file a grievance. The investigation reveals the Charged Party processed the Charging Party's grievance. Denying a grievance or refusing to arbitrate because of a settlement agreement is not a violation of the statute. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe 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 _____

26. Case 04-ULP-11-0647 Mary Lou Dunn v. Fraternal Order of Police, Ohio Labor Council, Inc.

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by failing to take the Charging Party's grievance to arbitration. The investigation reveals the grievance was not taken to arbitration based upon the conditions of a settlement agreement. No information was provided to show the Union's actions 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 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 _____

27. Case 04-ULP-12-0694 Columbiana Local Association of School Support v. Columbiana Exempted Village 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 altering terms and conditions of bargaining-unit employees. The investigation reveals the Charged Party had an obligation to bargain the changes but refused. 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 altering terms and conditions of employment for bargaining-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 _____

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28. Case 04-ULP-09-0513 Michael Majied et al. v. Cuyahoga County
Common Pleas Court

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by not decreasing an employee's salary or increasing the Charging Parties' salaries. The investigation reveals the Charging Parties are exempt from public employee status. The Board lacks jurisdiction in this case. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of jurisdiction. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

29. Case 05-ERC-02-0001 Robert M. Campbell, Jr. v. University of
Akron

The Complainant alleges the Employer violated Ohio Revised Code §§ 4117.19(A) and (C) by retaliating and discriminating against him. The investigation reveals the noncompliance complaint was inappropriately filed against the Employer. Vice Chairman Gillmor moved that the Board dismiss the complaint with prejudice. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

30. Case 05-ERC-02-0002 Robert M. Campbell, Jr. v.
Communications Workers of America,
Local 4302, AFL-CIO

The Complainant alleges the Employee Organization violated Ohio Revised Code §§ 4117.19(A) and (C) by failing to fairly represent him. The investigation reveals the complaint failed to provide a clear and concise statement of facts alleging a violation of Ohio Revised Code § 4117.19. Board Member Verich moved that the Board dismiss the complaint without prejudice because the Complainant failed to provide a clear and concise statement of facts alleging a violation of Ohio Revised Code § 4117.19. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

31. Case 05-ERC-02-0003 Marvin Ray LeNeo v. University of Akron

The Complainant alleges the Employer violated Ohio Revised Code §§ 4117.19(B)(5), (C)(2), and (D) by violating his civil rights, denying him due process regarding his grievance, and by denying him raises and promotions. The investigation reveals the noncompliance complaint was inappropriately filed against the Employer. Vice Chairman Gillmor moved that the Board dismiss the complaint 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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32. Case 05-ERC-02-0004

Marvin Ray LeNeo v. Communications
Workers of America, Local 4302, AFL-CIO

The Complainant alleges the Employee Organization violated Ohio Revised Code §§ 4117.19(B)(5), (C)(2), and (D) but did not identify any actions by the Employee Organization. The investigation reveals the Complainant failed to provide a clear and concise statement of facts alleging a violation of Ohio Revised Code § 4117.19. Board Member Verich moved that the Board dismiss the complaint without prejudice because the Complainant failed to provide a clear and concise statement of facts alleging a violation of Ohio Revised Code § 4117.19. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

33. Case 04-ULP-09-0496

Brenda Hardiman v. Ohio Civil Service
Employees Association, AFSCME
Local 11, AFL-CIO and James Hogon

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by discriminating against the Charging Party and not selecting her for a Union-appointed position. The investigation reveals the Charging Party processed her grievance on her own, and the Union denied taking it to arbitration based on the merits. The Union President has the authority to appoint who he or she believes will represent the best interests of the Union in the Security Threat Coordinator position. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe 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

34. Case 04-ULP-11-0657

City of Avon Lake v. Fraternal Order of
Police, Ohio Labor Council, Inc., Avon
Lake Division

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by engaging in bad-faith bargaining in an attempt to modify a negotiated agreement. The investigation reveals no evidence that the Charged Party attempted to modify the negotiated agreement. A grievance was filed and taken to arbitration where the grievance was sustained. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe 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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38. Case 04-ULP-12-0704 Ohio Patrolmen's Benevolent Association v. Delaware County Commissioners

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by passing a resolution requiring a health-insurance premium payment not required by the agreement for bargaining-unit employees of the Delaware County Sheriff. The investigation reveals the Commissioners are acting as the legislative body. The Board lacks jurisdiction. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of jurisdiction. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

39. Case 04-ULP-06-0372 Professionals Guild of Ohio v. Franklin County Children Services

40. Case 04-ULP-03-0154 Fraternal Order of Police, Akron Lodge 7 v. City of Akron

Vice Chairman Gillmor moved that the Board deny the motions for reconsideration with prejudice. Board Member Verich seconded the motion. Chairman Drake asked General Counsel Russ Keith to include comments in the directive on Case 04-ULP-06-0372 that address the two arguments raised in the motion for reconsideration. He stated that the directive would state that the timeliness of the charge was not an issue in the dismissal, and whether the Board of County Commissioners was acting in an administrative or legislative capacity was also not at issue because the Board of County Commissioners was not acting as an agent or representative of the employer. Chairman Drake called for the vote.

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

41. Case 05-ULP-01-0032 Dean Heestand, II v. Stark County Department of Job and Family Services

42. Cases 04-ULP-08-0451 International Brotherhood of Teamsters, Local 20 v. City of Toledo
04-ULP-10-0586

Board Member Verich moved that the Board dismiss the charges with prejudice because the Charging Parties have failed to pursue the matters. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

