State Employment Relations Board
Board Meeting Minutes
February 2, 2006

The State Employment Relations Board met on Thursday, February 2, 2006, at 12:00 p.m., at 65 East State Street, Columbus, Ohio. Present at the meeting were Vice Chairman Gillmor and Board Member Verich.

I. APPROVAL OF MINUTES OF THE PREVIOUS REGULAR MEETING:

Board Member Verich moved that the Board approve the minutes for the previous meeting. Vice Chairman Gillmor seconded the motion and called for the vote.

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

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Case 05-MED-03-0296 Ohio Association of Public School Employees, AFSCME Local 4 and Local 227 and Sylvania City School District Board of Education

Board Member Verich moved that the Board stay *sua sponte* the Employer's motion to implement the statutory dispute settlement procedure. Vice Chairman Gillmor seconded the motion and called for the vote.

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

2. Cases 05-MED-08-0777 05-MED-08-0778 Ohio Patrolmen's Benvolent Association and City of Wapakoneta

Board Member Verich moved that the Board grant the Employee Organization's motion for a thirty-day extension of time to answer related motions submitted by the Employer. Vice Chairman Gillmor seconded the motion and called for the vote.

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

3. Closing of 304 Mediation cases

Board Member Verich moved that the Board close 304 Mediation cases beginning with Case 03-MED-02-0124 and ending with Case 05-MED-11-1322, not consecutively numbered. Vice Chairman Gillmor seconded the motion and called for the vote.

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

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 05-REP-03-0038 Ohio Patrolmen's Benevolent Association and City of Aurora

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer responded by filing objections. The case was directed to hearing to determine an appropriate bargaining unit and for all other relevant issues, and the parties were directed to mediation. As a result of mediation, the Employee Organization has filed a Motion to Dismiss. Board Member Verich moved that the Board grant the motion and dismiss without prejudice the Request for Recognition. Vice Chairman Gillmor seconded the motion and called for the vote.

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

2. Case 05-REP-03-0043 Fraternal Order of Police, Ohio Labor Council, Inc. and Hamilton County Sheriff

The Employee Organization filed an Opt-In Request for Recognition and has now filed a Motion to Withdraw. Board Member Verich moved that the Board grant the motion and dismiss without prejudice the Opt-In Request for Recognition. Vice Chairman Gillmor seconded the motion and called for the vote.

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

3. Case 05-REP-12-0177 United Steelworkers AFL-CIO, CLC and City of Reynoldsburg
February 27, 2006

Board Member Verich moved that the Board approve the Consent Election Agreement and direct an election to be conducted on the date indicated. Vice Chairman Gillmor seconded the motion and called for the vote.

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

4. Case 04-REP-01-0005 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and City of Jackson

The Employer filed a Petition for Amendment of Certification seeking to exclude all positions from the bargaining unit. The Employee Organization filed a position statement opposing the amendment. The case was directed to hearing; the hearing was stayed pending the hearing of a related unfair labor practice charge. As a result of subsequent settlement discussions, the Employer has now filed a Motion to Withdraw the Petition for Amendment of Certification. Board Member Verich moved that the Board grant the motion and dismiss without prejudice the Petition for Amendment of Certification. Vice Chairman Gillmor seconded the motion and called for the vote.

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

5. Case 05-REP-04-0060 Fraternal Order of Police, Ohio Labor Council, Inc. and Hamilton County Sheriff

The Employee Organization filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect certain changes. The Employee Organization has now filed a Motion to Withdraw. Board Member Verich moved that the Board grant the motion and dismiss without prejudice the Petition for Amendment of Certification. Vice Chairman Gillmor seconded the motion and called for the vote.

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

6. Case 05-REP-05-0077 Teamsters Local Union No. 413, IBT and Southwest Licking School District

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employer responded by filing a position statement proposing an alternative bargaining unit. A conference call was conducted in order to execute a Consent Election Agreement, but the parties were not able to reach an agreement concerning an appropriate bargaining unit. A mediation conference is scheduled for February 14, 2006. Board Member Verich moved that the Board direct the 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 and called for the vote.

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

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 04-REP-11-0214 Springfield Part-Time Firefighters Organization and Springfield Township, Summit County

Board Member Verich moved that the Board adopt the Findings of Fact and Conclusions of Law in the Recommended Determination, finding that the proposed bargaining-unit members are “public employees” and not “casual employees,” and direct an election in the bargaining unit described in the Request for Recognition at a date, time, and place to be determined by the Representation Section in consultation with the parties. Vice Chairman Gillmor seconded the motion and called for the vote.

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

2. Cases 05-ULP-03-0132
05-ULP-04-0181

Goshen Education Association, OEA/NEA v. Goshen Local School District Board of Education

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

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

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 05-ULP-09-0521

National Conference of Firemen and Oilers, Local 777 v. Cleveland City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (5), (6), and (8) by unilaterally changing the terms and conditions of employment by assigning bargaining-unit members to cover multiple building sites, and by refusing to participate in Step 3 of the grievance process. The investigation involved strictly contractual interpretation, and no statutory violation occurred. The information requested by the Charging Party was not initially compiled or available, but is being provided now. 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 _____

2. Case 05-ULP-10-0543 Allen Stump v. City of Akron Police Department

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(6) and (8) by failing to timely process the Charging Party's grievance, and by not being given the opportunity to bid for the accident reconstruction position. The investigation reveals the charge was untimely filed on the 105th day. 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: GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

3. Case 05-ULP-10-0547 Allen Stump v. Fraternal Order of Police, Lodge 7

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by refusing to process the Charging Party's grievance to arbitration. The investigation reveals the grievance was not moved 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. Vice Chairman Gillmor seconded the motion and called for the vote.

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

4. Case 05-ULP-10-0546 Ohio Patrolmen's Benevolent Association v. Trumbull County Commissioners

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally declaring impasse. The investigation reveals the parties had been using a fact finder since December 2004. The Charging Party had knowledge of the fact-finder's scheduled meeting, but ignored attending it. 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 _____

5. Case 05-ULP-10-0554 Sean McDonald v. Cincinnati and Hamilton County Public Library

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against the Charging Party for helping organize a union. The investigation reveals the Charging Party was terminated for reasons other than exercising guaranteed rights, specifically for threatening another Library employee and for continual discourteous service to Library patrons. 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 _____

6. Case 05-ULP-08-0463 Michael A. Wolf v. Canton City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (4) by removing bargaining-unit work, and threatening the Charging Party's representatives with losing their jobs if they pursued his grievance. The investigation reveals the Charging Party was not engaged in any protected activity prior to his being laid off. The Charging Party has never filed a previous unfair labor practice charge or testified before the State Employment Relations Board. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(1) and (2) 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: GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

7. Case 05-ULP-10-0563 Buckeye Central Education Association and Mark McCoy v. Buckeye Central Local School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating and retaliating against the Charging Party for exercising guaranteed rights. The investigation reveals Mr. McCoy was not selected for the supplemental position for reasons other than exercising guaranteed rights. Mr. McCoy was not restrained, interfered with, or coerced in his exercise of guaranteed rights. Knowledge of the alleged events prior to July 15, 2005, occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances existed that warranted equitable tolling of the statute of limitations. 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, and as untimely filed for events occurring prior to July 15, 2005. Vice Chairman Gillmor seconded the motion and called for the vote.

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

8. Case 05-ULP-10-0568 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Cuyahoga Falls and Chief of Police John Conley

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by changing the police supervisors shift selection because they rejected the Charged Parties' final offer. The investigation reveals the matter is strictly contractual, and no statutory issues are 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 and called for the vote.

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

9. Case 05-ULP-09-0522 Edon-Northwest Teachers Association, OEA/NEA v. Edon-Northwest Local School District Board of Education

The Charging Party filed a motion to withdraw the referenced unfair labor practice charge. Board Member Verich moved that the Board grant the motion to withdraw with prejudice. Vice Chairman Gillmor seconded the motion and called for the vote.

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

10. Case 05-ULP-09-0523 Edgerton Education Association, OEA/NEA v. Edgerton Local School District Board of Education

11. Case 05-ULP-09-0524 Montpelier Education Association, OEA/NEA v. Montpelier Exempted Village School District Board of Education

12. Case 05-ULP-09-0526 Stryker Education Association, OEA/NEA v. Stryker Local School District Board of Education

13. Case 05-ULP-09-0532 — Teachers Association of Central Local Schools v. Central Local School District Board of Education

14. Case 05-ULP-09-0535 — Holgate Teachers Association, OEA/NEA v. Holgate Local School District Board of Education

15. Case 05-ULP-09-0536 — Napoleon Faculty Association, OEA/NEA v. Napoleon Area City School District Board of Education

16. Case 05-ULP-10-0544 — North Central Education Association, OEA/NEA v. North Central Local School District Board of Education

The unfair labor practice charges allege the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally making changes to the insurance program. The investigation reveals the Charged Parties are members of the Northern Buckeye Education Council, which comprises School Boards, County Boards of Mental Retardation and Developmental Disabilities, and Local, City, and Vocational School Districts. The Charged Parties did not make the changes to the insurance plan. The matters are strictly contractual with no evident statutory violation. 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 Parties. Vice Chairman Gillmor seconded the motion and called for the vote.

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

17. Case 05-ULP-08-0480 Patty Morgan v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to properly represent bargaining-unit employees during the processing of their grievance. The investigation reveals insufficient evidence to support the allegation that the Charged Party did not fairly represent bargaining-unit employees. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Insufficient information was provided to support the Ohio Revised Code § 4117.11(B)(2) allegation. Additionally, knowledge of the alleged events prior to June 2, 2005, occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances existed that warranted equitable tolling of the statute of limitations. 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 for events occurring prior to June 2, 2005. Vice Chairman Gillmor seconded the motion and called for the vote.

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

18. Cases 05-ULP-09-0490 — Patty Morgan v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 101, AFL-CIO and President Ken Sulfridge

05-ULP-09-0491 — Patty Morgan v. Ohio Council 8, American Federation of State, County and Municipal Employees

The unfair labor practice charges allege the Charged Parties violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by limiting the Charging Party's ability to perform her union duties and forcing her to resign, by entering into a discriminatory grievance settlement that restricts smoking, and by failing to represent female employees who are subjected to sex discrimination. The investigation reveals insufficient information was presented to support the Ohio Revised Code § 4117.11(B)(2) allegation. The Charging Party was represented by the Charged Parties. Insufficient information was provided to show the Charging Party was forced to resign. The Charged Parties' actions were not arbitrary, discriminatory, or in bad faith. The employer was not coerced by the Charged Parties in the settlement agreement. Additionally, knowledge of the alleged violation prior to June 9, 2005, occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances existed that warranted equitable tolling of the statute of limitations. 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 Parties, and as untimely filed for events occurring prior to June 9, 2005. Vice Chairman Gillmor seconded the motion and called for the vote.

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

19. Case 05-ULP-09-0517 Patty Morgan v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 101, AFL-CIO, President Kenneth Sulfridge, and Vice President Bobbie Williamson

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to represent the Charging Party and Rebecca Carey on their grievance by circumventing the grievance process, by not providing them with information concerning a group grievance, and by failing to support the female employees who were subjected to sex discrimination. The investigation reveals bargaining-unit employees were represented by the Charged Parties. The Charging Party was uncooperative. The Charged Parties' actions were not arbitrary, discriminiatory, or in bad faith. Insufficient information was provided to support an Ohio Revised Code § 4117.11(B)(2) allegation. Additionally, knowledge of the alleged events prior to June 23, 2005, occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances existed that warranted equitable tolling of the statute of limitations. 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 for events occurring prior to June 23, 2005. Vice Chairman Gillmor seconded the motion and called for the vote.

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

20. Case 05-ULP-10-0576 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 5188 and President Anthony Lucki v. State of Ohio, Department of Rehabilitation and Correction, North Central Correctional Institution

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by declining Charging Parties' demands to expel members from institutional committees, and by denying union leave requests. The investigation reveals insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(1) allegation. Reasonable time was granted for union business, and the committees were voluntary and not union appointed. 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 _____

21. Case 05-ULP-08-0479 Patty Morgan v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 101, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to properly process a group grievance. The investigation reveals insufficient information was presented to support the allegation that the Charged Party did not fairly represent bargaining-unit employees. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Insufficient information was provided to support the Ohio Revised Code § 4117.11(B)(2) allegation. Additionally, knowledge of the alleged events prior to June 2, 2005, occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances existed that warranted equitable tolling of the statute of limitations. 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 for events occurring prior to June 2, 2005. Vice Chairman Gillmor seconded the motion and called for the vote.

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

22. Case 05-ULP-08-0478 Erie County Board of Mental Retardation and Developmental Disabilities Employee Association, OEA/NEA and Donna Palazzo v. Erie 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), (3), (4), and (5) by forcing Union President Palazzo to execute a last chance agreement in violation of a negotiated collective bargaining agreement. The investigation reveals Ms. Palazzo negotiated her last chance agreement and was not forced to sign it. The alleged change to the contract is not a change. The driving under the influence (DUI) conviction procedures were negotiated previously, and have not been changed by the new contract. The fact that Ms. Palazzo was the subject of a previous unfair labor practice charge had no bearing on the treatment she received. 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 _____

23. Case 05-ULP-09-0488 Ilvio M. Zaccardelli, et al. v. Cleveland City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (6) by not processing a 2002 grievance. The investigation reveals the charge was filed more than 35 months after the Charging Parties should have known a Step 2 grievance response was not received. 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: GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

24. Case 05-ULP-10-0577 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 5188 and President Anthony Lucki v. State of Ohio, Department of Rehabilitation and Correction, North Central Correctional Institution

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by failing to provide requested documents. The investigation reveals the request for documents was excessive, and the relevance could not be established for the volume requested. Documents on an ongoing investigation were also requested, but could not be provided. 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-10-0581 Fraternal Order of Police, Beavercreek Lodge No. 160 v. City of Beavercreek

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) when the Police Chief threatened Officer Mark Swope that filing a grievance directly affects his work performance and his career with the police department. The investigation reveals the charge was filed on the 92nd day after the threats were made. 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: GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

26. Cases 05-ULP-10-0585 Marsha Borovich v. Union Local School District Board of Education

05-ULP-10-0586 Union Local Association of Classroom Teachers, OEA/NEA v. Union Local School District Board of Education

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), (5), and (8) by retaliating against the Charging Parties for engaging in protected activities. The investigation reveals the Charging Parties were not harmed. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(1), (2), (5), and (8) allegations. 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: GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

27. Case 05-ULP-11-0597 Larry Hartley v. City of Marion

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), (4), (5), (6), and (7) by interfering with, coercing, and terminating the Charging Party for his exercise of guaranteed rights, and by failing to timely process grievances. The investigation reveals the Charging Party's termination was for reasons other than exercising guaranteed rights. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(4), (5) and (7) 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: GILLMOR: Aye VERICH: Aye
Affirmed X Denied _____

28. Case 05-ULP-11-0601 Madison-Plains Education Association, OEA/NEA v. Madison-Plains 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 unilaterally changing the language contained in the contracts issued to bargaining-unit employees. The investigation reveals the contracts in question are not bargained by the parties. The language is a result of Federal and State law, and amplifies the collective bargaining agreement. 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 _____

29. Case 05-ULP-11-0598 Huron Education Association, OEA/NEA, and Mary Ann Creamer v. Huron City School District Board of Education

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by retaliating against Ms. Mary Ann Creamer for exercising guaranteed rights. The investigation reveals Ms. Creamer did not suffer any harm. 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 _____

30. Cases 05-ULP-02-0085 05-ULP-02-0086 Ohio Patrolmen's Benevolent Association v. Cuyahoga Metropolitan Housing Authority

On February 9, 2005, the Charging Party filed unfair labor practice charges against the Charged Party. On May 19, 2005, the charges were deferred to arbitration pursuant to In re Upper Arlington Ed Assn, SERB 92-010 (6-30-92). The arbitrator's decision was rendered on November 29, 2005. Neither party filed a motion for review. The arbitration award indicates that the issues raised in the unfair labor practice charges have been considered and decided in conformity with due process of law in the arbitration procedure. Board Member Verich moved that the Board dismiss the charges with prejudice as having been resolved between the parties pursuant to the grievance-arbitration process. Vice Chairman Gillmor seconded the motion and called for the vote.

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

31. Case 04-ULP-03-0164 Municipal Foremen & Laborers' Union Local 1099 v. City of Cleveland, Division of Waste Collection and Disposal

On December 9, 2005, the parties filed a joint letter of withdrawal/settlement agreement to withdraw the matter. Board Member Verich moved that the Board construe the letter of withdrawal/settlement agreement 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-06-0368 Christine Domhoff v. Youngstown State University

33. Case 05-ULP-09-0486 Marie S. Person v. Ohio Civil Employees Association, AFSCME Local 11, AFL-CIO

In Case 05-ULP-06-0368, the Board dismissed the charge for lack of probable cause. The charge alleged that the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating and retaliating against the Charging Party in regard to her tenure of employment on the basis of the exercise of her guaranteed rights. The Charging Party filed a motion for reconsideration of the Board's decision, and later filed a supplement to its motion. The Charged Party filed a response to the Charging Party's motion for reconsideration. The Charging Party filed a response to the Charged Party's response. The Charged Party then filed a surreply to the Charging Party's motion for reconsideration.

In Case 05-ULP-09-0486, the Board dismissed the charge for lack of probable cause. The charge alleged that the Charged Party violated Ohio Revised Code § 4117.11 (B)(1) and (6) by interfering with the Charging Party's rights as a bargaining-unit member. On January 12, 2006, the Charging Party filed a request for reconsideration of the Board's decision.

A review of the original investigation reveals that the Charging Parties have failed to raise issues warranting reversal of the dismissals. Board Member Verich moved that the Board construe the request as a motion for reconsideration, and deny all motions with prejudice. Vice Chairman Gillmor seconded the motion and called for the vote.

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

34. Case 05-ULP-09-0512 Communications Workers of America, Local 4501, AFL-CIO v. Ohio Secretary of State

The Charging Party has filed a motion to withdraw the unfair labor practice charge. Board Member Verich moved that the Board grant the motion with prejudice. Vice Chairman Gillmor seconded the motion and called for the vote.

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

35. Case 05-ULP-10-0564 Deputy R. William Joseph v. Allen County Sheriff's Office and Sheriff Daniel W. Beck

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 _____

36. Case 05-ULP-12-0651 Huron Education Association, OEA/NEA v. Huron City School District Board of Education

37. Case 05-ULP-12-0652 Huron Education Association, OEA/NEA v. Huron City School District Board of Education

38. Case 05-ULP-12-0658 Fraternal Order of Police, Lodge 8 v. City of Cleveland

39. Case 05-ULP-10-0522 International Brotherhood of Teamsters Local 284 v. City of Urbana – Street, Cemetery, Water and Sewer Division

40. Case 05-ULP-07-0431 Communications Workers of America Local 4320, AFL-CIO v. Guernsey County Engineer

41. Case 05-ULP-08-0449 Ashtabula Area Teachers Association, OEA/NEA v. Ashtabula Area City School District Board of Education

42. Case 05-ULP-12-0645 Jay Wollenburg v. Ohio Education Association, OEA/NEA, Rose Keller and Rachelle Johnson

43. Case 06-ULP-01-0013 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Mason City School District Board of Education

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

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

VI. ADMINISTRATIVE MATTERS

**Recommendation on Per Diem Limitations on Fact Finder and Conciliator Fees** -- Executive Director Craig Mayton discussed the public comments received at and before the previous Board meeting regarding the maximum per diem rates for the fact finders and conciliators on SERB's Roster of Neutrals. The Board cannot adopt the recommendation that the per diem rate go to the market rate without an administrative rule change through JCARR (Joint Committee on Agency Rule Review). If the Board were to apply a 4% per year increase to the current rate from when it was imposed effective March 2, 2000, the maximum rate would be $697. He also discussed the anecdotal information provided by the fact finders and conciliators concerning the Board's current policy prohibiting cancellation fees and the impact of that policy on the neutrals.

Board Member Verich moved that the Board raise the maximum per diem rate to $700 per day effective March 1, 2006, remove any restrictions on charging for cancellation fees, and direct the SERB staff to study the possibility of going to a market rate. Vice Chairman Gillmor seconded the motion and called for the vote.

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

**Executive Session** -- Board Member Verich moved that the Board go into executive session to confer with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court pursuant to Ohio Revised Code § 121.22(G)(3). Vice Chairman Gillmor seconded the motion and called for the roll-call vote.

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

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

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

VI. ADJOURNMENT

Board Member Verich moved that the Board adjourn its meeting. Vice Chairman Gillmor seconded the motion and called for the vote.

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

/s/ Craig R. Mayton
Craig R. Mayton, Executive Director