

State Employment Relations Board
Board Meeting Minutes
February 16, 2006

The State Employment Relations Board met on Thursday, February 16, 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:

There were no Mediation matters.

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 05-REP-08-0116 Metzenbaum Association of Service and Support Administrators/OEA/NEA and Geauga County Board of Mental Retardation and Developmental Disabilities

The Employee Organization filed a Request for Recognition seeking to represent certain employees of the Employer. The Employer responded by filing objections and a Petition for Representation Election. The Employee Organization filed a response. Several conference calls have been conducted. As a result, the Employer filed a Notice of Withdrawal of Employer's Objections to the Request for Recognition. Board Member Verich moved that the Board construe the Employer's notice as a motion to withdraw the objections and Petition for Representation, grant the motion and certify the Employee Organization as the exclusive representative of all employees in the bargaining unit. Vice Chairman Gillmor seconded the motion and called for the vote.

Vote: GILLMOR: Aye VERICH: Aye
Affirmed X Denied

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7. Case 05-REP-09-0144 International Brotherhood of Teamsters, Local 416, and Cuyahoga Metropolitan Housing Authority

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employee Organization has now filed a letter withdrawing the Petition for Representation Election. Board Member Verich moved that the Board construe the Employee Organization's letter as a motion to withdraw, grant the motion and dismiss without prejudice the Petition for Representation Election. Vice Chairman Gillmor seconded the motion and called for the vote.

Vote: Affirmed X GILLMOR: Aye Denied VERICH: Aye

8. Case 05-REP-03-0045 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, and Ohio Patrolmen's Benevolent Association, and City of Bellevue

The Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization from its status as the exclusive representative of certain employees of the Employer. The Incumbent Employee Organization has filed a Disclaimer of Interest. The Employer and Incumbent Employee Organization confirm no contract exists. The Employer has also filed objections maintaining the employees in question should be excluded pursuant to O.R.C. §411.01(F)(2). On October 6, 2005, the Board directed the case to hearing. As a result of mediation, the Rival Employee Organization has now filed a Motion to Withdraw the Petition for Representation Election. Board Member Verich moved that the Board grant the Incumbent Employee Organization's Disclaimer of Interest and the Rival Employee Organization's Motion to Withdraw, and dismiss without prejudice the Petition for Representation Election. Vice Chairman Gillmor seconded the motion and called for the vote.

Vote: Affirmed X GILLMOR: Aye Denied VERICH: Aye

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9. Cases 06-REP-01-0001

Ohio Patrolmen's Benevolent Association,
International Union of Police Associations
AFL-CIO, and City of Perrysburg

The Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization, which is the Board-certified exclusive representative from its status as the exclusive representative of certain employees of the Employer. The current collective bargaining agreement expires February 28, 2006. The petition appears to be filed outside the window period per Ohio Revised Code §4117.07(C)(6). Board Member Verich moved that the Board dismiss without prejudice the Petition for Representation Election pursuant to Ohio Revised Code §4117.07(C)(6). Vice Chairman Gillmor seconded the motion and called for the vote.

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

10. Case 05-REP-09-0132

Ohio Association of Public School
Employees (OAPSE)/AFSCME, AFL-CIO
and Mason City School District Board of
Education

- There were 85 ballots cast
- There were 0 challenged ballots
- No Representative received 41 votes
- Ohio Association of Public School Employees (OAPSE)/AFSCME, AFL-CIO received 44 votes and has prevailed in this election.

11. Case 05-REP-09-0127

SEIU/District 1199 and The Public Library
of Cincinnati and Hamilton County

- There were 139 ballots cast
- There were 0 challenged ballots
- No Representative received 65 votes
- SEIU/District 1199 received 74 votes and has prevailed in this election.

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

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

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3. Case 05-ULP-07-0390 Ohio Patrolmen's Benevolent Association v. Trumbull County Sheriff's Office and Sheriff Thomas Altieri

The Charging Party filed an unfair labor practice charge against the Charged Parties. The Board found probable cause to believe a violation had occurred, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to unfair labor practice mediation.

The parties filed a settlement agreement that resolved the underlying issues in the unfair labor practice charge. In the settlement, the parties jointly requested that the Board construe the agreement as a motion by the Charging Party to dismiss the charge with prejudice.

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

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

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 05-ULP-09-0504 Randall Foutty v. Belpre 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 (7) by laying off the Charging Party for filing grievances. The investigation reveals the Charging Party was laid off for being the least senior custodian, and not for engaging in protected activities. There was insufficient information to support the Ohio Revised Code § 4117.11(A)(7) 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 Party. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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2. Case 05-ULP-09-0537 Northwest State Community College Education Association, OEA/NEA (Support Staff Unit) v. Northwest State Community College and Dr. Betty Young, President
3. Case 05-ULP-09-0538 Northwest State Community College Education Association, OEA/NEA (Professional Personnel Bargaining Unit) v. Northwest State Community College and Dr. Betty Young, President

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 _____

4. Cases 05-ULP-10-0582 Ohio Patrolmen's Benevolent Association (Sergeants and Captains Unit) v. Liberty Township Trustees, Trumbull County
- 05-ULP-10-0583 Ohio Patrolmen's Benevolent Association (Patrol Officers Unit) v. Liberty Township Trustees, Trumbull County

The unfair labor practice charges allege the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to negotiate changes made to successor collective bargaining agreements regarding health care. The investigation reveals the Charged Party negotiated the language used in the draft agreements. Board Member Verich moved that the Board dismiss the charges 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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5. Case 05-ULP-08-0456

Lakota Education Association, OEA/NEA
v. Lakota Local 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 (5) by admonishing, criticizing, and threatening Charging Party's President, Judy Buschle, over her representation of bargaining-unit employees and publicizing it, engaging in direct dealing with bargaining-unit employees, and by interfering with the administration of the Charging Party. The investigation reveals the June 8, 2005 e-mail did not objectively constitute a threat. By sending the e-mail to a bargaining-unit employee, the Charged Party was not engaged with direct dealing, nor was it attempting to interfere with the administration of the Charging Party. 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-09-0519

Fraternal Order of Police, Ohio Labor
Council, Inc. v. City of Alliance and Robert
Tscholl

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(2) and (6) by refusing to select an arbitrator for a demotion grievance. The investigation reveals the delay in scheduling the third arbitrator was due to waiting on other arbitration decisions that had an impact, and because of the Charged Parties' contractual request for a second list. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(2) 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 Party. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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7. Case 05-ULP-12-0655 Erie County Board of MR/DD Employees Association, OEA/NEA 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) and (5) by implementing its last and final offer without reaching impasse. The investigation reveals the facts of the case show the parties had reached impasse. The Charging Party did not provide any counterproposals. insufficient information was provided to demonstrate the Charged Party did not negotiate in good 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: Affirmed X GILLMOR: Aye VERICH: Aye
Denied _____

8. Case 05-ULP-11-0617 Marcia Webb v. State of Ohio, Department of Rehabilitation and Correction, Mansfield Correctional Institution and Labor Relations Officer Janet Tobin

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (5), and (8) by denying the Charging Party's request to allow Mary Jansen to serve as her union representative, and by interfering with the union's ability to represent her. The investigation reveals the Charging Party was represented by Ms. Jansen. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(5) or (8) 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 _____

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9. Case 05-ULP-10-0587 Youngstown State University Association of Classified Employees, OEA/NEA v. Youngstown State University

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11.11(A)(1) and (5) by unilaterally altering a provision of the agreement covering early retirement. The investigation reveals the Charging Party ratified the agreement with the language it is challenging. 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 _____

10. Case 05-ULP-07-0402 Portage County Educators Association for the Mentally Retarded v. Portage County Board of Mental Retardation and Developmental Disabilities

On November 22, 2005, the Board dismissed the charge for lack of probable cause to believe an unfair labor practice has been committed. On January 6, 2006, the Charging Party filed a timely motion for reconsideration of the Board dismissal decision. No new information was provided not already addressed in the original investigation. Board Member Verich moved that the Board deny the motion for reconsideration with prejudice. Vice Chairman Gillmor seconded the motion and called for the vote.

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

11. Case 05-ULP-11-0599 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of New Philadelphia

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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12. Case 05-ULP-12-0642 New Bremen Local School District Board of Education v. New Bremen Teachers Association, OEA/NEA
13. Case 06-ULP-01-0023 Ohio Patrolmen's Benevolent Association v. Lucas County Sheriff's Office

Board Member Verich moved that the Board construe the letter as a motion 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

Web Training Process Executive Director Craig Mayton discussed that the Web Training Process will be done by Steve Ballentine with Babbage Simmell. Jackie Murray has departed SERB as our webmaster. Sandy Stiffler and Donald Leonard will be taking on those duties, and will be trained starting February 17, 2006. Craig Mayton will be sitting in to view the training process.

Clearing House Update Executive Director Craig Mayton discussed the Clearing House Project and how it will be moving to a position on the web. Discussions continued regarding the fee of \$5.00 to be charged if on the internet. The current amount that SERB receives each month is approximately \$500.00. Babbage Simmel has submitted a proposal to Cheri Alexander and she will be meeting with them next week. Vice Chairman Gillmor encourages our constituents to use the Clearing House on the web.

Southwest SERB Academy Executive Director Craig Mayton discussed conducting a Southwest SERB Academy as another academy to be conducted by SERB. Increased first time contract activity in Southwest Ohio makes it the ideal place for the Academy. A tentative date of November, 2006 will be forthcoming. SERB will be looking to add this conference, to allow us to provide a total of four (4) conferences each year.

