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III. REPRESENTATION MATTERS AT ISSUE:

1. Case 05-REP-10-0151 Fraternal Order of Police, Ohio Labor Council, Inc. and Hamilton Township Police Department, Warren County

The Employee Organization filed an Opt-in Request for Recognition seeking to represent certain employees of the Employer and to add them to an existing Board-certified unit. The substantial evidence is sufficient, and no objections have been filed. The Employer has complied with the posting requirements set forth in Ohio Revised Code § 4117.05(A)(2). Board Member Verich moved that the Board certify the Employee Organization as the exclusive representative of all employees subject to the request, and add them to the Employee Organization's existing unit. Vice Chairman Gillmor seconded the motion and called for the vote.

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

2. Case 05-REP-09-0122 Ohio Patrolmen's Benevolent Association and Teamsters Local No. 92 and City of Alliance
February 22, 2006
3. Case 05-REP-09-0123 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and City of Avon
February 23, 2006
4. Case 05-REP-10-0149 Willard Professional Fire Fighters IAFF Local 4468 and City of Willard
February 28, 2006

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

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

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5. Case 05-REP-12-0180 Austintown Township Professional Fire Fighters IAFF Local #3356 and Austintown Township Trustees, Mahoning County
6. Case 05-REP-12-0182 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of Brooklyn

In Case 05-REP-12-0180, the parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect current contract language. In Case 05-REP-12-0182, the parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to include Clerk of Courts. Board Member Verich moved that the Board approve the petitions and amend the units accordingly. Vice Chairman Gillmor seconded the motion and called for the vote.

Vote: GILLMOR: Aye VERICH: Aye
Affirmed X Denied

7. Case 05-REP-07-0102 Ohio Patrolmen's Benevolent Association and City of Englewood

On October 27, 2005, the Board conducted secret-ballot elections in the following units:

Unit A: Included: All Full-time Dispatchers.
Unit B: Included: All Part-time Dispatchers.

Excluded: All others.

The results of the election for Unit A were five (5) ballots cast, three (3) votes for Ohio Patrolmen's Benevolent Association, and two (2) votes for "No Representative." The results of the election for Unit B were three (3) ballots cast, three (3) votes for Ohio Patrolmen's Benevolent Association, and zero (0) votes for "No Representative."

The Employer filed post-election objections and a Supplement to Objections to Election pursuant to Ohio Administrative Code Rule 4117-5-10(A) in Unit A. The Employer stated that because Ms. Teri Oinos, who participated in the election even though she was on FMLA [Family and Medical Leave Act] leave at the time and who resigned her employment on January 6, 2006, the Board should conduct a new election for the employees in Unit A or discount one of the "yes" votes in the October 27, 2005 election. The Employee Organization did not file a response.

The investigation reveals that Ms. Oinos was an eligible voter on the eligibility date of September 6, 2005, and she had not become ineligible under the Consent Election Agreement on the date of the October 27, 2005 election. Therefore, Ms. Oinos is an eligible voter.

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IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

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

Board Member Verich moved that the Board adopt the Findings of Fact and Conclusions of Law in the Recommended Determination and issue a direction to election in the following bargaining unit:

Included:

All full-time teachers, librarians, counselors and student advocates at the Great Oaks Institute of Technology and Career Development school district, including adult education teachers, non-supervisory adult education personnel and consulting teachers (curriculum instruction specialists, curriculum technology specialists, placement and apprenticeship coordinators, coordinator/teachers, career education coordinators, managers of continuous improvement, managers of professional development, child care center coordinators, special needs educators, and public relations employees on teacher contracts).

Excluded:

All supervisors, management level employees, confidential employees, administrators, clerical staff and janitorial staff.

Vice Chairman Gillmor seconded the motion and called for the vote.

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

2. Case 04-ULP-02-0063 SERB v. Miami Township Trustees, Clermont County

Board Member Verich moved that the Board construe the settlement agreement as a motion by the Complainant to dismiss the complaint and as a motion by the Charging Party to withdraw the unfair labor practice charge with prejudice, grant the motions, dismiss the complaint, and dismiss with prejudice the unfair labor practice charge. 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-09-0540 Sheffield-Sheffield Lake Classified Employees Association, OEA/NEA v. Sheffield-Sheffield Lake City School District Board of Education
- Case 05-ULP-09-0541 Sheffield-Sheffield Lake Teachers Association, OEA/NEA v. Sheffield-Sheffield Lake City 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 refusing to bargain with the Joint Insurance Committee regarding insurance benefits. The investigation reveals the committee was not formed to negotiate, and no violation occurred. 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 and called for the vote.

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

4. Case 05-ULP-06-0340 Talawanda Education Association, OEA/NEA v. Talawanda City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by refusing John Brueggemann's request for representation at a disciplinary meeting, disciplining him for refusing to continue the meeting without representation and for engaging in protected activities, questioning Brian Dickman on his sympathies about unions, transferring Mr. Dickman and then terminating his employment, and by threatening and disciplining Union President David Hayes for representing an employee at a meeting. The investigation reveals Mr. Brueggemann was not compelled to stay at the meeting, and he was disciplined for insubordination, not for requesting representation or engaging in protective activities. Mr. Dickman was transferred and was on suspension before he engaged in protected activity; his termination was for poor performance, not because he was engaged in protected activity. Mr. Hayes was acting as a union representative during the meeting, but was treated as an employee rather than as an equal in the labor dispute when he was threatened; the written warning did not harm the Charging Party. Events prior to March 17, 2005 were untimely filed.

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 (3) and (5), by threatening the Charging Party's President, David Hayes, with disciplinary action for engaging in protected activity, direct the parties to ULP mediation, dismiss all other allegations for lack of probable cause to believe a violation was committed, and dismiss as untimely filed for events occurring prior to March 17, 2005.

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

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5. Case 05-ULP-07-0424 Fraternal Order of Police, Captain John C. Post Lodge No. 44 v. City of Dayton

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing a midterm modification to the parties' collective bargaining agreement. The investigation reveals the change affects Police Recruit II's, and they are not in 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 and called for the vote.

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

6. Case 05-ULP-09-0509 Fraternal Order of Police, Butler County Lodge 101 v. Butler County Sheriff

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing a fitness evaluation as part of the promotional process for Deputy Sheriff. The investigation reveals the fitness evaluation is voluntary and is not a requirement for promotion. 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 _____

7. Case 05-ULP-09-0530 Cleveland Public Library v. Service Employees International Union, District 1199

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by filing numerous frivolous ULP charges in an attempt to bypass the party's grievance-arbitration process. The investigation reveals the events giving rise to the charge occurred more than 90 days before the charge was filed. No mitigating circumstances exist that warrant equitable tolling of the statute of limitations. Board Member Verich moved that the Board dismiss the charge with prejudice as untimely filed. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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14. Case 05-ULP-08-0437

Ohio Association of Public School
Employees, AFSCME Local 4, AFL-CIO v.
Gahanna-Jefferson City School District
Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (5), and (8) by informing bargaining-unit employees that they were no longer eligible for benefits under the Family Medical Leave Act ("FLMA"), requiring an employee to pay all health insurance premiums, refusing to meet with the Charging Party on pending grievances, and by informing the Charging Party's President that if she did not pursue certain grievances, the Charged Party would pay part of her insurance premiums. The investigation reveals the Charged Party corrected a mistake where it had authorized FMLA for the Charging Party's President and three other employees when they were ineligible. The Charged Party met on the grievances and issued its Step 3 decision. The Charged Party's suggestion to informally meet did not constitute a violation. The Charging Party's President was the only one who did not have enough sick leave to cover the absence; she was the only one that had to pay for her insurance premiums while in a leave-without-pay status. The Charged Party's offer to pay part of the premiums was an attempt to settle the grievances and not to interfere with, restrain, or coerce the Charging Party to commit a 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 Party. Vice Chairman Gillmor seconded the motion and called for the vote.

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

15. Case 05-ULP-08-0450

James A. Smart, II v. City of Cleveland,
Safety Department and Mary Hanna

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (3) by not allowing the Charging Party to enter the Charged Parties premises or to park in its parking garage in retaliation for the Charging Party exercising his guaranteed rights. The Charged Party did not respond to the charge. The investigation reveals the Charged Parties violated the statute by escorting the Charging Party when on the City's property in retaliation for exercising guaranteed rights. Insufficient evidence was provided to support how he was harmed.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate with Case 05-ULP-04-0171, 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 (3), by requiring an escort for the Charging Party when visiting the City's Police Headquarters in retaliation for engaging in protected activities, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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16. Case 05-ULP-10-0572 Northwest State Community College Education Association, OEA/NEA (Support Personnel) v. Northwest State Community College and Dr. Betty Young, President

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally assigning bargaining-unit work to nonbargaining-unit employees. The investigation reveals the Charged Parties had an obligation to negotiate the changes. The Charged Parties filed a motion to defer the matter to arbitration.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate with Case Nos. 04-ULP-01-0057, 04-ULP-07-0421, 04-ULP-10-0602 and 04-ULP-10-0603, 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) and (5), by unilaterally transferring bargaining-unit work to nonbargaining-unit employees and attempting to erode the bargaining-unit, and deny the motion to defer. Vice Chairman Gillmor seconded the motion and called for the vote.

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

17. Case 05-ULP-07-0403 Marcy Wilkinson v. Lenora Minor

On October 20, 2005, the Board dismissed the unfair labor practice charge for lack of probable cause. On December 14, 2005, the Charging Party filed an untimely request for reconsideration. Board Member Verich moved that the Board construe the Charging Party's request as a motion for reconsideration, and deny the motion with prejudice as untimely filed. Vice Chairman Gillmor seconded the motion and called for the vote.

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

18. Case 05-ULP-08-0472 Angela Williams v. State of Ohio, Department of Youth Services and Victor Dandridge

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 _____

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19. Case 05-ULP-08-0477 Sherrie L. Knight v. State of Ohio,
Department of Youth Services and Victor
Dandridge

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(3) and (4) by discriminating against the Charging Party because she is a black female and because she had engaged in protected activities. The investigation reveals the Charged Parties did not select the Charging Party for a position because she did not score high enough on a test given to applicants to warrant an interview and not because she engaged in protected activities. Insufficient evidence was provided to support the allegations that she was not selected for other positions because she exercised her guaranteed rights. The Charging Party had not filed a previous unfair labor practice charge. The Board lacks jurisdiction to investigate racial discrimination 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 and called for the vote.

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

20. Case 05-ULP-10-0589 Donald Suriano v. Bridgeport Education
Association, OEA/NEA
21. Case 05-ULP-07-0429 Paula Kay Lee v. City of Columbus –
Division of Police
22. Case 05-ULP-07-0428 Elizabeth Fecher, et al. v. Cincinnati City
School District Board of Education

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

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

23. Case 05-ULP-09-0494 Ohio Patrolmen's Benevolent Association
v. Delaware County Sheriff
24. Case 05-ULP-11-0608 Huron Education Association, OEA/NEA v.
Huron City School District Board of
Education
25. Case 05-ULP-10-0567 Christopher O'Rourke and Ohio
Patrolmen's Benevolent Association v. City
of Warren

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26. Case 05-ULP-11-0607 International Brotherhood of Teamsters
Local No. 100 v. Bright Local School
District Board of Education

Board Member Verich moved that the Board grant all of the motions to withdraw. Vice Chairman Gillmor seconded the motion and called for the vote.

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

V. ADMINISTRATIVE MATTERS

Executive Director and Bureau of Mediation Administrator Craig Mayton requested the Board approve the request for Mediator Tom Worley to continue to serve in a full-time status through March 31, 2006. Board Member Verich moved that the Board approve the request that Mediator Tom Worley continue to serve in a full-time status through March 31, 2006. Vice Chairman Gillmor seconded the motion and called for the vote.

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

EEO Officer – Executive Director Mayton announced that Dory McClendon will be SERB's EEO officer. The Board was reminded that Ethics Training would take place on February 16, 2006, and that EAP (Employee Assistance Program) training will be January 31, 2006. Executive Director Mayton and the Board extended their appreciation to Donna Glanton for her service in the EEO Officer position.

Paint – Executive Director Mayton reported that the Board's common areas and the William R. Dennis Hearing Room had recently been painted.

SERB Quarterly – Executive Director Mayton complimented Cheri Alexander and Don Leonard for their efforts in creating a timeline (a copy was distributed) for putting the SERB Quarterly and Supplement "on-line."

Web-Based Clearinghouse – Executive Director Mayton reported that Babbage Simmel had delivered a proposal for the project, but some additional details still needed to be resolved.

Web Filings – Executive Director Mayton reported that the IT-Support group is looking into accepting "certain" SERB forms through "e-filing." The administrative rule requiring an original signature on SERB forms would have to be amended before others could be "e-filed."

Mediation Section – Executive Director Mayton gave an overview of recent Mediation Section meeting and its agenda.

