State Employment Relations Board
Board Meeting Minutes
April 6, 2006

The State Employment Relations Board met on Thursday, April 6, 2006, at 10:00 a.m., at 65 East State Street, Columbus, Ohio. Present at the meeting were Chairman Craig R. Mayton, Vice Chairman Karen L. Gillmor, and Board Member Michael G. Verich.

I. APPROVAL OF MINUTES OF PREVIOUS MEETING:

Vice Chairman Gillmor moved that the Board approve the minutes for the March 16, 2006 Board meeting. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

Vote MAYTON: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied ____

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Cases 06-MED-02-0110, 06-MED-02-0111, 06-REP-02-0016, 06-REP-02-0017 — Fraternal Order of Police, Ohio Labor Council, Inc. and Morgan County Sheriff

On February 8, 2006, the Employee Organization filed Notices to Negotiate. The Employer filed a motion to stay negotiations involving the Employee Organization. Board Member Verich moved that the Board grant the motion, stay negotiations in Cases 06-MED-02-0110 and 06-MED-02-0111 pending disposition of Cases 06-REP-02-0016 and 06-REP-02-0017, and expedite the processing of the representation cases. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied ____

2. Case 05-MED-04-0488 — Ohio Patrolmen's Benevolent Association and Lorain County Sheriff

On April 18, 2005, the Employee Organization filed a Notice to Negotiate. The Employer filed a motion to stay conciliation involving the Employee Organization. Vice Chairman Gillmor moved that the Board deny the Employer's motion to stay conciliation. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

Vote: MAYTON: Aye GILLMOR: Aye VERICH: Aye
Affirmed X Denied ____

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 05-REP-10-0159 — Fraternal Order of Police, Ohio Labor Council, Inc. and Ottawa County Sheriff

2. Case 05-REP-12-0181 — Ohio Patrolmen's Benevolent Association and Lake County Sheriff

In Case 05-REP-10-0159, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed an Opt-In Request for Recognition seeking to add full-time Corrections Corporals to the existing unit via voluntary recognition.

In Case 05-REP-12-0181, the Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed an Opt-In Request for Recognition seeking to add non-deputized Dispatcher Lieutenants to the existing unit via voluntary recognition.

Board Member Verich moved that the Board certify the Employee Organizations as the exclusive representative of all employees subject to the requests, and add the subject employees to the existing units represented by the Employee Organizations. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

3. Case 05-REP-07-0107 — Fraternal Order of Police, Ohio Labor Council, Inc. and Tuscarawas County Sheriff

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The Employee Organization filed an Opt-In Request for Recognition seeking to add Deputy Sheriffs in Recycling and Litter to the existing unit via voluntary recognition. Vice Chairman Gillmor moved that the Board certify the Employee Organization as the exclusive representative of all employees subject to the request, and add the subject employees to the existing unit represented by the Employee Organization. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

4. Case 06-REP-01-0008 Teamsters Local Union 284 and Amanda Clearkcreek School District
April 25, 2006

The Employee Organization filed a Petition for Representation Election seeking to represent certain employees of the Employer. The Employer responded by filing objections. A conference call was conducted. The parties entered into a Consent Election Agreement seeking an election on April 25, 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. Chairman Mayton called for the vote.

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

5. Case 06-REP-03-0033 Ohio Council 8, American Federation of State, County, and Municipal Employees, AFL-CIO and Delaware County Board of County Commissioners

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties jointly filed a Petition for Amendment of Certification seeking to amend the existing certification to change the Employer's name. Vice Chairman Gillmor moved that the Board approve the jointly filed petition and amend the unit accordingly. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

6. Case 06-REP-03-0037 Washington Professional Fire Fighters Local 699, International Association of Fire Fighters and City of Washington Court House

The Employee Organization is the Board-certified exclusive representative of certain employees of the Employer. The parties jointly filed a Petition for Amendment of Certification seeking to amend the existing certification to include the Lieutenant classification. Board Member Verich moved that the Board approve the jointly filed petition and amend the unit accordingly. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

7. Case 05-REP-09-0142 United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) and Ohio Patrolmen's Benevolent Association and Lucas County Sheriff's Office

On January 25 and 26, 2006, the Board conducted a secret-ballot election for certain employees of the Employer. There were three hundred sixty-three (363) ballots cast; one (1) void ballot, one hundred ninety (190) votes were cast for the Rival Employee Organization, one hundred seventy (170) votes were cast for the Incumbent Employee Organization, two (2) votes were cast for "No Representative," and one (1) challenged ballot was cast but was not determinative. The Incumbent Employee Organization filed post-election objections pursuant to Ohio Administrative Code Rule 4117-5-10(A). The Incumbent Employee Organization also filed an unfair labor practice charge against the Employer (Case No. 06-ULP-02-0045), alleging the Employer violated Ohio Revised Code § 4117.11(A)(1), (2), (3), (4), and (6) by endorsing and supporting the Rival Employee Organization. The Employer filed a response opposing the objections. The Rival Employee Organization filed a response opposing objections 12 through 17, limiting the response to the objections alleged against it.

Vice Chairman Gillmor moved that the Board dismiss objections 12 through 17 that relate to campaign literature distributed by the Rival Employee Organization, direct objections 1 through 11 to hearing to determine whether the Employer engaged in conduct that tainted the representation election, and for all other relevant issues. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

8. Case 05-REP-09-0139 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police Lodge #57 and City of Mayfield Heights

- There were 20 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Fraternal Order of Police Lodge #57 received 3 votes
- Ohio Patrolmen's Benevolent Association received 17 votes and has prevailed in this election.

9. Case 05-REP-09-0138 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and City of Alliance

- There were 21 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Fraternal Order of Police, Ohio Labor Councl, Inc., received 6 votes
- Ohio Patrolmen's Benevolent Association received 15 votes and has prevailed in this election.

10. Case 05-REP-09-0133 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and Gallia County Board of Mental Retardation and Developmental Disabilities

- There were 21 ballots cast
- There were 0 challenged ballots
- Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO received 7 votes
- No Representative received 14 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. Chairman Mayton called for the vote.

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

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 05-ULP-07-0427 — International Brotherhood of Teamsters, Local 24 v. Brimfield Township, Portage County

2. Case 04-ULP-12-0709 — SERB v. Portage County Board of Mental Retardation and Developmental Disabilities

Vice Chairman Gillmor moved that the Board grant the motions to withdraw and dismiss, dismiss the complaint, and dismiss with prejudice the unfair labor practice charges. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 05-ULP-12-0659 — Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 046 v. Jackson City School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (8) by interfering with, restraining, or coercing a bargaining-unit employee. The investigation revealed that Mr. Arnold Dawson was reminded when he was permitted to conduct union business pursuant to the contract. No adverse action occurred. The Charging Party was not interfered with, restrained, or coerced in the exercise of guaranteed rights. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(2) and (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 Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

2. Case 05-ULP-12-0673 International Union of Operating Engineers, Local 10 v. City of Cleveland, Department of Public Utilities, Division of Water

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally changing a bargaining-unit position to a nonbargaining-unit position with a new title and same duties. The investigation revealed the Charging Party did not object to the reorganization. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

3. Case 05-ULP-12-0672 Avon Teachers Association, OEA/NEA v. Avon Local School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by contracting out bargaining-unit duties. The investigation revealed that the Charged Party was only filling an absent position with substitutes until the full-time Speech Pathologist returned to work. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

4. Case 05-ULP-11-0635 Jerald D. Ferreri v. Milford Exempted Village School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (4) by interfering with the Charging Party's guaranteed rights and terminating him as a result of his exercising his guaranteed rights. The investigation revealed that the Charging Party was not engaged in protected activities with the Charged Party's knowledge. The Charging Party was provided union representation. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(2) allegation. Additionally, the Charging Party never testified before the State Employment Relations Board or filed any previous charges. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

5. Case 05-ULP-12-0674 Greater Cincinnati Building Trades Council v. Cincinnati City School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to forward fair-share fees from nonmember-skilled trade employees as outlined in the current collective bargaining agreement. The investigation revealed that the charge was untimely filed. Board Member Verich moved that the Board dismiss the charge with prejudice as untimely filed. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

6. Case 05-ULP-11-0622 Keystone Local Education Association, OEA/NEA v. Keystone Local School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally assigning laid-off Ohio Association of Public School Employees' (OAPSE) bargaining-unit work to its bargaining-unit members. The investigation revealed that the bargaining-unit work was not exclusive to OAPSE, but was also shared by the Charging Party's bargaining-unit employees. Knowledge of the alleged violation 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. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party, and as untimely filed. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

7. Case 05-ULP-11-0625 National Conference of Firemen and Oilers, Local 100 v. Akron City School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(3) and (5) by unilaterally interpreting the contract and changing a past practice. The investigation revealed that the Charged Party only implemented a previously bargained provision. No statutory violation occurred. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

8. Case 05-ULP-11-0634 Talawanda Classified Staff Association, OEA/NEA v. Talawanda City School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against Cliff Litton for his exercise of guaranteed rights. The investigation revealed that Mr. Litton did not receive a lower evaluation for engaging in any protected activity. No adverse action was demonstrated. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

9. Case 05-ULP-08-0434 Parma Education Association, OEA/NEA and Joe Delio v. Parma City School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against Joe Delio for his exercise of guaranteed rights. The investigation revealed that Mr. Delio was not denied representation. Mr. Delio was not engaged in protected activity prior to exercising his contractual rights. The issues raised were contractual rather than statutory. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

10. Case 05-ULP-06-0349 Toledo Federation of Teachers, Local 250, AFT, AFL-CIO v. Toledo Public School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (5), and (7). The investigation revealed that Case 05-ULP-06-0349 is a duplicate filing of Case 04-ULP-10-0558, and is untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice as untimely filed, and as a duplicate filing. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

11. Case 05-ULP-11-0631 Fraternal Order of Police, Captain John C. Post Lodge No. 44 v. City of Dayton

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against Sergeant R. Chris Weber for exercising guaranteed rights. The investigation revealed that Sergeant Weber had been reprimanded previously for conducting union business during regular working hours. Sergeant Weber did not get permission to conduct union business, and he failed to follow the policy regarding interviews. The reprimands were for reasons other than exercising guaranteed rights. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

12. Case 05-ULP-11-0621 Amalgamated Transit Union, Local 1385 v. Greater Dayton Regional Transit Authority

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by dealing directly with bargaining-unit members and bypassing the exclusive bargaining representative. The investigation revealed that holding a brainstorming session with employees regarding cost-saving suggestions was not direct dealing. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

13. Case 05-ULP-10-0584 Rusty Ray, R.N. v. State of Ohio, Department of Rehabilitation and Correction, Noble Correctional Institution, et al.

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(3) by terminating Charging Party for his exercise of guaranteed rights. The investigation revealed that the Charging Party was not terminated. The Charging Party's contract expired. The Charging Party was not selected for another position because others were determined to be more qualified. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

14. Case 05-ULP-11-0616 Judith Lalli, Ph.D. v. State of Ohio, Department of Rehabilitation and Correction and Lisa Drogosz

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (3), and (8) by failing to treat the Charging Party equally. The investigation revealed that the Charging Party was not engaged in any protected activity when she was disciplined. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(8) allegation. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

15. Case 05-ULP-11-0615 Michael A. Bailey v. Cleveland Teachers Union, Local 279, AFT, AFL-CIO

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party. The investigation revealed that the Charged Party represented the Charging Party through arbitration. Insufficient information was provided to support the allegation that the Charged Party's actions were 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. Chairman Mayton called for the vote.

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

16. Case 05-ULP-11-0624 Scioto Valley Local School District Board of Education v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 013

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by bargaining in bad faith. The investigation revealed that the information passed to the members does not misinform them. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

17. Case 05-ULP-11-0614 Mark Baylers v. City of Cleveland, Street Department

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (7) by terminating the Charging Party when he failed to pass a second random drug test. The investigation revealed that the Charging Party was terminated for reasons other than engaging in protected activity. Insufficient information was provided to support the allegations of the charge. Knowledge of the alleged 2004 violations 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 in 2004. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

18. Case 05-ULP-12-0653 Sherrie Morgan-Fowler v. Youngstown Education Association, OEA/NEA

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to represent the Charging Party. The investigation revealed that the Charged Party's discussions to avoid layoffs did not violate the Charging Party's rights. The Charged Party's actions were not arbitrary, discriminatory, or in bad faith. Knowledge of the alleged violation prior to September 14, 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. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party, and as untimely filed for events occurring prior to September 14, 2005. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

19. Case 06-ULP-01-0005 Samuel T.C. Howell v. State of Ohio, Department of Rehabilitation and Correction, Ross Correctional Institution and Michelle Ivey, Labor Relations Officer

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (3) by retaliating against the Charging Party for his exercise of guaranteed rights The investigation revealed that the Charging Party was not interfered with, restrained, coerced, or harmed as a result of exercising his 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 Parties. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

20. Case 06-ULP-01-0022 Metzenbaum Employees Association, OEA/NEA v. Geauga County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally implementing its last, best, and final offer. The investigation revealed that the State Employment Relations Board had ruled, in Case 05-ULP-12-0675, that the parties were at ultimate impasse. Implementation was not a violation of the statute after reaching ultimate impasse. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Vice Chairman Gillmor called for the vote.

Vote: MAYTON:	Recused	GILLMOR:	Aye	VERICH:	Aye
Affirmed	X		Denied		

21. Case 05-ULP-10-0570 Lake Education Association, OEA/NEA v. Lake Local School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by issuing a directive to a bargaining-unit employee to contact the fall coaches to find out who would work for 80% of their pay. The investigation revealed that the act of advising the Athletic Director to perform his duties or resign was not unlawfully motivated. Delegating to a third party the responsibility of determining which coaching jobs would be filled did not violate the statute. Knowledge of the alleged violations prior to July 16, 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 the alleged violations occurring prior to July 16, 2005. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

22. Case 05-ULP-12-0678 Perkins Local School District Board of Education v. Perkins Education Association, OEA/NEA

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (3) by bargaining in bad faith by engaging in direct dealing, passing out flyers regarding negotiations, and causing the Charging Party to commit a violation. The investigation revealed that the press release did not violate the ground rules. Insufficient information was provided to support the Ohio Revised Code § 4117.11(B)(2) allegation. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

23. Case 06-ULP-01-0015 Perkins Education Association, OEA/NEA v. Perkins Local School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11 (A)(1) and (5) by communicating directly with bargaining-unit employees regarding contract negotiations through the news media. The investigation revealed that the charge lacked a clear and concise statement of facts. No ground rules prevented news releases by either 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, and for the Charging Party's failure to provide a clear and concise statement of the facts constituting the alleged violation. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

24. Cases 05-ULP-11-0604 Portage County Educators Association for the Mentally Retarded, OEA/NEA v. Portage County Board of Mental Retardation and Developmental Disabilities

05-ULP-11-0605 Caroll Brode v. Portage County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charges alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (8) by abolishing Caroll Brode's position, and transferring her to another position in retaliation for her engaging in protected activities. The investigation revealed that the involuntary transfer of the Charging Party's President, to a position that could be removed from the bargaining-unit, could be viewed as a threat, but no harm was revealed. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(2) and (8) violations. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, consolidate the charges, authorize the issuance of a complaint, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), but not (2), (3), and (8), by abolishing Caroll Brode's position and involuntarily transferring her to another position in retaliation for her engaging in protected activity, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

25. Case 05-ULP-12-0654 Annaliesa Henley v. Cuyahoga County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(4) by terminating the Charging Party for filing a racial discrimination lawsuit. The investigation revealed that filing a federal civil rights lawsuit was not engaging in protected activity under Ohio Revised Code Chapter 4117. Insufficient information was provided to show the Charging Party was engaged in any protected activity when the settlement agreement was enforced. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

26. Case 05-ULP-10-0550 Terry Shane Metzenbaum v. State Employment Relations Board

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(4) because Investigations Administrator Alan Bonham "threw the investigation." The investigation revealed that the State Employment Relations Board is not a public employer, and Investigations Administrator Alan Bonham is not a public employee as defined under Ohio Revised Code Chapter 4117. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

27. Case 05-ULP-10-0551 Terry Shane Metzenbaum v. State of Ohio, Office of Taxation and Chief Robert Bray, Criminal Enforcement

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by not appointing the Charging Party to a Tax Enforcement Agent 1 position. The investigation revealed that the Charging Party was not selected for the position because he did not qualify after he refused to take a fitness test required for employment. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

28. Case 05-ULP-10-0578 Toledo Association of Administrative Personnel, UAW Local 5242 v. Toledo City School District Board of Education

The unfair labor practice charges alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by threatening to abolish bargaining-unit members jobs if they complained to their representatives about their pay rate. The investigation revealed that a credibility issue existed as to whether a threat was made and in which capacity the Charged Party's representative made the threat. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(3) violation. Vice Chairman Gillmor moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, and refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), but not (3), by threatening to abolish Cyd Heringhauser's and Jane Fry's jobs if they complained to their representatives about their pay rate due to an increase in hours. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

29. Case 05-ULP-10-0581 Fraternal Order of Police, Beavercreek Lodge No. 160 v. City of Beavercreek

On February 2, 2006, the Board dismissed the charge for lack of probable cause to believe an unfair labor practice had been committed by the Charged Party. On March 1, 2006, the Charging Party filed a timely request for reconsideration of the Board's dismissal. No new information was provided not already addressed in the original investigation. Board Member Verich moved that the Board construe the Charging Party's request for reconsideration as a motion for reconsideration, and deny the motion with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

30. Case 06-ULP-01-0003 Neal Nolan v. State of Ohio, Department of Rehabilitation and Correction and Christina Wendell

31. Case 06-ULP-01-0032 Margaret W. Mace v. State of Ohio, Department of Rehabilitation and Correction, Noble Correctional Institution, Timothy Buchanan, and Dave Taylor

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice because the Charging Parties had failed to pursue the matters. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

32. Case 06-ULP-02-0058 Dover Education Association, OEA/NEA v. Dover City School District Board of Education

33. Case 05-ULP-12-0682 Waynesfield-Goshen Education Association, OEA/NEA v. Waynesfield-Goshen Local School District Board of Education

34. Case 05-ULP-11-0623 Parma Education Association, OEA/NEA v. Parma City School District Board of Education

35. Case 06-ULP-02-0064 Columbus Education Association, OEA/NEA v. Columbus City School District Board of Education

36. Case 05-ULP-12-0679 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Blue Ash

37. Case 06-ULP-02-0075 Lorain County Sheriff v. Ohio Patrolmen's Benevolent Association

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

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

38. Case 05-ULP-06-0306 Michael Susi v. United Steelworkers of America

Board Member Verich moved that the Board lift this case from the table. Chairman Mayton seconded the motion and called for the vote.

Vote: MAYTON:	Aye	GILLMOR:	Recused	VERICH:	Aye
Affirmed	X		Denied		

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to take the Charging Party's grievance past Step 3 of the grievance process. The investigation revealed the Charged Party did not take the grievance to arbitration based on the merits. Insufficient information was provided to support the Charged Party's actions were arbitary, 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. Chairman Mayton seconded the motion and called for the vote.

Vote: MAYTON:	Aye	GILLMOR:	Recused	VERICH:	Aye
Affirmed	X		Denied		

VII. ADMINISTRATIVE MATTERS

Executive Session – Vice Chairman Gillmor moved that Board go into executive session pursuant to Ohio Revised Code § 121.22(G)(1) to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee. Board Member Verich seconded the motion. Chairman Mayton called for the roll-call vote.

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

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

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

Promotion of Judy Knapp – Vice Chairman Gillmor moved that the Board promote Judy Knapp to the position of Labor Relations Specialist 2 at step 2 in pay range 13 effective April 13, 2006. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

Restructuring of Table of Organization and Reclassification of Alan Bonham – Board Member Verich moved that the Board approve the restructuring of the Table of Organization presented by Acting Executive Director Russ Keith and reclassify Alan Bonham to the classification of Labor Relations Administrator effective April 3, 2006. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

Hiring of Arthur J. Marziale, Jr. – Board Member Verich moved that the Board approve the hiring of Arthur J. Marziale, Jr. as Executive Director in the unclassified service, at the pay rate of $47.84 per hour, effective May 1, 2006, subject to all state requirements for hire, including successful completion of background check and drug testing. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

Promotion of Ed Turner – Vice Chairman Gillmor moved that the Board approve the promotion of Edward E. Turner to Bureau of Mediation Administrator in the unclassified service, at the pay rate of $41.83 per hour, effective May 1, 2006, subject to all state requirements for promotion, including successful completion of background check and drug testing. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

Reassignment of Tom Worley – Board Member Verich moved that the Board approve the reassignment of G. Thomas Worley from part-time to full-time status as Mediator as soon as administratively possible. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

VIII. ADJOURNMENT

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

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

/s/ Craig R. Mayton
Craig R. Mayton, Chairman