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III. REPRESENTATION MATTERS AT ISSUE:

1. Case 05-REP-08-0119 Fraternal Order of Police, Ohio Labor Council, Inc. and Muskingum County Sheriff

The Employee Organization filed an Opt-in Request for Recognition seeking to represent certain employees of the Employer and add them to an existing bargaining unit. The Employer responded by filing objections. A conference call was conducted, and the Employer has filed a notice withdrawing the objections. The substantial evidence is sufficient. The Employer has complied with the posting requirements set forth in Ohio Revised Code § 4117.05(A)(2). Board Member Verich moved that the Board construe the Employer's notice as a motion to withdraw the objections, grant the motion, and certify the Employee Organization as the exclusive representative of all employees subject to the Opt-in request, and add them to the existing unit. Vice Chairman Gillmor seconded the motion and called for the vote.

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

2. Case 05-REP-07-0099 Ohio Patrolmen's Benevolent Association and Jefferson County Sheriff's Office

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employee Organization has filed a motion to withdraw the request. Board Member Verich moved that the Board grant the Employee Organization's motion to withdraw, and dismiss without prejudice the Request for Recognition. Vice Chairman Gillmor seconded the motion and called for the vote.

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

3. Case 05-REP-10-0146 International Union of Painters and Allied Trades, District Council No. 6, AFL-CIO and City of Cleveland

4. Case 05-REP-10-0152 Clark County Vocational Association of School Employees and Springfield-Clark County Joint Vocational School District

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5. Case 05-REP-10-0160 International Union of Operating Engineers, Local 943 and Warren City School District Board of Education

In Case No. 05-REP-10-0146, the parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect certain negotiated changes.

In Case No. 05-REP-10-0152, the Employee Organization filed a Petition for Amendment of Certification seeking to amend the certification to reflect actual staff and classification titles and to change the Employee Organization's name. The Employer filed a Position Statement in support of the amendment.

In Case No. 05-REP-10-0160, the parties jointly filed a Petition for Amendment of Certification seeking to amend the certification to reflect the merger of International Union of Operating Engineers, Local 95-95A, AFL-CIO and International Union of Operating Engineers, Local 943, AFL-CIO. In support of the Petition, the parties have previously provided information in Case No. 04-REP-08-0150 verifying that the standards set by the Board in In re Montgomery County Joint Vocational School Dist Bd of Ed, SERB 96-007 (6-7-96) have been met. Appropriate international union procedures have been followed, and substantial continuity still exists. No questions of representation are pending.

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

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

6. Case 03-REP-03-0046 Municipal Foreman & Laborers' Union Local No. 1099 and City of Shaker Heights

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. On November 7, 2005, the Employee Organization filed a letter stating it no longer desires to represent the employees for the purpose of collective bargaining. The parties confirmed no contract exists. Board Member Verich moved that the Board construe the Employee Organization's letter as a motion, grant the motion, and revoke the Employee Organization's certification. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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7. Cases 05-REP-06-0091  
05-REP-06-0097 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO and Voice of Individual County Employees (VOICE) and Hamilton County Sheriff's Department

- There were 154 ballots cast
- There were 0 challenged ballots
- Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO received 17 votes
- Voice of Individual County Employees (VOICE) received 44 votes
- No Representative received 93 votes and has prevailed in this election.

Board Member Verich moved that the Board certify the election results and certify that "No Representative" prevailed in the election and that the employees in the unit have chosen to have no exclusive representative for purposes of collective bargaining. Vice Chairman Gillmor seconded the motion and called for the vote.

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

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 03-ULP-06-0300 SERB v. Twinsburg City School District Board of Education

Board Member Verich moved that the Board grant the Intervenor's motion for an extension of time to reply; deny the Respondent's motion to dismiss; adopt the Findings of Fact and Conclusions of Law in the Administrative Law Judge's Proposed Order, finding that the Respondent violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) when it implemented its "last, best, and final" offer prior to reaching ultimate impasse; and issue a cease-and-desist order, with a Notice to Employees, requiring the Respondent to take the following actions: (1) return the bargaining-unit employees represented by the Union to the status quo as it existed before May 30, 2003, including reimbursing bargaining-unit employees for any losses incurred as a result of the unlawful unilateral implementation of changes to wages, hours, and terms and conditions of employment effective May 30, 2003; (2) bargain with the Union on all issues remaining on the table as of May 29, 2003; (3) post the Notice to Employees furnished by the Board for sixty days in all of the usual and normal posting locations where bargaining-unit employees represented by the Union work; and (4) notify the Board in writing within twenty calendar days from the date the order becomes final of the steps that have been taken to comply therewith. Opinion to follow. Vice Chairman Gillmor seconded the motion and called for the vote.

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



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3. Case 05-ULP-05-0278 Almondine Poole v. Communications Workers of America, Local 4546

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by failing to afford equal representation, and by refusing to process the Charging Party's grievance. The investigation reveals Charging Party was represented by the Charged Party. The grievance was not taken to arbitration based on the merits. Insufficient evidence was provided to show the Charged Party's actions were arbitrary, discriminatory, or in bad faith. The Charging Party knew of the settlement agreement on January 28, 2005, and the charge was 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 and called for the vote.

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

4. Case 05-ULP-08-0464 Madison-Plains Education Association, OEA/NEA v. Madison-Plains 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 dealing directly with members of the Charging Party. The investigation reveals the information published in the newspaper was a result of a public information request. 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 and called for the vote.

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

5. Case 05-ULP-08-0481 Marvin L. Clardy, Jr. v. City of Youngstown

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), (4), and (5), by retaliating against the Charging Party for exercising guaranteed rights. The investigation reveals the Charging Party was terminated for reasons other than exercising guaranteed rights. Insufficient evidence was provided to support the Ohio Revised Code § 4117.11(A)(4) and (5) 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 Party. Vice Chairman Gillmor seconded the motion and called for the vote.

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



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9. Case 05-ULP-08-0469 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), (5), and (6) by failing to bargain in good faith by failing to implement grievance settlements reached by the parties. The investigation reveals the Charged Party has failed to honor settlement agreements reached on two grievances. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5), but not (6), by failing to implement grievance settlements reached by the parties, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion and called for the vote.

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

10. Case 05-ULP-08-0476 Thaddeus Mackiewicz v. FOP George Murray Lodge Local 67

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to take the Charging Party's grievance to arbitration. The investigation reveals the Charged Party worked with the Charging Party on his grievance through Step 4. The grievance was not taken to arbitration based on the merits. 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, and as untimely filed. Vice Chairman Gillmor seconded the motion and called for the vote.

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

11. Case 05-ULP-08-0468 Beavercreek Professional Firefighters, Local 2857 v. Beavercreek Township, Greene County

The Charged Party does not meet the population requirements for the Board to have jurisdiction, and the Charged Party is not a "public employer" as defined by Ohio Revised Code § 4117.01(C). Board Member Verich moved that the Board dismiss the charge with prejudice for lack of jurisdiction. Vice Chairman Gillmor seconded the motion and called for the vote.

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



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15. Case 05-ULP-06-0353 Roberta Yarosh v. MetroHealth System – Medical Center

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (6) by requiring the Charging Party to work out of her classification, and by not responding to her grievance. The investigation reveals a grievance was never filed, 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 and called for the vote.

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

16. Case 05-ULP-06-0354 Roberta Yarosh v. Ohio Council 8, American Federation of State, County and Municipal Employees, Locals 3360 and 3353

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to provide the Charging Party with a copy of the contract, and by not advising her of the status of her grievance. The investigation reveals the Charging Party never filed a grievance, and she never requested a copy of the contract until after she resigned. 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 Parties, and as untimely filed. Vice Chairman Gillmor seconded the motion and called for the vote.

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

17. Case 05-ULP-05-0266 Twinsburg Support Staff Association, OEA/NEA v. Twinsburg 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 failing to honor the terms of a settlement agreement. The investigation reveals the issues are similar to those in Case 03-ULP-12-0671, which the Board directed to a show cause hearing. Board Member Verich moved that the Board hold this matter in abeyance pending the outcome in Case 03-ULP-12-0671. Vice Chairman Gillmor seconded the motion and called for the vote.

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



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20. Case 05-ULP-09-0495 Auglaize Education Association, OEA/NEA  
v. Auglaize 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 (5) by failing to bargain in good faith. The investigation reveals the parties were in reopener negotiations and following the contractual provisions, the parties reached ultimate impasse. Insufficient evidence was provided to support the allegation of bad-faith bargaining. 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.

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

21. Case 05-ULP-09-0514 Auglaize County Board of Mental  
Retardation and Developmental Disabilities  
v. Auglaize Education Association,  
OEA/NEA

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by negotiating in bad faith. The investigation reveals insufficient evidence to substantiate the Charged Party violated the statute. 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 and called for the vote.

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

22. Case 05-ULP-08-0474 Bellevue Education Association, OEA/NEA  
v. Bellevue 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 Jeff Buchanan for his exercise of guaranteed rights. The investigation reveals Mr. Buchanan was suspended without pay 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 and called for the vote.

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

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23. Case 05-ULP-09-0497 Columbus State Education Association,  
OEA/NEA v. Columbus State Community  
College

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by bargaining in bad faith. The investigation reveals the Charged Party did bargain in good faith, and it gave the Charging Party two extensions prior to implementing its last, best offer. 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 and called for the vote.

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

24. Case 05-ULP-05-0229 Fraternal Order of Police, Lodge #133 v.  
City of Lebanon

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by changing dental plans, and by increasing the employees' premiums shortly after completion of negotiations. The investigation reveals the matter is contractual. The Charged Party made a good-faith effort to resolve the issue once it was raised. 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 and called for the vote.

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

25. Case 05-ULP-06-0346 The University of Akron Chapter of the  
American Association of University  
Professors v. The University of Akron

26. Case 05-ULP-08-0452 The University of Akron v. The University  
of Akron Chapter of the American  
Association of University Professors

27. Case 05-ULP-09-0500 The University of Akron v. The University  
of Akron Chapter of the American  
Association of University Professors

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

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

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28. Case 05-ULP-07-0417 Ronald J. Vrabel v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, et al.

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) by restraining and/or coercing the Charging Party from serving on the Charged Party's State Board of Directors. The investigation reveals the issue is an internal union matter and does not rise to the level of a statutory violation. The events occurring in 1999 are 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 Parties, and as untimely filed regarding events occurring in 1999. Vice Chairman Gillmor seconded the motion and called for the vote.

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

29. Case 05-ULP-02-0104 Robin Rayfield v. University of Toledo

On September 8, 2005, the Board dismissed the charge for lack of probable cause and as untimely filed. On September 26, 2005, the Charging Party filed a timely "Notice of Appeal." The Charging Party did not provide any new information. Board Member Verich moved that the Board construe the Charging Party's notice of appeal as a motion for reconsideration, and deny the motion with prejudice. Vice Chairman Gillmor seconded the motion and called for the vote.

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

30. Case 05-ULP-05-0254 Youngstown State University Association of Classified Employees v. Youngstown State University

On September 9, 2005, the Board dismissed the charge for lack of probable cause. On October 27, 2005, the Charging Party filed a timely motion for reconsideration. The Charging Party did not provide any new information. Board Member Verich moved that the Board deny the Charging Party's motion for reconsideration with prejudice. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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31. Case 05-ULP-03-0128 Liberty Township Professional Fire Fighters Association, Local 2075, IAFF v. Liberty Township Trustees, Mahoning County

On June 23, 2005, the Board deferred this matter to the parties' grievance-arbitration process. On October 31, 2005, the Charging Party requested the charge be withdrawn. Board Member Verich moved that the Board construe the request as a motion to withdraw, and grant the motion with prejudice. Vice Chairman Gillmor seconded the motion and called for the vote.

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

32. Case 05-ULP-09-0489 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO v. Kent State University

Board Member Verich moved that the Board dismiss the charge with prejudice because the Charging Party has failed to pursue the matter. Vice Chairman Gillmor seconded the motion and called for the vote.

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

33. Case 05-ULP-09-0501 Bridgeport Education Association, OEA/NEA v. Bridgeport 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 issuing a directive prohibiting employees from engaging in Union activities, including the wearing of Union message buttons on school grounds, when students are present. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), but not (5), by issuing a directive prohibiting Union members from wearing Union message buttons on school grounds, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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34. Case 05-ULP-11-0595 Lucas Teachers Association, OEA/NEA v. Lucas Local School District Board of Education

Board Member Verich moved that the Board construe the notice requesting withdrawal as a motion to withdraw, grant the motion, and dismiss with prejudice the unfair labor practice charge. Vice Chairman Gillmor seconded the motion and called for the vote.

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

V. ADMINISTRATIVE MATTERS

**Intern Interview Status** – Executive Director Craig Mayton reported that intern interviews will conclude on Friday, and he should have a recommendation for the Board at the next meeting.

**Mediator Position Posting** – Executive Director Mayton stated that the posting expires December 6, 2005, and that eight resumes had been received so far. Executive Director Mayton stated that he would be sending the posting to the Ohio Mediators Association in hope that would generate some more responses.

**State Car Purchase** – Board Member Verich moved that the Board authorize the expenditure of funds for the purchase of a 2006 Dodge Stratus. Vice Chairman Gillmor seconded the motion and called for the vote.

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

Board Member Verich moved that the Board authorize Executive Director Craig Mayton to sign the purchase order in excess of \$5,000.00 for the purchase of the 2006 Dodge Stratus. Vice Chairman Gillmor seconded the motion and called for the vote.

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

**Serbian Project** – Executive Director Mayton mentioned that there has been discussion about an exchange program, similar to the Croatian project, to provide training for Serbian mediators engaged in the process of resolving labor disputes.

**Retention Schedules** – Executive Director Mayton reported that Jackie Murray had met with Mike Hardenbrook in Records Management regarding updating SERB's retention schedules. Over the next several weeks Ms. Murray will meet with the sections to clarify the documents produced in order to update these schedules to include digital images as the permanent file.

