

State Employment Relations Board
Board Meeting Minutes
November 3, 2005

The State Employment Relations Board met on Thursday, November 3, 2005, at 10:03 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 REGULAR MEETING:

Vice Chairman Gillmor moved that the Board approve the minutes for 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. Case 04-MED-10-1191 Teamsters Local Union No. 377 and City of East Palestine

Board Member Verich moved that the Board construe the Employer's letter as a motion to dismiss, grant the motion, and dismiss the Notice to Negotiate 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

2. Case 05-MED-08-0814 Fraternal Order of Police, Lodge No. 164 and City of Oxford

Vice Chairman Gillmor moved that the Board grant the request to withdraw the Notice to Negotiate. 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-MED-09-1003 Fraternal Order of Police, Ohio Labor Council, Inc. and Mahoning County Sheriff

Board Member Verich moved that the Board grant the Motion to Withdraw the Notice to Negotiate. 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 05-MED-05-0601 Teamsters Local Union No. 377 and Mahoning County Engineer

Board Member Verich moved that the Board construe the request to amend the fact-finding report as a motion to amend the fact-finding report in accordance with Ohio Administrative Code Rule 4117-9-05(L), approve the motion, void any votes taken regarding the issuance of the initial fact-finding report, direct the fact finder to issue the amendment of the report by overnight mail, and direct the parties to conduct a vote upon the fact-finding report as amended within seven days of the fact finder's issuance of the amendment to the report or within a time mutually agreed by the parties in writing. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

8. Cases 04-MED-09-0862 International Brotherhood of Teamsters, Local 637 and Licking County Sheriff

Vice Chairman Gillmor moved that the Board grant the motion to dismiss the civilians unit from the conciliation process in Case 04-MED-09-0862. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

9. Closing 166 Mediation cases.

Board Member Verich moved that the Board close 166 Mediation cases beginning with Case 03-MED-03-0207 and ending with Case 05-MED-05-0614, not consecutively numbered. 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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III. REPRESENTATION MATTERS AT ISSUE:

1. Case 05-REP-05-0079 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Cuyahoga County Board of Commissioners
2. Case 05-REP-09-0131 Maple Heights Office Workers and City of Maple Heights

The Employee Organizations have filed Requests for Recognition seeking to represent certain employees of the Employers. The substantial evidence is sufficient, and no objections have been filed. The Employers have complied with the posting requirements. Vice Chairman Gillmor moved that the Board certify each Employee Organization as the exclusive representative of all employees in each 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 _____

3. Case 05-REP-07-0105 Fraternal Order of Police, Capital City Lodge No. 9/Fraternal Order of Police, Ohio Labor Council, Inc. and Teamsters Local Union 284 and Columbus State Community College (aka Columbus State University)
November 15, 2005

Board Member Verich moved that the Board approve the Consent Election Agreement and direct an election to be conducted on November 15, 2005. 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 04-REP-12-0223 Springfield City ESP-SEUSS/Ohio Education Association/National Education Association and Springfield City Schools
5. Case 05-REP-10-0145 Ohio Patrolmen's Benevolent Association and Lake County Sheriff's Department

In Case No 04-REP-12-0223, the Employee Organization filed a Petition for Amendment of Certification seeking to amend the certification to change its name. The Employer filed a letter stating it did not oppose the change.

In Case No. 05-REP-10-0145, the parties jointly filed a Petition for Amendment of Certification seeking to create two bargaining units.

Vice Chairman Gillmor moved that the Board approve the petitions and amend the units accordingly. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

6. Case 05-REP-03-0030 Ohio Patrolmen's Benevolent Association and Ohio Council 8, AFSCME, AFL-CIO and City of Toledo

The Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization. A conference call was conducted, and all parties agreed to the information to be contained in the Consent Election Agreement. The Rival Employee Organization is now not willing to execute the Consent Election Agreement. Board Member Verich moved that the Board direct an election to be conducted at a date, time, and place to be determined by the Representation Section in consultation with the parties. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

7. Case 05-REP-04-0059 International Union of Operating Engineers, Local 18-S and City of Dublin

On July 15, 2005, the Board directed this case to hearing and directed the parties to mediation. As a result of mediation, the Employee Organization has withdrawn the Request for Recognition. Chairman Drake moved that the Board construe the Employee Organization's withdrawal as a Motion to Dismiss, grant the motion, and dismiss without prejudice the Request for Recognition. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

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8. Case 05-REP-04-0049

James H. Kline, III and Ohio Council 8,
American Federation of State, County and
Municipal Employees, AFL-CIO,
Local 1632 and City of Columbus, Division
of Police

The Petitioner filed an amended Petition for Decertification Election seeking to decertify the Incumbent Employee Organization as the exclusive representative of certain employees of the Employer. The Incumbent Employee Organization responded by filing a letter requesting the Board dismiss the instant petition because it is barred pursuant to Ohio Revised Code § 4117.05(B). The Incumbent Employee Organization maintained the parties have executed an agreement with effective dates of April 1, 2005 through March 31, 2008. The Employer confirmed an agreement was executed. SERB also has information on file reflecting the parties' had a contract from March 31, 1984 through March 31, 1987, indicating that this bargaining unit is a deemed-certified unit. Ohio Administrative Code Rule 4117-5-01(D)(2) does not allow the filing of a Petition for Decertification Election where the Incumbent Employee Organization is deemed-certified. Vice Chairman Gillmor moved that Board dismiss without prejudice the Petition for Decertification Election. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

9. Case 05-REP-06-0089

Goldie Luke and Teamsters Local No. 377
and Trumbull County Board of
Commissioners, Office of Elderly Affairs

The Petitioner filed a Petition for Decertification Election seeking to decertify the Incumbent Employee Organization as the exclusive representative of certain employees of the Employer. The Incumbent Employee Organization has filed a motion to dismiss, maintaining the petition was filed outside the window period.

The bargaining unit was certified September 18, 2003, pursuant to a Request for Recognition. The parties negotiated an agreement with effective dates of January 1, 2004 through July 31, 2005. The instant petition was filed June 17, 2005, and is untimely. Board Member Verich moved that the Board grant the Incumbent Employee Organization's motion to dismiss and dismiss without prejudice the Petition for Decertification 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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10. Case 04-REP-12-0218 Ohio Patrolmen's Benevolent Association
and Trumbull County Sheriff

The Employee Organization filed a Petition for Clarification of Bargaining Unit seeking to clarify the existing unit to exclude one Corrections Officer who is not performing bargaining-unit duties. The Employer responded by filing objections, maintaining the employee in question voluntarily accepts special assignments and the collective bargaining agreement allows for such assignments. The employee in question filed a Motion to Intervene/Participate and Position Statement. On October 7, 2005, the Employee Organization filed a letter withdrawing the petition. Vice Chairman Gillmor moved that the Board deny the Employee's Motion to Intervene/Participate, construe the Employee Organization's letter as a motion to withdraw, grant the motion, and dismiss without prejudice the Petition for Clarification of Bargaining Unit. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

11. Cases 05-REP-03-0041 Fraternal Order of Police, Ohio Labor
05-REP-03-0042 Council, Inc. and Sinclair Community
College
November 22, 2005

Board Member Verich moved that the Board approve the Consent Election Agreement and direct elections to be conducted on November 22, 2005. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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12. Case 05-REP-03-0034

General Truck Drivers, Chauffeurs,
Warehousemen and Helpers Union Local
No. 957 and Miamisburg Association of
School Employees, OEA/NEA and
Miamisburg City School District

- There were 157 ballots cast
- There were 0 challenged ballots
- No Representative received 8 votes
- Miamisburg Association of School Employees, OEA/NEA received 22 votes
- General Truck Drivers, Chauffeurs, Warehousemen and Helpers Union Local No. 957 received 127 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 bargaining unit. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 03-REP-11-0225

American Association of University
Professors, Cincinnati State Chapter and
Cincinnati State Technical and Community
College

Board Member Verich moved that the Board adopt the Findings of Fact and Conclusions of Law in the Recommended Determination, grant the Employee Organization's Petition for Clarification of Bargaining Unit, and clarify the AAUP-1 bargaining unit to include the position of Advisor/Counselor, Humanities Division. 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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2. Case 04-ULP-03-0137 SERB v. Montgomery County Children's Services

Vice Chairman Gillmor moved that the Board adopt the Findings of Fact, Analysis and Discussion, and Conclusions of Law in the Proposed Order, finding that the Respondent did not violate Ohio Revised Code §§ 4117.11(A)(1) and (A)(5); dismiss the complaint; and dismiss with prejudice the unfair labor practice charge. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

3. Case 03-REP-09-00171 Mahoning Education Association of Developmental Disabilities, OEA/NEA and Mahoning County Board of Mental Retardation and Developmental Disabilities

Board Member Verich moved that the Board adopt the Findings of Fact, Analysis and Discussion, and Conclusions of Law in the Recommended Determination; grant the Employee Organization's Petition for Clarification of Bargaining Unit; and clarify the existing deemed-certified bargaining-unit's description to include the position of Service and Support Administrator. 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-REP-04-0068 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Greenfield Exempted Village School District Board of Education

Vice Chairman Gillmor moved that the Board adopt the Findings of Fact and Conclusions of Law in the Recommended Determination, and order that Judy Beatty's ballot be opened and counted, that the other three disputed ballots remain sealed and uncounted, and that a revised tally of ballots be issued with the revised election results. 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 03-REP-10-0199 Professionals Guild of Ohio and Taylor Memorial Library, nka Cuyahoga Falls Library

Board Member Verich moved that the Board deny the Employee Organization's motion for reconsideration. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

6. Case 04-ULP-08-0476 SERB v. Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO

7. Case 04-ULP-10-0548 SERB v. City of Lorain

Vice Chairman Gillmor moved that the Board approve and adopt the settlement agreements, construe the settlement agreements as motions to dismiss the unfair labor practice charges, grant the motions, dismiss the complaints, 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 05-ULP-05-0240 Annaliesa Henley v. Cuyahoga County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against the Charging Party because she filed a grievance. The investigation reveals the Charging Party was disciplined for reasons other than exercising 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 _____

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2. Case 05-ULP-05-0241 Annaliesa Henley v. Association of Cuyahoga County Employees for Special Students

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) by refusing to accept the Charging Party's allegation of nepotism. The investigation reveals insufficient information exists to support the Charging Party was restrained or coerced in exercising her 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 _____

3. Case 05-ULP-05-0279 Valerie P. Southern v. Cuyahoga Metropolitan Housing Authority

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by interfering with the Charging Party's guaranteed rights. The investigation reveals the Charging Party was terminated for reasons other than exercising 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 _____

4. Case 05-ULP-07-0385 Service Employees International Union, District 1199 v. Cincinnati State Technical and Community College

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by harassing and discriminating against Paula Harnist, and by unilaterally changing her work conditions because of her union activities. The investigation reveals Ms. Harnist was counseled for reasons other than exercising guaranteed rights. Additionally, insufficient evidence was provided to support the Ohio Revised Code § 4117.11(A)(5) 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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5. Case 05-ULP-07-0390 Ohio Patrolmen's Benevolent Association v. Trumbull County Sheriff's Office and Sheriff Thomas Altieri

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) by attempting to interfere with or coerce employees in the exercise of guaranteed rights. The investigation reveals the Charged Parties threatened layoffs if the Charging Party pursued a grievance to arbitration. 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) by attempting to interfere with or coerce employees in the 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

6. Case 05-ULP-07-0400 Fawn Bryan v. Kenston Education Association, OEA/NEA

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party. The investigation reveals the Charged Party represented the Charging Party through arbitration. Additionally, insufficient information was provided to show the Charged Party's 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 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

7. Case 05-ULP-07-0397 Richard Blaich v. Berea City School District Board of Education and Robert Faber

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (8) by subjecting the Charging Party to disparate treatment after an altercation with a co-worker. The investigation reveals insufficient evidence was presented or existed to show how the Charging Party was restrained, coerced, or interfered with regarding his guaranteed rights. Additionally, insufficient evidence was provided to support the Ohio Revised Code § 4117.11(A)(8) allegation. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed 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

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8. Case 05-ULP-07-0398 Richard Blaich v. Ohio Association of Public School Employees, AFSCME Local 4 and Its Local 656 and Robert Verhest

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to fairly represent the Charging Party. The investigation reveals the Charged Parties represented the Charging Party at every step of the grievance process. Additionally, insufficient information was provided to show how the Charged Parties' 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 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

9. Cases 05-ULP-05-0236 Tecumseh Education Association,
05-ULP-07-0415 OEA/NEA v. Tecumseh Local School District Board of Education

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by bargaining in bad faith, and by unilaterally adopting job descriptions. The investigation reveals the parties were involved in hard bargaining and not surface bargaining. The job descriptions have not been implemented. Board Member Verich 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. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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10. Case 05-ULP-05-0248 Frank Newbraugh v. Clearview Local School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (3) by changing the contract language, which adversely affected the Charging Party. The investigation reveals the Union and the Charged Party discussed an error in the layoff procedure, which resulted in Charging Party being laid off. The Charging Party was not engaged in protected activities. Additionally, insufficient information was provided to support a violation of the statute. 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 _____

11. Case 05-ULP-05-0249 Frank Newbraugh v. Ohio Association of Public School Employees, AFSCME Local 577 and Darlene Baker

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by changing the master agreement, which caused the Charging Party to be laid off. The investigation reveals the Charged Parties discussing the layoff procedure and correcting an error in classification seniority is not a violation of the statute. The Charging Party filed a grievance on his own and did not ask for assistance from the Charged Parties. The Charged Parties did not restrain or coerce the Charging Party in the exercise of guaranteed rights. Additionally, insufficient information was provided to support an Ohio Revised Code § 4117.11(B)(2) violation. 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 _____

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12. Case 05-ULP-05-0259 Richard Hange v. City of Mansfield,
Division of Fire

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by converting a two-day suspension to a contingent termination to coerce the Charging Party from exercising his guaranteed rights. The investigation reveals the Charged Party did change the suspension to a termination contingent upon the Charging Party's being successful in grieving/arbitrating his demotion. 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) by converting a two-day suspension to a contingent termination to coerce the Charging Party from exercising his 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

13. Case 05-ULP-06-0355 Carrollton Exempted Village School District
Board of Education v. Carrollton Education
Association, OEA/NEA

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) by attempting to cause the Charging Party to violate Ohio Revised Code § 4117.11(A)(5) and (6) regarding bargaining and grievance processing. The investigation reveals insufficient information was provided to support the Charged Party violated the statute, as the matter is strictly contractual. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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14. Case 05-ULP-06-0361 Ida Blackburn v. International Brotherhood of Teamsters, Local 407 and President Frank Burdell

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1), (3), and (6) by violating the collective bargaining agreement regarding seniority and availability. The investigation reveals the Charged Parties' steward working during the summer has no impact on the bus drivers working. Insufficient information was provided to show the Charged Parties' actions were arbitrary, discriminatory, or in bad faith. Additionally, the Charging Party did not file a grievance over the matter. 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

15. Case 05-ULP-06-0362 Ida Blackburn v. Cleveland City School District Board of Education – Transportation Department

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (6) by violating the agreement regarding seniority and availability. The investigation reveals the assignment of a senior steward does not interfere with, restrain, or coerce the Charging Party in the exercise of guaranteed rights. The matter is strictly contractual. No harm was demonstrated, and the Charging Party did not file a grievance. 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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18. Case 05-ULP-04-0171

James A. Smart, II v. City of Cleveland,
Safety Department and Kathleen McComb

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (4) by not allowing the Charging Party to represent bargaining-unit employees at a Step 2 grievance meeting and a disciplinary hearing, and by Ms. McComb attempting to place the Charging Party on permanent disability in retaliation for exercising guaranteed rights. The investigation reveals the Charged Parties may have interfered with the Union's selection of his representative for a grievance meeting and a disciplinary hearing. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(2), (3), or (4) allegations. 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 Parties violated Ohio Revised Code § 4117.11(A)(1), but not (2), (3), or (4), by not allowing the Charging Party to represent bargaining-unit employees at a Step 2 grievance meeting and a disciplinary hearing, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Drake called for the vote.

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

19. Case 05-ULP-04-0192

Kenneth W. Cunningham v. Cuyahoga
County Board of Commissioners

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (6), and (8) by failing to timely process grievances. The investigation reveals the Charged Party has failed to timely process grievances. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(2) or (8) allegations. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate with Case 04-ULP-11-0617, 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 (6), but not (2) and (8), by repeated failures to timely process grievances, 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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20. Case 05-ULP-05-0258 Kenneth W. Cunningham v. Cuyahoga County Board of Commissioners

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(5) by unilaterally changing established work hours and charging employees parking fees. The investigation reveals the Charged Party does not have the responsibility to bargain the matters with the Charging Party. Additionally, the Union has not challenged the matters. 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 _____

21. Case 05-ULP-06-0351 Cleveland Police Patrolmen's Association v. City of Cleveland

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing procedures for patrol officers involved in an investigative process. The investigation reveals the charge is untimely filed. Board Member Verich moved that the Board dismiss the charge with prejudice as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

22. Cases 05-ULP-06-0373 Frank Poindexter v. Mt. Healthy City
05-ULP-06-0374 School District Board of Education
05-ULP-06-0375 Frank Poindexter v. Mt. Healthy Classified Employees Association, OEA/NEA and James Claire

Vice Chairman Gillmor moved that the Board dismiss the charges without prejudice due to the Charging Party's failure to provide a clear and concise statement of the facts constituting the alleged violations. 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 05-ULP-02-0072 Ohio Patrolmen's Benevolent Association v. Athens County Sheriff

On June 9, 2005, the Board dismissed the unfair labor practice charge for lack of probable cause. The charge alleged that the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing the work hours of Deputy James Thompson. On August 2, 2005, the Charging Party filed a motion for reconsideration of the Board's decision. A review of the original investigation reveals that the Charging Party has failed to raise new issues warranting reversal of the dismissal. Board Member Verich moved that the Board deny the Charging Party's motion for reconsideration with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Drake called for the vote.

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

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

On April 21, 2005, the Board dismissed the unfair labor practice charge because the Charging Party failed to pursue the matter. The charge alleged that the Charged Party violated Ohio Revised Code § 4117.11. On September 26, 2005, the Charging Party filed an untimely motion for reconsideration of the Board's decision. Ohio Administrative Code Rule 4117-1-04(E) allows for the filing of a motion for reconsideration "no later than forty-five days after the issuance of the Board's final ruling." Vice Chairman Gillmor moved that the Board deny the Charging Party's motion for reconsideration 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

25. Case 05-ULP-07-0389 Hayden L. Ballinger v. State of Ohio, Department of Youth Services, Indian River Juvenile Correctional Facility and Ray Gust

26. Case 05-ULP-07-0401 Ohio Association of Public School Employees, AFSCME Locals 4 and 215, AFL-CIO v. Salem City School District Board of Education

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

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27. Case 05-ULP-06-0352 Crestline Exempted Village Schools Board of Education v. Crestline Education Association, OEA/NEA
28. Case 05-ULP-09-0513 Youngstown State University Association of Professional/Administrative Staff, OEA/NEA v. Youngstown State University
29. Cases 05-ULP-09-0528 JoAnn Estep v. Shelby City School District Board of Education
05-ULP-09-0529 JoAnn Estep v. Shelby Association of School Support
30. Case 05-ULP-05-0293 Columbus Education Association, OEA/NEA v. Columbus Public School District Board of Education
31. Case 05-ULP-08-0436 Crestline Education Association, OEA/NEA v. Crestline Exempted Village School District Board of Education
32. Case 05-ULP-07-0388 Northwest Association of Educators, OEA/NEA, et al. v. Northwest Local School District Board of Education
33. Case 05-ULP-08-0471 Ohio Patrolmen's Benevolent Association v. Meigs County Sheriff
34. Case 05-ULP-10-0562 Van Wert County Sheriff's Office v. Fraternal Order of Police, Ohio Labor Council, Inc.
35. Cases 05-ULP-07-0404 Perry Local School District Board of Education v. Lloyd Rains
05-ULP-07-0405 Perry Local School District Board of Education v. Ohio Association of Public School Employees, AFSCME Locals 4 and 367, AFL-CIO
05-ULP-07-0406 Perry Local School District Board of Education v. James Rabbits
05-ULP-08-0439 Ohio Association of Public School Employees, AFSCME Locals 4 and 367, AFL-CIO v. Perry Local School District Board of Education

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05-ULP-08-0440

Ohio Association of Public School
Employees, AFSCME Locals 4 and 367,
AFL-CIO v. Daniel A. Jaffee

Vice Chairman Gillmor moved that the Board construe the letters, notices, and settlement agreement 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 _____

36. Case 05-ULP-07-0413

Clark-Shawnee Education Association,
OEA/NEA v. Clark-Shawnee Local School
District Board of Education

Board Member Verich moved that the Board lift Case 05-ULP-07-0413 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 _____

Vice Chairman Gillmor moved that the Board remand Case 05-ULP-07-0413 to the Investigations Section for investigation of the amended unfair labor practice charge. 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

Researcher Statistician – Executive Director Craig Mayton reported that he had spoken with Professor Wolfe at The Ohio State University regarding salary and availability for a researcher/statistician intern for the Research and Training Section. Executive Director Mayton stated that their focus should be on health care since it is a “cutting edge issue.”

Health Insurance Survey – Executive Director Mayton reported that the final survey form was available for review (form was distributed). The survey has been updated to include “single plus one,” and “life insurance” was been omitted.

Building Manager Meeting – Executive Director Mayton reported that he had met with Jones Lang LaSalle (building management). The two-year lease included a provision for painting. He was hopeful that building management might agree to perform some painting of common areas.

