

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

MINUTES

The State Employment Relations Board met on Thursday, May 19, 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 regular meeting on May 5, 2005. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

APPROVAL OF MINUTES FOR THE APRIL 21, 2005 MEETING:

Board Member Verich moved that the Board approve the minutes from the April 21, 2005 meeting. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

Mediation Administrator Dale Zimmer mentioned briefly that employees of Franklin County Children Services were on strike, and that he and Mediator Tony Naess were working on the situation.

1. Closing 151 Mediation cases

Vice Chairman Gillmor moved that the Board close 151 Mediation cases beginning with Case 03-MED-09-0879 and ending with Case 03-MED-12-1443, not consecutively numbered. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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III. REPRESENTATION MATTERS AT ISSUE:

1. Case 05-REP-02-0024 Teamsters Local 436, AFL-CIO and City of Solon
June 7, 2005
2. Case 04-REP-12-0228 Lake County Sheriff Employee Association of Cooks and Clerks, and Communications Workers of America, Local 4340, and Lake County Sheriff's Department
June 9, 2005

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

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

3. Case 05-REP-03-0032 International Union of Operating Engineers, Local 18-S and City of Shelby

The Employee Organization is the deemed-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 bargaining unit to reflect the merger of Local 603 and Local 18-S. Board Member Verich moved that the Board approve the jointly filed petition and amend the unit accordingly. 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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4. Case 05-REP-04-0062 Freight Workers, Dockworkers and Helpers Local Union #24 and Northfield Center Township Fire Department

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employer filed a position statement requesting dismissal because the population is less than 5,000. The Employee Organization did not file a response. According to the current federal census, the population of the Employer is less than 5,000; therefore, the Employer is not a "public employer" as defined by Ohio Revised Code § 4117.01(B), and the Board lacks jurisdiction to entertain the petition. Vice Chairman Gillmor moved that the Board dismiss without prejudice the Petition for Representation Election. Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

5. Case 04-REP-08-0139 Stow-Munroe Falls Classified Employees Association and Stow-Munroe Falls City School District Board of Education

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed a Petition for Clarification of Bargaining Unit seeking to clarify the existing unit to include Secretary to Director of Secondary/Elementary Education, Secretary to Director of Special Services, Account Clerks, and Payroll Clerks. The Employer filed a position statement opposing the clarification stating the employees in question are not performing bargaining-unit duties, and were excluded as the result of a jointly filed Petition for Amendment of Certification in Case 01-REP-01-0008. The Employer further stated clarification is not the appropriate vehicle to remove the employees in question.

The bargaining unit was the result of a Board-conducted election in Case 01-REP-03-0080. The parties specifically excluded the employees in question through a jointly filed Petition for Amendment in Case 01-REP-01-0008. The Employee Organization did not file a response.

According to Ohio Administrative Code § 4117-5-01(E)(1), unit clarification does not alter the status quo, and the Employee Organization seeks to alter the existing bargaining unit. Board Member Verich moved that the Board dismiss without prejudice the Petition for Clarification of 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-09-0172 Cleveland Heights City School District Board of Education, and Social Agencies Employees Union, District 1199/Service Employees International Union (SEIU), AFL-CIO, and Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO

The Social Agencies Employees Union, District 1199/Service Employees International Union (SEIU), AFL-CIO (Employee Organization) is the Board-certified exclusive representative of certain employees of the Employer. The Employer, Employee Organization, and OAPSE have jointly filed Petitions for Amendment of Certification seeking to amend the existing unit to reflect affiliation with OAPSE. In support of the petitions, OAPSE had provided a confidential showing of interest from 38 of the 52 employees in the form of Authorization/Membership Cards.

The Board previously addressed affiliation through a Petition for Amendment of Certification, adopted the "substantial continuity" test, and provided specific requirements. The parties to the instant case did not provide any information to confirm that the requirements concerning internal affiliation election procedures were met.

The instant case was remanded back to the Representation Section for further investigation. Letters were sent out requesting information. To date, no responses have been filed. Vice Chairman Gillmor moved that the Board dismiss without prejudice the Petitions for Amendment of Certification because the requirements set forth within In re Montgomery County Joint Vocational School Dist Bd of Ed, SERB 89-010 (5-11-89), have not been met. 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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7. Case 04-REP-08-0152 Ohio Patrolmen's Benevolent Association and Boardman Township, Mahoning County

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 and a position statement opposing the proposed bargaining unit. The Employer maintained that there are other employees that share a community of interest and should also be included in the proposed bargaining unit. Several conference calls were conducted, and the parties were not able to reach an agreement concerning an appropriate bargaining unit. Board Member Verich moved that the Board direct this case 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 ___

8. Case 05-REP-01-0005 American Federation of State, County and Municipal Employees, Ohio Council 8, AFL-CIO and City of Waverly
(Dispatchers)

- There were 6 ballots cast
- There was 1 challenged ballot
- No Representative received 1 vote
- American Federation of State, County and Municipal Employees, Ohio Council 8, AFL-CIO received 4 votes and prevailed in this election.

9. Case 05-REP-01-0006 American Federation of State, County and Municipal Employees, Ohio Council 8, AFL-CIO and City of Waverly
(Sergeants)

- There were 2 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- American Federation of State, County and Municipal Employees, Ohio Council 8, AFL-CIO received 2 votes and has prevailed in this election.

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10. Case 05-REP-01-0007 American Federation of State, County and Municipal Employees, Ohio Council 8, AFL-CIO and City of Waverly
(Patrolmen)

- There were 10 ballots cast
- There was 1 challenged ballot
- No Representative received 3 votes
- American Federation of State, County and Municipal Employees, Ohio Council 8, AFL-CIO received 6 votes and has prevailed in this election.

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

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

V. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 04-ULP-08-0458 SERB v. Old Fort Local School District Board of Education

Board Member Verich moved that the Board grant the Complainant's motion to dismiss, and dismiss with prejudice the unfair labor practice charge. Vice Chairman Gillmor recused herself. Chairman Drake seconded the motion and called for the vote.

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

2. Case 04-REP-01-0013 General Truck Drivers and Helpers Union Local No. 92 and Stark County Department of Job and Family Services

Vice Chairman Gillmor moved that the Board adopt the Findings of Fact and Conclusions of Law in the Administrative Law Judge's Recommended Determination, finding that the positions of Account Clerk Supervisor, Case Manager/Investigator Supervisor I, Clerical Supervisor, Eligibility/Referral Supervisor I, Maintenance Repair Supervisor, Social Services Supervisor I, and Training Supervisor are supervisors as defined under Ohio Revised Code § 4117.01(F) and are therefore excluded from the definition of "public employee" within the meaning of Ohio Revised Code § 4117.01(C), and dismiss the Amended Petition for Representation Election. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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3. Case 03-REP-08-0150 Ohio Patrolmen's Benevolent Association and Boardman Township, Mahoning County

Board Member Verich moved that the Board adopt the Findings of Fact and Conclusions of Law in the Administrative Law Judge's Recommended Determination, finding that the job functions for the Captains in the bargaining unit have not been substantially altered since the unit was certified on July 10, 2003, and dismiss the Petition for Amendment of Certification. 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-05-0283 SERB v. City of Fairborn, et al.

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

6. Case 04-ULP-12-0695 Erie County Board of MR/DD Employees Association, OEA/NEA v. Erie County Board of Mental Retardation and Developmental Disabilities

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

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

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 04-ULP-12-0692 Roger Fort v. Central Ohio Transit Authority

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) by denying the Charging Party union representation at a disciplinary hearing. Information gathered during the investigation revealed the Charging Party was not compelled to answer questions after being denied representation. The Charging Party could have brought a Union representative to the afternoon meeting, but did not. 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

2. Case 05-ULP-01-0039 Earl Murry v. American Association of University Professors-Toledo University

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to process the Charging Party's grievance to external arbitration. Information gathered during the investigation revealed the Charged Party processed the Charging Party's grievance, but the Charging Party did not cooperate so that the grievance could be submitted to external arbitration. The Charged Party's 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 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. Cases 05-ULP-01-0043 Continental Education Association,
OEA/NEA v. Continental 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 members and threatening to change terms and conditions of employment. Information gathered during the investigation revealed the Charged Party's comments suggested changing bargaining-unit members' terms and conditions of employment and could have a chilling effect upon upcoming negotiations. 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, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by directly dealing with the members and threatening to change the terms and conditions of the Charging Party's employment, 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-09-0527 Jada Mullins v. Ohio Board of Regents

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by harassing and discriminating against the Charging Party, violating the contract regarding promotions and transfers, and by investigating the Charging Party's tardiness because she filed a complaint with the Inspector General's Office. Information gathered during the investigation revealed the Charging Party was not engaged in any activities protected under Ohio Revised Code Chapter 4117. The Charging Party was investigated and disciplined for her tardiness. All other allegations alleged in the charge are untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party, and as untimely filed for allegations occurring on or before June 19, 2004. 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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5. Case 05-ULP-01-0025 Sycamore Community School District Board of Education v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 243

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(B)(4), (5), and (8) by threatening a work stoppage or work slowdown unless the Charging Party agreed to the Charged Parties' bargaining proposals. Information gathered during the investigation revealed no work stoppage or slowdown occurred as a result of a conversation between the Charging Party's Administrator and the Charged Parties. Insufficient evidence was provided to support the 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

6. Case 05-ULP-01-0012 Groveport Madison Local Education Association v. Groveport Madison 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 refusing to bargain in good faith. Information gathered during the investigation revealed the parties continue to bargain the effects of split sessions. 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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7. Case 04-ULP-12-0718 Service Equipment and Maintenance Employees, Local 1 v. City of Cleveland

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (5), and (6) by failing to process a grievance. Information gathered during the investigation revealed the Charged Party did not process the grievance at Steps 1 and 2. No information was provided to support the Ohio Revised Code § 4117.11(A)(6) allegation. 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, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5), but not (6), by failing to process a grievance as required by the contract, 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

8. Case 05-ULP-01-0028 William T. Lotz v. State of Ohio, Department of Rehabilitation and Correction, Oakwood Correctional Facility

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) by interfering with the Charging Party's rights. Information gathered during the investigation revealed the Charging Party did not provide any evidence to support his allegation. 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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9. Case 05-ULP-01-0029 William T. Lotz v Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 0220

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(1) and (6) by permitting the Local Chapter President to force an illegal canvas of employees, and by refusing to file a grievance. Information gathered during the investigation revealed the Charged Party did not violate the grievance settlement, force an illegal canvas, or interfere with the Charging Party being reappointed as a steward. The Charged Party'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

10. Case 04-ULP-12-0685 Cleveland Fire Fighters, Local 93, IAFF v. City of Cleveland

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally modifying the shift cycle and special day selection procedure of the fire fighters. Information gathered during the investigation revealed the Charged Party did not respond to the charge. The Charged Party did not bargain the changes, which are mandatory subjects of bargaining. The Charging Party has also filed a motion seeking injunctive relief. 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 unilaterally modifying the shift cycle and special day selection procedure of the fire fighters, deny the motion for injunctive relief pursuant to In re City of Bedford Heights, SERB 87-004 (3-5-87), 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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11. Case 04-ULP-08-0485 Michael Newton v. Norwood City 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) in retaliation for the Charging Party exercising his guaranteed rights. Information gathered during the investigation revealed the Charged Party's actions were based on budget cuts and not on the Charging Party's exercise of guaranteed rights. The Charging Party's position, as well as five other positions, were affected by the cuts. 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

12. Cases 05-ULP-02-0085 Ohio Patrolmen's Benevolent Association v. Cuyahoga Metropolitan Housing Authority

05-ULP-02-0086 Ohio Patrolmen's Benevolent Association v. Cuyahoga Metropolitan Housing Authority

The unfair labor practice charges allege the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing a sick leave abuse policy. The Charged Party filed a motion to defer the matters to the grievance-arbitration procedure. Information gathered during the investigation revealed the matters are contractual. A grievance was filed, and the statute may have been violated by not bargaining the effects of the sick-leave abuse policy. The Charged Party filed a motion to defer the matters, which is appropriate. Vice Chairman Gillmor moved that the Board grant the Charged Party's motion and defer the matters for resolution through the grievance-arbitration procedure and retain jurisdiction in accordance with *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). Board Member Verich seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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13. Case 04-ULP-07-0401 Owens Federation of Safety and Security Employees v. Owens Community College

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) by improperly discharging an employee without progressive discipline, thus denying the employee her rights and benefits under the collective bargaining agreement. Information gathered during the investigation revealed an arbitrator determined that the probationary employee's termination was not in violation of the contract. The matter is contractual, and no statutory issue is evident. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

14. Case 05-ULP-01-0036 Columbiana County Sheriff v. Fraternal Order of Police, Ohio Labor Council, Inc.

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

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
 Affirmed X Denied

15. Case 05-ULP-01-0033 North Union Education Association, OEA/NEA v. North Union Local School District Board of Education

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (5) by threatening to unilaterally change the terms and conditions of employment for the bus drivers without bargaining. Information gathered during the investigation revealed the Charging Party was able to pursue the grievance over the bus drivers' employment terms, and no harm was received. Viewed in the totality of the circumstances, the remarks attributed to the Employer do not rise to the level of a violation. No information was provided to support the Ohio Revised Code § 4117.11(A)(2) allegation 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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16. Case 05-ULP-02-0097 Timothy W. Moore v. Cincinnati 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 (4) by failing to renew the Charging Party's contract. Information gathered during the investigation revealed the Charging Party was offered a contract but declined to accept it. The Charging Party failed to support his allegations. 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

17. Case 05-ULP-02-0071 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Hubbard and Martin Kanetsky

The unfair labor practice charge alleged the Charged Parties have violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by failing to comply with the terms of a settlement agreement, and by discriminating against Sergeant Oyler for filing grievances. Information gathered during the investigation revealed the Charged Parties' actions amounted to a refusal to bargain and retaliation. 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, and refer the matter to hearing to determine if the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by failing to bargain in good faith when they failed to assign Sergeant Oyler back to the day shift and then ultimately punished all employees by changing the work schedule in an attempt to interfere with employee 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

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18. Case 04-ULP-10-0552 Service Employees International Union, Local 47 v. Cuyahoga Metropolitan Housing Authority

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(5) by unilaterally implementing a policy manual. Information gathered during the investigation revealed the Charging Party was given a three-month-advance notice of the manual and did not demand to bargain until after the manual was implemented. The charge was also untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party, and as untimely filed. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

19. Case 04-ULP-10-0553 Olvin R. Smith v. Elyria Education Association, OEA/NEA

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(B)(4) and (6) by interfering with the Charging Party getting selected for a counselor position. Information gathered during the investigation revealed the Charged Party ensuring compliance with the contract is not a violation of the statute. The Charging Party did not file a grievance. The Charged Party's 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 Party. Board Member Verich seconded the motion. Chairman Drake recused herself. Vice Chairman Gillmor called for the vote.

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

20. Case 05-ULP-01-0017 Campbell Fire Fighters Local 2998, IAFF v. City of Campbell

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to bargain in good faith. Information gathered during the investigation revealed the Charged Party is unilaterally trying to modify the agreement by making changes that were not negotiated. 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 in good faith by attempting to execute an agreement not agreed to by the parties, 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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21. Case 04-ULP-09-0501 Canton Police Patrolmen's Association
v. City of Canton

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), (4), (7), and (8) by issuing a written notice that the Chief of Police must approve time off for the Acting Union President to conduct union business in retaliation for engaging in protected activities. Information gathered during the investigation revealed the matter is strictly contractual. Information provided failed to show that Ohio Revised Code § 4117.11(A)(4), (7), or (8) violations occurred. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe than 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

22. Case 04-ULP-09-0502 Canton Police Patrolmen's Association
v. City of Canton

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), (4), (5), (7), and (8) by issuing a written notice that no more than one union representative will be permitted at grievance and personnel hearings in retaliation for engaging in protected activities. Information gathered during the investigation revealed the notice did not prevent the Charging Party from representing its bargaining-unit members. The matter is contractual. Information provided failed to show Ohio Revised Code § 4117.11(A)(4), (7), or (8) allegations occurred. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe than 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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23. Case 04-ULP-11-0638 Canton Police Patrolmen's Association
v. City of Canton

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), (4), and (5) by ordering the Charging Party's Executive Board to meet with the Police Chief for questioning about a union press release. Information gathered during the investigation revealed no threat was made, and the attendees were permitted to leave the meeting when they expressed a desire not to proceed without the Charging Party's President. The charge is also untimely filed. Information provided failed to show Ohio Revised Code § 4117.11(A)(4) and (5) allegations 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, 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

24. Case 04-ULP-11-0639 Canton Police Patrolmen's Association
v. City of Canton

The unfair labor practice charge alleged the Charged Party has violated Ohio Revised Code § 4117.11(A)(1), (2), (4), (7), and (8) by issuing a notice and ordering the Charging Party's President to list the specific nature of his union activities in contravention of the contract and past practice in retaliation for issuing a press release. Information gathered during the investigation revealed the Chief's requirement for the Charging Party's President to fill out the form contrary to the contract requirement under threat of discipline is a violation of the statute. No information was provided to show Ohio Revised Code § 4117.11(A)(4), (7) or (8) allegations occurred. 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 (2), but not (A)(4), (7), and (8), by putting conditions upon the Charging Party President's use of union time in order to interfere with the administration of the Charging Party, and by ordering the Charging Party's President to list the specific nature of his union activities under threat of discipline, 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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25. Case 04-ULP-09-0497 Twinsburg Support Staff Association, OEA/NEA v. Twinsburg 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 unilaterally assigning bargaining-unit work to nonbargaining-unit employees. Information gathered during the investigation revealed the job descriptions overlap. The information provided failed to show the duties are exclusive to the bargaining unit or that the duties were removed from the bargaining unit. 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

26. Case 04-ULP-12-0680 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 549 v. St. Clairsville-Richland City School District Board of Education

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

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

27. Case 05-ULP-01-0013 Service Employees International Union, District 1199 v. Mentor Public Library

28. Case 05-ULP-01-0014 Service Employees International Union, District 1199 v. Mentor Public Library

Board Member Verich moved that the Board dismiss the charges with prejudice because the Charging Parties 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

29. Case 05-ULP-02-0080 Kent State University v. American Association of University Professors-Kent State Chapter

30. Case 05-ULP-04-0182 Parma Education Association, OEA/NEA v. Parma City School District Board of Education

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31. Case 05-ULP-03-0145 Professionals Guild of Ohio v. Warren County Board of Mental Retardation and Developmental Disabilities
32. Case 05-ULP-02-0094 Orange Township Professional Firefighters, IAFF Local 3816 v. Orange Township Board of Trustees, Delaware County
33. Case 05-ULP-02-0101 Hopewell-Loudon Education Association, OEA/NEA and Jill Schlarb v. Hopewell-Loudon City School District Board of Education
34. Case 05-ULP-03-0156 Canton Police Patrolmen's Association v. City of Canton and Chief of Police Dean McKimm

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

Vote: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

35. Case 05-ULP-01-0038 Old Fort Local Education Association, OEA/NEA v. Old Fort Local School District Board of Education

Board Member Verich moved that the Board construe the letter as a motion to withdraw, and grant the motion. Vice Chairman Gillmor recused herself. Chairman Drake seconded the motion, and called for the vote.

Vote: DRAKE Aye GILLMOR Recused VERICH Aye
Affirmed X Denied

36. Case 05-ULP-03-0150 Elyria School Support Staff, OEA/NEA v. Elyria City School District Board of Education

Vice Chairman Gillmor moved that the Board grant the motion to withdraw. Board Member Verich seconded the motion. Chairman Drake recused herself. Vice Chairman Gillmor called for the vote.

Vote: DRAKE Recused GILLMOR Aye VERICH Aye
Affirmed X Denied

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37. Cases 05-ULP-01-0046 Troy Benick, et al. v. Ohio Council 8,
05-ULP-01-0049 American Federation of State, County
05-ULP-01-0052 and Municipal Employees, AFL-CIO
05-ULP-01-0055
05-ULP-01-0058
05-ULP-01-0061
05-ULP-01-0065
- 05-ULP-01-0047 Troy Benick, et al. v. American
05-ULP-01-0050 Federation of State, County and
05-ULP-01-0053 and Municipal Employees, AFL-CIO,
05-ULP-01-0056 Local 3088
05-ULP-01-0059
05-ULP-01-0062
05-ULP-01-0066
- 05-ULP-01-0048 Troy Benick, et al. v. City of Mansfield
05-ULP-01-0051
05-ULP-01-0054
05-ULP-01-0057
05-ULP-01-0060
05-ULP-01-0063
05-ULP-01-0067

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

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

VI. ADMINISTRATIVE MATTERS

Public Service Recognition Week

Executive Director Pat Snyder reported that this week SERB will recognize Public Service Recognition Week. The staff has been honored with a special brunch, dress down days, and right after the Board meeting, many employees will be receiving their "service" pins. Cheri Alexander, Sandy Iversen, Debby Morgan, Donald Leonard, and Craig Young will be receiving 20-year pins; Dale Zimmer will receive his 10-year pin; and Donna Glanton will receive her 5 year pin. Mediator Tony Naess will be honored for 25 years' service. All recipients were applauded for their hard work.

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Resolution for Russ Keith

Executive Director Snyder reported that the Board had a special resolution for former General Counsel J. Russell Keith, which Chairman Drake read to everyone. Vice Chairman Gillmor also read a very special resolution from Congressman Paul E. Gillmor, of the Ohio House of Representatives, for Mr. Keith recognizing his hard work and legal support to the State Employment Relations Board. Vice Chairman Gillmor moved that the Board accept the resolutions recognizing J. Russell Keith. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

Update on Customer Service Assistant 1 Position

Executive Director Snyder stated that they are in their second set of interviews and checking references of the applicants, and they hope to make a decision soon.

Update on Operations During General Counsel Vacancy

Executive Director Snyder stated that she is handling all of the legal matters until they find a new General Counsel with the assistance from the Attorney General's Office and SERB staff. SERB's new Law Clerk, Scott Triplett, will be assisting her and the Administrative Law Judges in summarizing cases for the SERB Quarterly, which Mr. Keith used to do. Chairman Drake thanked Executive Director Snyder for making sure all is kept in an orderly fashion and deadlines are kept up. Executive Director Snyder also stated that before Mr. Keith's departure, both she and Mr. Keith met with each section and discussed Mr. Keith's role and how the work will progress in his absence.

Purchase Update

Executive Director Snyder mentioned some equipment purchases that will take place before the fiscal year ends. Some of the purchases include training for new software that will be upgraded, replacing some hardware for the computers; one new laptop and projector, as recommended by former Mediator Debbie McCormick; and a new Xerox copier to replace the old one with the approval by DAS.

Vice Chairman Gillmor asked the question about cars that SERB uses, and if any needed to be replaced. Executive Director Snyder replied that all cars are within the DAS mileage range, and that the agency had been able to replace its one high mileage car earlier in the year when cars were available for purchases.

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Homeland Security Review

Executive Director Snyder stated that she and Administrator Alan Bonham met with Fred Summers of Homeland Security to review SERB's Action Plan on all security measures that need to be followed in case of any emergencies. Also at this meeting, they discussed SERB's Disaster Recovery Plan. The Plans appear to meet all Homeland Security recommendations. Executive Director Snyder passed out copies of the two plans to the Board Members and asked them to review them, and if they had any questions or concerns to let her know. Executive Director Snyder also mentioned that the staff will be trained soon on the Action Plan.

Section and Executive Director Goals

Executive Director Snyder passed out to the Board draft copies of the section goals and Executive Director goals for their review. She asked that they review them so they could be discussed at the next Board meeting. Executive Director Snyder requested that if all the Board members are in agreement at that time, they could be implemented into SERB's 2006 goals for the fiscal year, and also to put the Board goals on SERB's web-site. The 2005 Board goals are on SERB's web-site at this time.

Executive Director Snyder recommended that the Board go into Executive Session to discuss personnel matters. Board Member Verich moved that the Board go into executive session, pursuant to Ohio Revised Code Section 121.22(G)(1), to discuss the employment of public employees. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the roll-call vote.

ROLL-CALL VOTE: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

Board Member Verich moved that the Board exit from executive session. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the roll-call vote.

ROLL-CALL VOTE: DRAKE Aye GILLMOR Aye VERICH Aye
Affirmed X Denied

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

/s/ Carol Nolan Drake
Carol Nolan Drake, Chairman