

State Employment Relations Board
Board Meeting Minutes
May 4, 2006

The State Employment Relations Board met on Thursday, May 4, 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 AND AMENDMENT OF MINUTES:

Vice Chairman Gillmor moved that the Board approve the minutes for the April 20, 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 _____

Board Member Verich moved that the Board amend the minutes for the April 6, 2006 Board Meeting by correcting the Representation Matters item 9 to show the Employer's name as Ashtabula County Sheriff. Vice Chairman Gillmor 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. Case 06-MED-02-0128 Chauffeurs, Teamsters, Warehousemen & Helpers, Local Union No. 377 and Springfield Township, Mahoning County

The Employee Organization filed with SERB a Notice to Negotiate concerning negotiations with the Employer. SERB certified the Employee Organization as the exclusive representative of the bargaining unit of all employees pursuant to a Request for Recognition in Case 2006-REP-01-0014. Since the Notice to Negotiate was filed before SERB certified the Employee Organization as the exclusive representative, the notice should be dismissed without prejudice. Vice Chairman Gillmor moved that the Board dismiss without prejudice the Notice to Negotiate as prematurely filed. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

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2. Case 05-MED-12-1425 Communications Workers of America, AFL-CIO and Jefferson County Children Services Board

The Employee Organization filed with SERB a Notice to Negotiate concerning negotiations with the Employer. The Employee Organization filed a request to withdraw its Notice to Negotiate. According to the request, the unit no longer exists as a result of the merger of the Employer with Jefferson County Job & Family Services. Board Member Verich moved that the Board construe the request to withdraw the Notice to Negotiate as a motion to withdraw, grant the motion, and dismiss without prejudice the Notice to Negotiate. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

3. Cases 05-MED-11-1335 Fraternal Order of Police, Ohio Labor Council, Inc. and City of Perrysburg
05-MED-11-1336
06-REP-03-0031
06-REP-03-0032

The Incumbent Employee Organization filed with SERB Notices to Negotiate concerning negotiations with the Employer. A mediator was appointed, and subsequently a fact finder was appointed. A Rival Employee Organization filed Petitions for Representation Election (Cases 2006-REP-03-0031 and 2006-REP-03-0032) seeking to replace the Employee Organization as the exclusive representative for these bargaining units. The Employer filed a motion to stay negotiations. The Employer questioned whether the Incumbent Employee Organization maintains majority status in the units as a result of the pending elections. Vice Chairman Gillmor moved that the Board grant the motion to stay negotiations in Cases 2005-MED-11-1335 and 2005-MED-11-1336 pending disposition of Cases 2006-REP-03-0031 and 2006-REP-03-0032, and expedite the processing of the representation cases. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

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5. Case 06-REP-04-0051 Ohio Civil Service Employees Association, American Federation of State, County, and Municipal Employees Local 11, AFL-CIO and State of Ohio (Office of Collective Bargaining)

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 unit to exclude two positions. 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 _____

6. Cases 06-REP-02-0022 Cuyahoga County/Payroll Division and Ohio Council 8, American Federation of State, County, and Municipal Employees, AFL-CIO and Cuyahoga County Board of Commissioners
06-REP-03-0039

Petitioner filed a Petition for Decertification Election in each of the above-cited cases seeking to displace the Incumbent Employee Organization, which is the Board-certified exclusive representative of certain employees of the Employer. The bargaining-unit description was omitted in Case 06-REP-02-0022, and the description is necessary to process the Petition for Decertification Election.

In an attempt to correct the filing in Case 06-REP-02-0022, Petitioner filed Case 06-REP-03-0039. Case 06-REP-03-0039 was barred pursuant to the certification bar in Ohio Administrative Code Rule 4117-5-11(C).

Vice Chairman Gillmor moved that the Board dismiss without prejudice Cases 06-REP-02-0022 and 06-REP-03-0039. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

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7. Case 05-REP-05-0077 Teamsters Local Union No. 413, affiliated with the International Brotherhood of Teamsters, and Southwest Licking School District

- There were 2 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Teamsters Local Union No. 413, affiliated with the International Brotherhood of Teamsters received 2 votes and has prevailed in this election.

8. Case 05-REP-10-0156 International Association of EMT's and Paramedics, SEIU/NAGE, and Meigs County Emergency Medical Services

- There were 21 ballots cast
- There were 0 challenged ballots
- No Representative received 1 vote
- International Association of EMT's and Paramedics, SEIU/NAGE received 20 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 00-ULP-05-0320 Garaway Teachers Association v. Garaway Local School District Board of Education

Vice Chairman Gillmor 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. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

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2. Case 04-ULP-08-0475 SERB v. City of Columbus

Board Member Verich moved that the Board adopt the Findings of Fact and Conclusions of Law in the Administrative Law Judge's Proposed Order, finding that the Respondent did not violate Ohio Revised Code §§ 4117.11(A)(1) and (A)(3) by retaliating against Carrie Beach for her exercise of guaranteed rights, dismiss the complaint, and dismiss with prejudice the unfair labor practice charge. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

3. Case 04-ULP-09-0532 SERB v. Union-Scioto Education Association and Cathy White

Vice Chairman Gillmor moved that the Board adopt the Findings of Fact and Conclusions of Law in the Administrative Law Judge's Proposed Order, finding that the Respondents did not violate Ohio Revised Code §§ 4117.11(B)(1), (B)(2), or (B)(3) by allowing an individual to process a grievance to arbitration under the terms of the parties' collective bargaining agreement, dismiss the complaint, and dismiss with prejudice the unfair labor practice charge. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

4. Case 04-ULP-10-0550 SERB v. City of Cleveland, Emergency Medical Services and Commissioner Edward Eckart

Board Member Verich moved that the Board adopt the Findings of Fact and Conclusions of Law in the Administrative Law Judge's Proposed Order, finding that the Respondents did not violate Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) by implementing changes in the taking of vacation leave by bargaining-unit members, dismiss the complaint, and dismiss with prejudice the unfair labor practice charge. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

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5. Case 05-ULP-12-0670 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 7330 v. State of Ohio, Department of Rehabilitation and Correction, Southern Ohio Correctional Facility and Warden Edwin Voorhies

Vice Chairman Gillmor 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. 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-12-0644 William E. Cooperrider v. Ohio Association of Public School Employees, AFSCME Local 190, AFL-CIO

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by supporting the re-bidding of the Charging Party's custodial position. The investigation revealed the Charging Party's position was re-bid after a discrepancy was identified in the bidding process. Insufficient information was provided to support 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 _____

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2. Case 06-ULP-02-0047 Sylvania Firefighters Local 2243, IAFF v. Sylvania Township Board of Trustees, Lucas County

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by canceling the agreed-to insurance, which increased health care costs to members by five percent. The Charged Party filed a motion to defer to arbitration. The investigation revealed no harm has occurred. The matter was strictly contractual with no evident statutory violation occurring. 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 deny the Charged Party's motion as moot. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

3. Case 06-ULP-02-0063 Carlos J. Gilbert, et al. v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1) by failing to allow the Charging Parties to join the Charged Party under the old contract. The investigation revealed insufficient evidence was provided to support how the Charging Parties were coerced or restrained by the Charged Party's actions. 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 06-ULP-02-0065 Jeanne B. Baity v. United Steelworkers of America, AFL-CIO, District 1 Subdistrict 2

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's interests during contract negotiations. The investigation revealed the events giving rise to the charge occurred more than 90 days before the filing of the charge with the Board. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice 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 _____

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5. Case 06-ULP-02-0079 Geauga County Board of Mental Retardation and Developmental Disabilities v. Metzenbaum Employees Association, OEA/NEA

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by engaging in bad-faith bargaining by not abiding by the final offer implemented on December 21, 2005. The investigation revealed the Charged Party was waiting for the outcome of Case 05-ULP-12-0675 to determine if ultimate impasse had been reached before accepting the final offer. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion and called for the vote.

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

6. Case 06-ULP-02-0067 Earl C. Collins v. Columbus Public School District Board of Education

7. Case 06-ULP-02-0066 Earl C. Collins v. Ohio Association of Public School Employees, AFSCME Local 11, AFL-CIO and Harold Palmer

The unfair labor practice charges alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) by interfering with the Charging Party's rights, and Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party. The investigation revealed the charges are untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice 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 _____

8. Case 06-ULP-01-0004 Jon Steiner v. Amalgamated Transit Union, Local 627

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 insufficient evidence to support the allegations or 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 _____

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9. Case 06-ULP-03-0141 Joyce L. Nichols v. Lucas County Educational Service Center, Westpark Community School

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by interfering with Charging Party's rights when she was terminated. The investigation revealed the charge is untimely filed. Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice as untimely filed. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

10. Case 06-ULP-02-0041 Communications Workers of America, Local 4546 and President Robin Schenault v. Summit County Children Services

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing working conditions. The investigation revealed the parties entered into an agreement modifying a provision on overtime compensation. The matter was strictly contractual with no evident statutory violation. Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

11. Case 06-ULP-02-0052 David J. Slutzky v. Cleveland Teachers Union

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 the Charging Party was represented all the way through arbitration. Insufficient information was provided to support the Charged Party's actions were arbitrary, discriminatory, or in bad faith. 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 _____

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12. Case 06-ULP-02-0038 Association of Cleveland Fire Fighters, Local 93, IAFF v. City of Cleveland, Mayor F. Jackson and Director of Law Robert Triozzi

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by entering into a tentative agreement, and then promoting and obtaining the rejection of the parties' tentative collective bargaining agreement. The Charged Parties did not respond to the allegations. Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, and refer the matter to an expedited hearing to determine if the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by entering into a tentative agreement in bad faith, and promoting and obtaining rejection of the parties' tentative agreement. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for any discussion and stated that he was disappointed and had concerns that the Charged Parties did not respond to the information requests. Chairman Mayton then called for the vote.

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

13. Case 06-ULP-02-0083 International Brotherhood of Electrical Workers, Local 306, AFL-CIO v. City of Wadsworth

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by discriminating and retaliating against members of the proposed bargaining unit prior to the representation election. The investigation revealed the merit wage increases were approved prior to the filing of the Request for Recognition. 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, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by refusing to grant the bargaining-unit members merit increases prior to the representation election, and direct the parties to unfair labor practice mediation. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

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14. Case 06-ULP-01-0019 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Mason City School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11. The investigation revealed the Charging Party failed to respond to requests for information. Board Member Verich moved that the Board dismiss the charge with prejudice because the Charging Party failed to pursue the matter. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

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

16. Cases 05-ULP-03-0143 Viviane Bushong v. Delaware City School District Board of Education

- 05-ULP-04-0187 Viviane Bushong v. Delaware City Teachers Association, OEA/NEA

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

The Board dismissed the charges for lack of probable cause to believe unfair labor practices had been committed by the Charged Parties. The Charging Parties filed timely requests and motions for reconsideration of the Board's dismissal. No new information was provided that was not already addressed in the original investigation. Vice Chairman Gillmor moved that the Board construe the Charging Parties' requests as motions for reconsideration, and deny all motions with prejudice. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

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18. Cases 06-ULP-02-0071
06-ULP-03-0092 Utility Workers Union of America, Local 578 v. Lake Township Board of Trustees, Stark County
19. Case 06-ULP-03-0098 Zanesville Education Association, OEA/NEA v. Zanesville City School District Board of Education
20. Case 06-ULP-03-0117 Ohio Patrolmen's Benevolent Association v. Auglaize County Sheriff
21. Case 06-ULP-03-0121 Ohio Patrolmen's Benevolent Association v. Lucas County Sheriff's Office
22. Case 06-ULP-03-0123 Toledo Federation of Teachers, Local 250, AFT v. Toledo City School District Board of Education
23. Case 06-ULP-03-0140 Cincinnati Fire Fighters Union Local 48 v. City of Cincinnati
24. Case 06-ULP-02-0046 Plain Township Professional Firefighters Association, Local 2967, IAFF v. Plain Township Trustees, Stark County
25. Case 06-ULP-03-0116 Zanesville City School District Board of Education v. Zanesville Education Association, OEA/NEA
26. Case 06-ULP-03-0138 Twinsburg Fire Fighters, Local 3630, IAFF v. City of Twinsburg

Board Member Verich moved that the Board construe the letters and notice as motions 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 _____

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Board Member Verich moved that the Board promote Dory A. McClendon to the Labor Relations Administrator position effective May 15, 2006. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

VII. ADJOURNMENT

Vice Chairman Gillmor moved that the Board adjourn the meeting. Board Member Verich 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