

State Employment Relations Board
Board Meeting Minutes
August 15, 2006

The State Employment Relations Board met on Tuesday, August 15, 2006, at 10:10 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 July 27, 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:

No cases were presented.

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 06-REP-03-0035 Stark County Deputies Association of Ohio and Ohio Council of Police Safety Associations and Stark County Sheriff

The Rival Employee Organization filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization. The Incumbent Employee Organization filed a Disclaimer of Interest. The Employer and Incumbent Employee Organization confirmed no contract exists. As a result of the Employer's agreement to voluntary recognition, the Rival Employee Organization filed a Request for Recognition. The substantial evidence was sufficient, and no objections were filed.

Board Member Verich moved that the Board grant the Incumbent Employee Organization's Disclaimer of Interest, and certify the Rival Employee Organization as the exclusive representative of all employees in the bargaining unit. 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-REP-05-0065 Wayne Schneider, Jr. and Ohio Council 8,
American Federation of State, County and
Municipal Employees, AFL-CIO and Hamilton
County Engineer
September 6, 2006

The Petitioner filed a Petition for Decertification Election seeking to decertify the Employee Organization. The parties entered into a Consent Election Agreement.

Vice Chairman Gillmor moved that the Board approve the Consent Election Agreement and direct an election to be conducted on the date indicated. 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-REP-06-0088 Portage County Educators Association for the
Mentally Retarded, OEA/NEA and Portage
County Board of Mental Retardation and
Developmental Disabilities

The parties jointly filed a Petition for Amendment of Certification seeking to amend the unit pursuant to Ohio Revised Code § 5126.15(A) [as amended by HB 94] to create a separate bargaining unit for Service and Support Administrators. The proposed amendment appeared to be appropriate.

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

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4. Case 06-REP-02-0016 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Morgan County Sheriff

- There were 2 ballots cast
- There were 0 challenged ballots
- Ohio Patrolmen's Benevolent Association received 1 vote
- No Representative received 0 votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received 1 vote and prevailed in this election.

5. Case 06-REP-02-0017 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Morgan County Sheriff

- There were 5 ballots cast
- There were 0 challenged ballots
- Fraternal Order of Police, Ohio Labor Council, Inc. received 0 votes
- No Representative received 0 votes
- Ohio Patrolmen's Benevolent Association received 5 votes and prevailed in this election.

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

- There were 10 ballots cast
- There were 0 challenged ballots
- No Representative received 4 votes
- Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 6 votes and prevailed in this election.

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

Vote: MAYTON: Aye
Affirmed X

GILLMOR: Aye
Denied _____

VERICH: Aye

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

- There were 27 ballots cast
- There were 2 challenged ballots
- International Brotherhood of Teamsters Local #377 received 9 votes
- No Representative received 16 votes and prevailed in this election.

Vice Chairman Gillmor moved that the Board certify the election results and certify that the employees in the unit have chosen to have no exclusive representative for purposes of collective bargaining. Chairman Mayton seconded the motion and called for the vote.

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

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 04-ULP-02-0109 SERB v. City of Jackson

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), (A)(3), or (A)(4) when the Respondent terminated the employment of Robin Bissell from the position of executive assistant to the mayor, dismiss the complaint, and dismiss with prejudice the unfair labor practice charge. Vice Chairman Gillmor seconded the motion and called for the vote.

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

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2. Case 04-ULP-12-0680 SERB v. St. Clairsville-Richland City School District Board of Education

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 Respondent did not violate Ohio Revised Code §§ 4117.11(A)(1) or (A)(5) when it released documents pertaining to pending grievances to the public pursuant to the Ohio Public Records Act but in the absence of a court order as required by 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. Opinion to follow.

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

3. Case 05-ULP-02-0117 SERB v. City of Toledo
4. Case 05-ULP-05-0259 SERB v. City of Mansfield, Division of Fire
5. Case 06-ULP-03-0107 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Hocking County Board of Mental Retardation and Developmental Disabilities
6. Case 06-ULP-03-0085 Thelma Conley v. Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO

Board Member Verich moved that the Board approve and adopt the settlement agreements, construe the Charging Parties' letters as motions to withdraw and the settlement agreements as motions to dismiss, grant all of the motions, dismiss the complaints, 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 _____

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V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 06-ULP-04-0147 Columbus Education Association, OEA/NEA v. Columbus 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 reassigning bargaining-unit work to nonbargaining-unit employees. The investigation reveals that in February 2006, the Charged Party announced changes for certain certificated teachers. The alleged changes are to occur at the beginning of the 2006-2007 school year. The charge is prematurely filed.

Vice Chairman Gillmor moved that the Board dismiss the charge without prejudice 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 _____

2. Case 06-ULP-04-0178 Youngstown State University Association of Classified Employees, OEA/NEA v. Youngstown State University

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally renaming a bargaining-unit position and reclassifying it as a professional/administrative position, and filling the position as a nonbargaining-unit position. The investigation reveals the newly created position of Systems Administrator was renamed and reclassified. The Charged Party's actions amount to a reassignment of bargaining-unit work previously performed by a bargaining-unit member.

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(A)(1) and (5) by unilaterally renaming a bargaining-unit position, reclassifying it as a professional/administrative position, and filling the position as a nonbargaining-unit position, 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 _____

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3. Case 06-ULP-05-0200 Steven L. Stultz v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent the Charging Party during his arbitration. The investigation reveals that despite the Charging Party's allegations, the Charged Party took the basic and required steps to process the Charging Party's grievance, and then proceeded to represent him during the arbitration hearing.

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 _____

4. Case 06-ULP-06-0261 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 274 v. Green Local 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 violating a settlement agreement prohibiting the Custodial Supervisor from performing bargaining-unit work. The investigation does not reveal that Ms. Charlene Carmack interfered with, restrained, or coerced the employees in the exercise of their rights. If the employees were entitled to overtime, the matter would be best addressed through the parties' grievance procedure. The Charging Party has not filed a grievance.

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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5. Case 06-ULP-06-0269 Anthony Jesko v. State of Ohio, Department of Rehabilitation and Correction, State Penitentiary and Warden Marc Houk

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by interfering with the Charging Party's rights and restraining him in regards to his terms and conditions of employment. The investigation reveals that on or about April 13, 2006, the Charging Party was removed during his probationary period. The Charging Party filed a grievance. The grievance was denied. The Charging Party was subject to the collective bargaining agreement, which provides that as a probationary employee, he had no recourse through the grievance procedure. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(5) 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 _____

6. Case 06-ULP-06-0276 Douglas Sollitto v. State of Ohio, Department of Rehabilitation and Correction, State Penitentiary and Superintendent Marc Houk

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) through (8) by attempting to interfere with employees' rights by not permitting enough time to meet with their union representatives to prepare for a pre-disciplinary hearing. The investigation reveals that on or about June 9, 2006, the Charged Parties denied a request by employees to let them into the facility for eight hours in order to investigate and prepare for their pre-disciplinary hearing. The Charged Parties did permit the employees into the facility three hours prior to their pre-disciplinary hearing to prepare. The Charged Parties did provide adequate time to the employees, and did not interfere with the employees' rights. The Charged Parties did not attempt to interfere with the Union's right to represent its bargaining-unit members. The employees were not denied union representation at the pre-disciplinary hearing. Insufficient information was provided to support the Ohio Revised Code § 4117.11(A)(3), (4), (5), (6), and (7) allegations.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties. 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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7. Case 06-ULP-06-0304 Sheila Gamble v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 1746, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code §§ 4117.11(A)(1), and (B)(1) and (6), by interfering with the Charging Party's right to sit in on her grievance hearing, and failing to help save her job. The investigation reveals insufficient information was provided to show that the Charged Party's actions were arbitrary, discriminatory, or in bad faith. The Charged Party took all the necessary steps to represent the Charging Party both prior to and after her termination. The allegation regarding the Step 3 grievance hearing is untimely filed. Knowledge of the alleged violation occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances exist that warrant equitable tolling of the statute of limitations. The Ohio Revised Code § 4117.11(A)(1) allegation does not apply to this charged party.

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 _____

8. Case 06-ULP-04-0153 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO v. Kent State University

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against David Brannon for exercising his guaranteed rights when it changed his job assignment. The investigation revealed the Charged Party did not interfere with, restrain, or coerce David Brannon when it changed his work assignment. The change was made to increase the building knowledge of the Maintenance Repair Workers. Mr. Brannon did not suffer a loss in wages or hours of employment as a result of the reassignment.

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-04-0182 Timothy S. Wyche v. City of Columbus,
Department of Recreation and Parks and
Wayne Roberts

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (3), and (8) by discriminating and retaliating against the Charging Party for exercising his guaranteed rights as a Chief Steward. The investigation reveals the Charged Parties did not interfere with, restrain, or coerce the Charging Party in the exercise of his guaranteed rights. Charging Party is still able to request and receive Union leave as long as he follows the procedures outlined in Article 6 of the parties' agreement. Charging Party has not been harmed by receiving a Memorandum of Counseling for violating the Article 6 procedures. A Memorandum of Counseling is not considered discipline under the parties' collective bargaining agreement. Charging Party has not filed a grievance over the memorandum. Insufficient information and/or documentation has been 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

10. Case 06-ULP-04-0185 Diana L. Miller v. City of Columbus,
Department of Recreation and Parks

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(2), (3), (4), and (8) by unjustly terminating Charging Party after she requested union representation at a meeting with her supervisor. The investigation reveals the Charging Party failed to show she was engaged in any protected activity at the time of her termination. Union representation is required for meetings that may or do result in discipline, but the February 24, 2006 meeting was to discuss operational issues. The Charging Party has failed to establish a prima facie case of discrimination. Insufficient information and/or documentation was provided to support the Ohio Revised Code § 4117.11 (A)(2), (4), 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

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11. Case 06-ULP-04-0186

David R. Williams v. City of Columbus,
Department of Recreation and Parks

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(2), (3), and (8) by denying the Charging Party step increases for the last 14 years. The investigation reveals the Charging Party failed to show he was engaged in any protected activity when he did not receive his step increase. The reason the Charging Party did not receive his step increase is due to the fact that he has been unable to pass the test for his certification. The certification is a job requirement. Insufficient information and/or documentation has been provided to support the Ohio Revised Code § 4117.11(A)(2) and (8) allegations. The events occurring prior to January 26, 2006, are untimely filed because they occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances exist that warrant 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 January 26, 2006. 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-05-0209

Thomas P. Krych v. City of Rocky River

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by discriminating and retaliating against the Charging Party for the exercise of his guaranteed rights. The investigation reveals the Charging Party was not harmed by the Charged Party's decision to potentially contract-out his position. To date, the Charged Party has not made a determination as to whether or not the positions will be contracted-out. The Charging Party has not established a prima facie case of discrimination. Insufficient information and/or documentation 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

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13. Case 06-ULP-05-0210 Jesse Cooper v. Lucas County Commissioners and Administrator Michael Beazley

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(5) by directly dealing with bargaining-unit members regarding the terms and conditions of employment. The investigation reveals the Charging Party lacks standing as an individual to file a direct dealing charge against the Charged Party.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice due to the Charging Party's lack of standing to file an unfair labor practice charge over this issue. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

14. Case 06-ULP-05-0229 Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO v. State of Ohio, Department of Taxation

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(5) by failing to comply with the terms of a settlement agreement. The investigation reveals the matter appears to be a dispute over language interpretation and application by each party of what constitutes an employment record. The matter does not encompass any arguable statutory violation. The issue should be handled through the parties' final and binding grievance-arbitration process because the settlement agreement is still covered under the collective bargaining agreement.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

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15. Case 06-ULP-05-0231 Leland Johansen, D.O. v. State of Ohio,
Department of Mental Health, Summit
Behavioral Healthcare
16. Cases 06-ULP-05-0241 LaTanga D. Banks v. City of Cleveland,
Department of Parks and Recreation
- 06-ULP-05-0321 LaTanga D. Banks v. City of Cleveland,
Department of Parks and Recreation

The unfair labor practice charges alleged the Charged Parties violated Ohio Revised Code § 4117.11. The investigation revealed the Charging Parties failed to respond to requests for information.

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice because the Charging Parties 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 _____

17. Case 06-ULP-03-0091 Kurt C. Eyman v. City of Euclid, Police
Department

Board Member Verich moved that the Board remand this charge to the Investigation Section for further investigation. 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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18. Case 06-ULP-03-0131 Washington Township Professional Firefighters Association, Local 3369 v. Washington Township, Montgomery County

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(7) by assigning bargaining-unit employees from their fire-fighting duties to paramedic duties only and using part-time employees to perform the fire-fighting duties, and by removing bargaining-unit employees from other fire apparatus and refusing to utilize the parties' contractual dispute resolution process. The investigation reveals the employees are performing duties associated with their positions. The employees have not been "locked out" of the workplace or otherwise prevented from performing duties associated with their positions. The issue is contractual.

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-03-0136 International Association of EMTs and Paramedics, SEIU/NAGE v. Meigs County Emergency Medical Services

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (8) by unilaterally making schedule changes during a representation campaign. The investigation reveals the Petition for Representation Election was filed on October 17, 2005. The representation election took place on April 5, 2006. The work schedule change was effective March 19, 2006. The Charged Party did not provide a persuasive argument as to why the schedule change was needed less than three weeks prior to the representation election.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice occurred, 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 (2), but not (3) and (8), by unilaterally making schedule changes during a representation campaign, 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 _____

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20. Case 06-ULP-04-0158 Lake Education Association, OEA/NEA v. Lake Local 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 ignoring a contractual provision and arbitration awards regarding the function and purpose of the Co-Curricular Committee. The investigation reveals that after two arbitration awards, the parties disagree about the purpose and function of the Co-Curricular Committee, which is established under Article 9 of the Agreement. The matter is strictly contractual with no evident statutory issue present.

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 _____

21. Cases 06-ULP-04-0166 David Michael Troutman v. Fraternal Order of Police, Ohio Labor Council, Inc.
06-ULP-04-0167 George S. Christen v. Fraternal Order of Police, Ohio Labor Council, Inc.

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to pursue grievances to arbitration. The investigation reveals the Charged Party's actions were not arbitrary, discriminatory, or in bad faith. The Charged Party put the vacation bidding issue to a vote by its membership with the new practice for vacation bidding prevailing. Parties to an agreement can mutually agree to change terms and conditions of 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 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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24. Cases 06-ULP-06-0271 Dennis Walker v. City of Youngstown and Law Director Iris Torres Guglucella
06-ULP-06-0272 Dennis Walker v. International Brotherhood of Teamsters, Local 377

The unfair labor practice charges alleged the Charged Parties violated Ohio Revised Code § 4117.11. The investigation reveals the charges do not appear to set forth sufficient facts alleging a violation of Ohio Revised Code Chapter 4117. Ohio Administrative Code Rule 4117-07-01 requires that a charge provide a clear and concise statement of the facts constituting the alleged violation. The charges are facially deficient. The Charging Party was notified of the deficiencies but failed to provide a clear and concise statement of facts alleging a violation of the statute.

Vice Chairman Gillmor moved that the Board dismiss the charges without prejudice due to the Charging Party's failure to provide clear and concise statements of the facts constituting the alleged violations. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

25. Case 06-ULP-01-0017 Buckeye Central Education Association and Mark McCoy v. Buckeye Central Local School District Board of Education
26. Case 06-ULP-01-0035 Lewis Johnson v. International Brotherhood of Electrical Workers, Local 39
27. Case 06-ULP-01-0036 Lewis Johnson v. City of Oberlin

A review of the original investigation in the unfair labor practice charges reveals that the Charging Parties have failed to raise issues warranting reversal of the dismissal decisions.

Board Member Verich moved that the Board construe the Charging Parties' requests for reconsideration as Motions for Reconsideration, and deny all motions with prejudice. 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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28. Case 06-ULP-04-0189 Fraternal Order of Police, Ohio Labor Council, Inc. v. David Wright
29. Case 06-ULP-04-0193 Ohio Patrolmen's Benevolent Association v. City of Parma
30. Case 06-ULP-06-0265 International Association of Fire Fighters, Local 109 v. City of Newark
31. Case 06-ULP-06-0270 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 027 v. Kings Local School District Board of Education

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

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

VI. TABLED MATTERS

1. Case 06-ULP-02-0068 Peggy A. Moses v. Laborers' International Union of North America, Foremen, Laborers and Municipal, Local 1099

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

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

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by refusing to take the Charging Party's grievance to arbitration or otherwise represent her when she was given a suspension. The investigation revealed the Charged Party determined that it needed to wait until the City took disciplinary action after the adjudication of the Charging Party's criminal charges. The Charged Party provided the Charging Party with the opportunity to advance her grievance to arbitration, but the Charging Party did not exercise the opportunity to do so. The Charged Party's decision not to arbitrate the "vulgar language" grievance was made in order to comply with limitations contained in the Agreement on disciplinary grievances. The actions of the Charged Party were not arbitrary, discriminatory, or in bad faith.

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Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of probable cause to believe the Charged Party has committed an unfair labor practice. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

Vote: MAYTON:	<u> Aye </u>	GILLMOR:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>		

VII. ADMINISTRATIVE MATTERS

Annual Report – Executive Director Art Marziale reported that, per statutory requirements, SERB’s Fiscal Year 2006 Annual Report has been delivered to the Governor’s Office and the Clerks Offices of the Ohio House of Representatives and Ohio Senate. It will also be sent to all interested organizations. Personalized letters from SERB’s Board members will accompany the copies going out to the members of the House Representatives and Senators very soon.

Clearinghouse Web Project Update – Executive Director Marziale reported that we now have all contracts scanned into the system. He further reported that Babbage Simmel will be sending to SERB weekly updates regarding this project and the progress of it. He passed out to the Board the most recent weekly report, and reviewed some of the areas listed in the report. He stated that the “Reports” section of the system was designed with input from the Treasurer’s Office so that it can be used in the future to receive payments for services, such as filing by internet. In the beginning, some areas that were worked on the most consisted of the design of the web-site and creating the architecture needed for the system to operate. In the architectural area of the report, it states that 90% is completed, leaving the 10% for later modifications if needed. Staff training was another area that will have to be done prior to the completion of the project.

Executive Director Marziale reported the completion date from Babbage Simmel is September 18, 2006. Babbage Simmel have been continuously on schedule with the project working with SERB’s staff, and have been reporting weekly to SERB with their progress. Chairman Mayton asked if the date for completion of the project is realistic; Executive Director Marziale stated that it was.

Executive Director Marziale stated that due to the work of D’Arco Smith inputting all of the contracts into the system; Sayfee Seyfullah, who is from Babbage Simmel assisting with the project, and Sandy Stiffler, SERB’s Fiscal Officer, getting things onto the web site, he complemented them on their hard work to help make this project happen for SERB.

Chairman Mayton stated that he tried out the web site at its present stage and was successful in locating a contract and the information he needed. Chairman Mayton also extended his heartfelt thanks to these people working on the project, and knows this step is a big one for SERB and for its future. Vice Chairman Gillmor commented that we should ensure that word gets out to interested parties that this new SERB service is available.

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IT Policy Ratification – Executive Director Marziale presented to the Board a “draft” copy of the “IT Policy Governing the Use of Internet, E-Mail, and Other IT Resources.” He asked the Board to ratify this policy for the agency and asked them for their comments before ratifying it.

Executive Director Marziale stated that the policy mirrors the State Policy and also follows SERB’s policy. Vice Chairman Gillmor stated that this new policy is very comprehensive and, that by approving this policy, the Board can provide guidance to the agency. Chairman Mayton commented and emphasized that employees should be careful in visiting any web site and that their access to the internet should not be used in an abusive way.

Board Member Verich moved that the Board adopt the IT Policy as drafted and order distribution of said policy to each employee. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for any discussion and the vote.

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

Serbian Project Update – Chairman Mayton reported that he and Board Member Verich met with Bill Heekin regarding this project, and discussed the funding and needs assessment for this project. To be able to train and investigate in the area of privatization and normalization would be of great interest to many. Mr. Heekin regretfully informed Chairman Mayton and Board Member Verich that the funding is not available for his trip, and there was no explanation given to him. Chairman Mayton said the project will not go forward because of this lack of funding by USAID.

Executive Session – Vice Chairman Gillmor moved that the 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 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 _____

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 _____

