State Employment Relations Board
Board Meeting Minutes
July 13, 2006

The State Employment Relations Board met on Thursday, July 13, 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 THE PREVIOUS REGULAR MEETING:

Vice Chairman Gillmor moved that the Board approve the minutes for the June 22, 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. 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

On February 2, 2006, SERB granted a stay of consideration of the Employer's Motion to Implement Statutory Procedure. On May 19, 2006, the Employer notified SERB that the parties have reached a settlement of their negotiations. Based upon the settlement of the negotiations, the pending motion is moot.

Board Member Verich moved that the Board lift the stay of consideration of the Motion to Implement Statutory Procedure and dismiss the motion sua sponte as moot. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

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

On February 2, 2006, SERB granted the Employee Organization's Motion for Extension of Time for Response to the Employer's Motion to Deem Fact-Finder's Report Accepted, Motion to Cancel Conciliation, and Request for Hearing. Although the extension granted by SERB was for a period of 30 days, the parties continued to seek a settlement of their negotiations in lieu of a determination of the Employer's motions. On April 13, 2006, the parties submitted a copy of their recently executed collective bargaining agreement. Based upon the settlement of the negotiations, the pending motions are moot.

Vice Chairman Gillmor moved that the Board sua sponte dismiss as moot the Employer's Motion to Deem Fact-Finder's Report Accepted, Motion to Cancel Conciliation, and Request for Hearing. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

3. Cases 05-MED-03-0255 05-MED-03-0256 — Professionals Guild of Ohio and Montgomery County Children Services Board

On March 8, 2006, the Employee Organization filed with SERB two Notices to Negotiate concerning negotiations for successor collective bargaining agreements for two bargaining units with Montgomery County Children Services Board ("Employer"). On April 4, 2006, the Montgomery County Board of Commissioners passed a resolution that authorized the redesignation of the Job and Family Services Department to include the operation of children services effective May 7, 2006. On June 13, 2006, the Employee Organization filed with SERB a Motion to Withdraw the Notices to Negotiate in the above-referenced cases. The parties agreed that the Montgomery County Children Services Board is no longer designated as the employer of the bargaining units represented by the Employee Organization. Therefore, the Notices to Negotiate filed by the Employee Organization in these cases are no longer valid.

Board Member Verich moved that the Board grant the motion to withdraw and dismiss the Notices to Negotiate. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

4. Cases 06-MED-05-0680 06-MED-05-0681 — International Brotherhood of Teamsters, Local 377 and Trumbull County Commissioners (Elderly Affairs)

The Employee Organization filed with SERB Notices to Negotiate concerning negotiations with the Employer. Goldie Luke and Kenneth D. Heim filed Petitions for Decertification Election (Cases 06-REP-02-0024 and 06-REP-02-0025) seeking to decertify the Employee Organization as the exclusive representative. The Employer filed a motion to stay negotiations until the representation questions are resolved.

Vice Chairman Gillmor moved that the Board grant the motion to stay in Cases 06-MED-05-0680 and 06-MED-05-0681, and expedite the processing of Cases 06-REP-02-0024 and 06-REP-02-0025. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

5. Cases 06-MED-06-0729 06-MED-06-0730 — Fraternal Order of Police, Ohio Labor Council, Inc. and Village of Granville

The Employee Organization filed with SERB two Notices to Negotiate concerning negotiations with the Employer. The Employer filed with SERB a Motion to Stay Negotiations "until a final decision" on the appeal filed on June 9, 2006, in Franklin County Court of Common Pleas regarding SERB's determination of the question of the Employer's "public employer" status. The Employee Organization filed with SERB the Employee Organization Objection to Employer's Motion to Stay Negotiations.

Board Member Verich moved that the Board deny the Employer's motion to stay negotiations. Vice Chairman Gillmor 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. Cases 06-REP-02-0016 06-REP-02-0017 — Ohio Patrolmen's Benevolent Association, Fraternal Order of Police, Ohio Labor Council, Inc., and Morgan County Sheriff
July 27, 2006

2. Case 06-REP-04-0054 — Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, and City of Wadsworth
August 2, 2006

3. Case 06-REP-04-0055 — International Union, United Automobile, Aerospace Agricultural Implement Workers of America, UAW, and Mahoning County Department of Job and Family Services
August 10, 2006

4. Case 06-REP-04-0061 Kenneth D. Heim, International Brotherhood of Teamsters Local 377, and Trumbull County Board of Commissioners, Office of Elderly Affairs
August 1, 2006

Items 1 through 4 are Consent Election Agreements. All parties have executed and filed the appropriate Consent Election Agreement.

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

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

5. Case 06-REP-06-0079 Ohio Council 8, American Federation of State, County and Municipal Empoyees, AFL-CIO, and Cuyahoga County Sheriff

6. Case 06-REP-06-0083 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, and Hardin County Department of Job and Family Services

7. Case 06-REP-06-0084 Teamsters Local #20 IBT, and City of Port Clinton

Items 5 through 7 are jointly filed Petitions for Amendment of Certification seeking to amend the existing units to reflect certain negotiated changes.

Board Member Verich moved that the Board approve the jointly filed petitions and amend the units accordingly. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

8. Case 05-REP-04-0066 Communications Workers of America, Local 4547, and Summit County Children Services

The Employee Organization is the Board-certified exclusive representative of certain employees of Employer. The parties have jointly filed a Petition of Clarification of Bargaining Unit to include several positions.

Ohio Administrative Code Rule 4117-5-01(E)(1) and (2) provide for amendment of certification to alter the composition of a bargaining unit by adding, deleting, or changing the terminology of the bargaining unit description. Unit clarification does not alter the status quo, but rather maintains it.

Vice Chairman Gillmor moved that the Board dismiss without prejudice the Petition for Clarification of Bargaining Unit. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

9. Case 05-REP-11-0170 Euclid Classified Association/OEA/NEA, and Euclid City Schools

The Employee Organization is the Board-certified exclusive representative of certain employees of Employer. The Employee Organization filed a Petition for Amendment of Certification seeking to amend the existing unit to include certain employees of Employer.

The Employer responded by filing a position statement opposing the amendment. A conference call was conducted. The Employer and Employee Organization could not reach an agreement concerning an appropriate bargaining unit.

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. Chairman Mayton called for the vote.

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

10. Case 06-REP-03-0034 International Brotherhood of Teamsters Local No. 507, Ohio Patrolmen's Benevolent Association, and Cuyahoga Metropolitan Housing Authority

- There were 28 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Ohio Patrolmen's Benevolent Association received 0 votes
- International Brotherhood of Teamsters Local No. 507 received 28 votes and has prevailed in this election.

11. Case 05-REP-10-0150 Fraternal Order of Police, Ohio Labor Council, Inc., and University of Akron Police Department

- There were 17 ballots cast
- There were 0 challenged ballots
- No Representative received 1 vote
- Fraternal Order of Police, Ohio Labor Council, Inc. received 16 votes and has prevailed in this election.

12. Case 05-REP-11-0171 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO, and Terra Community College

- There were 40 ballots cast
- There were 0 challenged ballots
- No Representative received 7 votes
- Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO received 33 votes and has prevailed in this election.

13. Case 06-REP-03-0047 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO, and Terra Community College

- There were 4 ballots cast
- There were 0 challenged ballots
- No Representative received 0 vote
- Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO received 4 votes and has prevailed in this election.

14a. Case 06-REP-01-0006 Ohio Patrolmen's Benevolent Association, Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, Local 3710, and Holmes County Sheriff

Non-Sworn Employees – (Corrections & Communications Officers)

- There were 14 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, Local 3710 received 0 votes
- Ohio Patrolmen's Benevolent Association received 14 votes and has prevailed in this election.

14b. Case 06-REP-01-0007 Ohio Patrolmen's Benevolent Association, Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, Local 3710, and Holmes County Sheriff

(Road Patrol Officers and Detectives)

- There were 8 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, Local 3710 received 0 votes
- Ohio Patrolmen's Benevolent Association received 8 votes and has prevailed in this election.

15. Case 05-REP-08-0117 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, and Boardman Township, Mahoning County

- There were 19 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 19 votes and has prevailed in this election.

16. Case 06-REP-04-0052 Ohio Patrolmen's Benevolent Association, and City of Rocky River

- There were 4 ballots cast
- There were 0 challenged ballots
- Ohio Patrolmen's Benevolent Association received 2 votes
- No Representative received 2 votes and has prevailed in this election.

Vice Chairman Gillmor moved that the Board certify the election results and certify the prevailing employee organization as the exclusive representative of all employees in the relevant bargaining unit. Board Member Verich 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-09-0499 Service Employees International Union, District 1199, The Health Care and Social Service Union v. Mentor Public Library

2. Case 06-ULP-02-0055 International Brotherhood of Teamsters No. 24 v. Brimfield Township Board of Trustees, Portage County

Board Member Verich moved that the Board construe the Charging Party's letter in Case 05-ULP-09-0499 as a motion to withdraw, grant the motions to withdraw, and dismiss with prejudice the unfair labor practice charges. Vice Chairman Gillmor 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 06-ULP-02-0080 Akron Association of Classified Personnel, OEA/NEA v. Akron City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing the pay range of the Staff Development Stenographer III position. The investigation reveals the parties jointly agreed to the consolidation of related job classifications. The parties entered into a Memorandum of Understanding effectuating the changes, which included a change in pay ranges. The Charged Party's actions did not violate the statute.

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		

2. Case 06-ULP-03-0100 Anthony J. George v. State Council of Professional Educators (SCOPE), OEA

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by interfering with the Charging Party's guaranteed rights. The investigation reveals that during a meeting, held on February 22, 2006, a majority of the bargaining-unit members voted to dismiss the Charging Party as the Union Site Representative. The Charged Party did not restrain or coerce the Charging Party in the exercise of guaranteed rights, nor coerce the Employer in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances.

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		

3. Case 06-ULP-03-0142 Ohio Patrolmen's Benevolent Association v. City of Parma

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by eliminating new retirees from participating in the City's Retiree Reimbursement plan. The investigation reveals the parties were continuing to negotiate, and neither a fact-finding hearing nor a conciliation hearing had been scheduled. It appears the Charged Party's actions may violate the statute.

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) and (5) by eliminating new retirees from participating in the Charged Party's Retiree Reimbursement Plan, 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		

4. Case 06-ULP-04-0151 Cleveland Police Patrolmen's Association v. City of Cleveland

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to bargain in good faith. The investigation reveals that the collective bargaining agreement between the parties includes a grievance procedure culminating in final and binding arbitration. A grievance regarding the alleged unilateral change has been filed and is proceeding through the grievance process. While interpreting contract provisions such as Article XX (Assignments and Transfers), the arbitrator will determine whether renaming the Fresh Start Unit is an attempt to avoid the job posting and bidding procedure to staff the Community Services Unit. Contract interpretation and application appear to lie at the heart of both the unfair labor practice charge and grievance dispute.

Board Member Verich moved that the Board defer the matter for resolution through the grievance-arbitration procedure and retain jurisdiction in accordance with In re Upper Arlington Ed Assn, SERB 92-010 (6-30-92). 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-ULP-04-0152 Fraternal Order of Police, Ohio Labor Council, Inc. v. Van Wert County Sheriff

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against Corrections Officer Lisa Wannamaker in retaliation for engaging in protected activity. The investigation reveals the Charged Party had knowledge of Charging Party's protected activities. The Charged Party provided sufficient information to show that the denial of light-duty work was not related to protected activity.

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		

6. Case 06-ULP-04-0156 Service Employees International Union, District 1199, The Health Care and Social Service Union v. Cincinnati State Technical and Community College

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by harassing Deborah Carmen by imposing special rules that applied only to her, and by retaliating against her for filing a grievance. The investigation reveals Ms. Carmen is a public employee, and Charged Party had no knowledge of Charging Party's protected activities. No adverse action occurred. The "special rule" applied to all employees, and Ms. Carmen was not singled out.

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		

7. Case 06-ULP-04-0160 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Transportation

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(5) and (8) by directly dealing with employees. The investigation reveals the March 16, 2006 meeting with the members of the bargaining unit does not amount to direct dealing. The Charged Party did not discuss bargaining proposals or attempt to deal with the Charging Party through its employees. The Charging Party failed to provide information 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 Party. 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-04-0176 Southwest Ohio Regional Transit Authority v. Amalgamated Transit Union, Local 627

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(3) by failing to bargain in good faith by filing an unfair labor practice charge over the same issue that was previously grieved and settled by the parties. The investigation reveals the Charging Party has the right to file unfair labor practice charges if it believes a statutory violation occurred. The charge was filed against the Charged Party for allegedly violating employees' protected rights. The Charging Party never waived its right to contest actions taken against its members.

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		

9. Case 06-ULP-03-0108 Ann Miller v. Copley-Fairlawn City School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(5) by unilaterally changing aspects of Charging Party's job in violation of the collective bargaining agreement and not requesting to bargain the change. The investigation reveals the Charging Party is not the exclusive bargaining representative of the bargaining-unit employees or a bargaining agent of the Ohio Education Association (OEA). The Charged Party does not have an obligation to bargain the matter with the Charging Party. OEA has not challenged the Charged Party's actions. The defining of non-routine days was mutually determined between the Charged Party and OEA. The Charging Party failed to establish that the Charged Party's actions were unilateral. The issue is contractual, and while non-routine days are not specifically addressed in the Agreement, the credited hours worked under certain conditions are addressed in the Agreement. Ohio Administrative Code Rule 4117-7-01(B) requires that a charge provide a clear and concise statement of the facts constituting the alleged violation, which the Charging Party has failed to do. Therefore, the charge is deficient on its face.

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 for failing to provide a clear and concise statement of the facts in the charge. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

10. Case 06-ULP-02-0056 Ralph C. Hughes v. Cuyahoga Community College

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(5) by failing to bargain in good faith with the union over his grievance. Information provided during the investigation did not support the allegation that Charged Party failed to bargain in good faith. The Charged Party is not obligated to bargain over discipline.

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-02-0057 Ralph C. Hughes v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 2678, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to pursue Charging Party's suspension grievance to arbitration. The investigation reveals the Charged Party has represented the Charging Party at his disciplinary hearing and through Step 4 of the grievance process. The Charged Party determined that the grievance lacked merit and it would not be pursuing the grievance to arbitration.

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		

12. Case 06-ULP-04-0175 Willie T. Peters v. International Brotherhood of Teamsters, Local 436

13. Case 06-ULP-04-0174 D. Jason Allomong v. International Brotherhood of Teamsters Local 436

14. Case 06-ULP-04-0173 Herbert Barnum v. International Brotherhood of Teamsters Local 436

15. Case 06-ULP-04-0172 Gary Powers v. International Brotherhood of Teamsters Local 436

In Case 06-ULP-04-0175, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to pursue the Employer's refusal to hear grievances at Step 3, and refusing to allow the Charging Party to continue representing employees during the grievance process by removing him as steward. Charging Party filed an amended charge correcting some grievance numbers contained in the original statement of facts. The investigation reveals a difference of opinion exists as to the merits of the grievances. The Charged Party was informed by the Employer that the grievants had not signed or presented the grievances to their supervisors at Step 1. 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.

In Case 06-ULP-04-0174, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to process the Charging Party's grievance. The investigation reveals that the grievance was processed through Step 2 of the grievance procedure. The grievance was a duplicate of another grievance filed by the Charging Party in which the parties agreed the work at issue was not exclusive to custodians. 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.

In Case 06-ULP-04-0173, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to address the Charging Party's job concerns and providing information on the status of his grievance. The investigation reveals the grievance was processed through Step 3 of the grievance procedure. Charged Party determined the grievance lacked merit and did not appeal it to arbitration. 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.

In Case 06-ULP-04-0172, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to address concerns regarding the Charging Party's work-site closure and failing to keep him informed as to the status of his grievance.. The investigation reveals the grievance was processed through Step 3 of the grievance procedure. The Charged Party determined the grievance lacked merit and did not appeal it to arbitration. 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.

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. Chairman Mayton called for the vote.

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

16. Case 06-ULP-04-0192 Ohio Patrolmen's Benevolent Association v. Boardman Township, Mahoning County

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to implement the Agreement that has been ratified by the parties. The investigation reveals that the parties ratified the tentative Agreement, and the Charged Party is refusing to implement the agreed-upon provisions.

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 an expedited hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to implement the Agreement that has been ratified by the parties, 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		

17. Case 06-ULP-05-0197 Laura Kaminski v. Lucas Metropolitan Housing Authority

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (6) by denying the Charging Party's right to pursue grievances on her own or with her outside representative, failing to respond to Charging Party's first grievance, refusing her request for information, moving up her layoff date, and denying her recall rights in retaliation for filing a grievance. The investigation reveals the Charged Party did not restrain or coerce the Charging Party in the exercise of guaranteed rights. No pattern or practice of failing to process grievances was established. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(6) allegation. Knowledge of the alleged violations prior to January 29, 2006, occurred more than 90 days before the charge was filed with the Board, and no mitigating circumstances exist that warrant equitable tolling of the statute of limitations.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party, and as untimely filed for alleged violations occurring prior to January 29, 2006. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

18. Case 06-ULP-05-0199 Ohio Patrolmen's Benevolent Association v. City of Norton

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by introducing a new proposal on "overtime accumulation" to the Conciliator and insisting that the Conciliator rule on the issue over the objections of the Charging Party. The investigation reveals the parties have the right to submit their final offer on all unresolved issues to the Conciliator pursuant to Ohio Revised Code § 4117.14(G)(3). Article 17 was presented to the Fact Finder as an unresolved issue. Both parties provided their positions to the Fact Finder, and again Article 17 was presented to the Conciliator by the parties as an unresolved issue. The Charged Party's submission does not constitute bad-faith bargaining.

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		

19. Case 06-ULP-04-0194 Summit County Executive v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 1229, AFL-CIO and Colleen Bonk

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(B)(1) and (2) by coercing employees in the exercise of their guaranteed rights, and by interfering in the Employer's right in the selection of its representative for the purpose of the adjustment of grievances. The investigation reveals the Charged Parties did not restrain or coerce Inspectors Dan Shields and Joe Gorley in the exercise of their protected activities. The Charging Party did not provide sufficient information to support the allegation that the Charged Parties restrained or coerced it in the selection of its representative to process grievances. Mr. Joe Schiavone, Chief Building Official, was not the representative of the Charging Party for the grievance process, but merely Inspectors Shields' and Gorley's supervisor. Mr. Schiavone was not requested by the Charged Parties to testify at the arbitration hearing. Insufficient information was provided to support the Ohio Revised Code § 4117.11(B)(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 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-04-0191 International Union of Police Associations, Local 103 v. Bowling Green State University and Sergeant John Shumaker

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against bargaining-unit members for the exercise of their guaranteed rights. The investigation reveals the Charging Party did not provide sufficient information to support the allegations that the Charged Parties interfered with, restrained, or coerced its members in the exercise of their guaranteed rights. Sergeant John Shumaker's denial of Officers Mark Ankney and Kevin Meyers' shift change request was pursuant to Chief Wiegand's statement at a labor/management meeting. Chief Wiegand stated that trading shifts was still an option, but must be approved by the supervisor. Sergeant Shumaker is Officers Ankney and Meyers' supervisor. The Charging Party did not file a grievance over the issue. Officer Sean Beavers alleged that he was denied union representation. By the Charging Party's own admission, the document was labeled "Letter of Counseling," and according to Article 26.3 of their agreement, counseling is not discipline. Officer Beavers filed a grievance and it is currently pending at Step 3. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(3) 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		

21. Case 06-ULP-04-0162 Groveport Madison Local Education Association, OEA/NEA v. Groveport Madison Local School District Board of Education

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11 A)(1), (2), and (5) by revealing confidential bargaining proposals to the bargaining-unit members. The investigation reveals the information provided by Principal Zoraba Ross at his monthly staff meeting does not rise to the level of a violation of the statute, and Principal Ross did not discuss in any detail the issue of split schedules for the Charged Party. The meeting notes, taken by the members of the Charging Party, do not contain any information not already available to the public from articles in The Columbus Dispatch, dating as far back as December 2005. The parties have since ratified the split session amendment. 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. Chairman Mayton called for the vote.

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

22. Case 06-ULP-04-0157 Clermont County Special Education Association, OEA/NEA v. Clermont County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(5) by refusing to negotiate in good faith regarding health insurance benefits. The investigation reveals the Charged Party has not bargained in bad faith nor has it refused to bargain the issue of health insurance. Article 9.07B of the parties' collective bargaining agreement states the parties are currently covered by the health insurance plan offered through the County Commissioners. Article 9.07.C states the parties were to create an insurance committee to recommend an insurance plan. Neither party addressed this requirement in their responses. The Charging Party's proposal at the February 2, 2006 negotiation session worked under the assumption that the parties agreed to use the County Commissioner's health plan. The parties further understood and agreed that if the County Plan is available and selected, the employee contribution rate will be as approved by the County.

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-03-0145 Tracy E. Barnhart v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 5189

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to properly complete the request to move his grievance to arbitration, causing it to be withdrawn. The investigation reveals the Charged Party's actions were arbitrary when it made a clerical error in processing the Charging Party's arbitration appeal. The Charged Party did not take the basic and required steps outlined in the parties' grievance-arbitration process.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to take the basic and required steps to process the Charging Party's arbitration appeal, and direct the parties to ULP mediation. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

24. Case 06-ULP-04-0168 Municipal Foremen and Laborers' Union Local 1099 v. City of Cleveland

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11. (A)(1) and (5) by refusing to bargain in good faith regarding compensation for a bargaining-unit member. The investigation reveals the matter is a contractual issue that encompasses no arguable statutory violation and should be resolved through the parties' final and binding arbitration procedure. The matter is currently before the American Arbitration Association, and the parties are in the process of selecting an arbitrator.

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 any discussion and stated that he was informed the Charged Party has hired a new attorney to help address concerns and the processing of SERB cases which will really help in the processing of the cases the City has with SERB. Chairman Mayton called for the vote.

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

25. Case 06-ULP-05-0202 Joseph Madachy v. City of Euclid, Police Department

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11. The investigation revealed the Charging Party failed to pursue the matter.

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		

26. Case 06-ULP-04-0183 Ohio Civil Service Employees Association, AFSCME, Local 7715, NBH/Northfield v. Ohio Department of Mental Health, North Coast Behavioral Healthcare

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by contracting out landscaping services in violation of the agreement. The investigation reveals the matter is a contractual issue that encompasses no arguable statutory violation. Article 39 of the parties' agreement states that the 120-day notification is for a subcontracting job that would result in the layoff of bargaining-unit members. The Charged Party did not remove or lay off any bargaining-unit member as a result of contracting out the landscaping services.

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 06-ULP-04-0181 International Brotherhood of Teamsters Local 637 v. Muskingum County Center of Seniors

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(5) by unilaterally implementing a drug and/or alcohol policy. The investigation reveals the parties' agreement is silent on the issue of drug and/or alcohol testing. The Charged Party asserts that the new policy enacted by the Area Agency on Aging, has no effect on the wages, hours, and terms and conditions of employment for the bargaining-unit members. The Charged Party terminates employees only if they refuse to undergo a rehabilitation program. The Charged Party's implementation of the drug and alcohol testing policy was due to exigent circumstances that were unforeseen at the time of the parties' negotiations for their initial agreement. Charging Party was given a short time to provide comments or suggestions regarding the policy, but did not respond.

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		

28. Cases 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

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

29. Case 05-ULP-12-0676 Toledo Firefighters, Local 92 v. City of Toledo

30. Case 05-ULP-12-0677 Toledo Police Patrolman's Association v. City of Toledo

31. Case 05-ULP-12-0681 William H. Nix v. Greater Cleveland Transit Authority

32. Case 05-ULP-12-0680 William H. Nix v. Amalgamated Transit Union Local 268

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

The Board dismissed the charges for lack of probable cause to believe unfair labor practices have been committed by the Charged Parties. The Charging Parties filed timely requests and motions for reconsideration of the Board's dismissal. The Charging Parties have not provided any new information 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. Vice Chairman Gillmor called for the vote.

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

34. Case 06-ULP-04-0149 Richard T. Phillips v. Columbus Regional Port Authority and Jim Iles

35. Case 06-ULP-05-0226 Olentangy Local School District Board of Education v. Ohio Association of Public School Employees, AFSCME Local 11, AFL-CIO and Its Local #039

36. Case 06-ULP-04-0161 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 208 v. Amherst Exempted Village School District Board of Education

Board Member Verich moved that the Board construe paragraph 5 of the settlement agreements 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		

VI. ADMINISTRATIVE MATTERS

Executive Session – Vice Chairman Gillmor moved that the Board go into executive session, pursuant to Ohio Revised Code § 121.22(G)(1), to discuss the appointment, employment, promotion, compensation, or hiring of public employees. 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		

Vice Chairman Gillmor moved that the Board exit from executive session. 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 approve the promotion of Tonya Jones to Labor Relations Specialist 1 in pay range 12, effective the pay period commencing July 23, 2006. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

Vice Chairman Gillmor moved that the Board provide Arthur J. Marziale, Jr., Executive Director, J. Russell Keith, General Counsel and Assistant Executive Director, and Edward E. Turner, Bureau of Mediation Administrator, a three percent salary increase effective July 1, 2006. Board Member Verich 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