

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006

The State Employment Relations Board met on Thursday, August 31, 2006, at 12:30 p.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 MEETING:

Vice Chairman Gillmor moved that the Board approve the minutes for the August 15, 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. AUTHORIZATION TO SIGN CONSENT DECREE:

Board Member Verich moved that the Board authorize J. Russell Keith to sign a consent decree on the Board's behalf in United States of America and Glen Greenwood v. State of Ohio, et al., Case No. 2:05-CV-799, and United States Equal Employment Opportunity Commission and Glen Greenwood v. Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO, et al., Case No. 2:05-CV-881. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

III. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

Vice Chairman Gillmor moved that the Board close 199 Mediation cases beginning with Case 03-MED-01-0004 and ending with Case 06-MED-02-0182, not consecutively numbered. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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



State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 3 of 21

3. Case 05-REP-10-0148                      Clark County Vocational Association of School Employees/OEA/NEA and Springfield-Clark Joint Vocational School

The Employee Organization filed a Petition for Amendment of Certification seeking to amend the certification to reflect actual staff and classification titles and to change Employee Organization's name. The Employee Organization later requested withdrawal of the instant petition because the Board had already granted the parties' request in Case 05-REP-10-0152.

Board Member Verich moved that the Board dismiss the Petition for Amendment of Certification. Vice Chairman Gillmor 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>		<u>  Denied  </u>		<u>          </u>

4. Case 05-REP-05-0071                      Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, and Toledo Board of Education/Toledo Public Schools

The Employee Organization is the deemed-certified exclusive representative of certain employees of Employer. The Employee Organization filed a Petition for Clarification of Bargaining Unit seeking to clarify the existing unit to include Executive Secretary. The Employer filed a letter opposing the inclusion.

The Employer maintained the employees in question are confidential and/or included in a bargaining unit represented by Toledo Association of Administrative Personnel (TAAP) UAW Local 5242. TAAP filed a Motion to Intervene and Motion to Dismiss. TAAP maintained the positions in question were created when each respective supervisory position was created and, in keeping with past practice, the employees in question were included in the TAAP bargaining unit.

The Employee Organization filed a Memorandum in Opposition to Motion to Dismiss. The Employee Organization maintained the employees in question are performing the same duties as those of the Secretary V that is included in the deemed-certified unit already represented by the Employee Organization.

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 4 of 21

The deemed-certified unit represented by the Employee Organization does not include the position of Executive Secretary. It appears including the position of Executive Secretary would alter the status quo. An amendment of certification alters the composition of a bargaining by adding, deleting, or changing terminology in the unit description; clarification does not.

Vice Chairman Gillmor moved that the Board grant the Motion to Intervene, deny the Motion to Dismiss, and 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                     

5.      Case 06-REP-08-0103                      Donald Fadenholz and Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and Medina County Public Transit

The Petitioner filed a Petition for Decertification Election seeking to decertify the Incumbent Employee Organization as the exclusive representative of certain employees of Employer. The Petitioner failed to provide evidence in support of the petition, which is required pursuant to Ohio Administrative Code Rule 4117-5-02(C)(5).

Board Member Verich moved that the Board dismiss without prejudice the Petition for Decertification Election. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

6.      Cases 05-REP-06-0093                      Teamsters Local Union No. 284 and The Ohio State University  
            05-REP-06-0095

On March 8, 2006, the Board conducted a secret-ballot election for certain employees of the Employer. There were two hundred forty-one (241) eligible voters; two hundred (200) ballots were cast; eight-four (84) votes were for Teamsters Local Union No. 284 (Employee Organization), one hundred thirteen (113) votes were for No Representative, and the three (3) challenged ballots were not determinative.



State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 6 of 21

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

On July 27, 2006, the Board conducted a secret-ballot election pursuant to a Consent Election Agreement. The results of the election were: two (2) ballots were cast; Ohio Patrolmen's Benevolent Association received one (1) vote; Fraternal Order of Police, Ohio Labor Council, Inc. received one (1) vote; and No Representative received zero (0) votes. The tally of ballots appeared as Item 4 on the Board's August 15, 2006 agenda for Representation matters.

Ohio Administrative Code Rule 4117-5-09(B) provides that when an election in which there are three choices on the ballot results in no choice receiving a majority of the ballots cast, a runoff election shall be held in which only the two choices receiving the highest and the second highest number of votes in the original election appear on the ballot.

Vice Chairman Gillmor moved that the Board rescind the August 15, 2006 certification of election results and exclusive representative, direct that a corrected tally of ballots be issued, and direct a runoff election to be conducted between the two Employee Organizations at a date, time, and place to be determined by the Representation Section in consultation with the parties. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

9. 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

- There were 19 ballots cast
- There were 0 challenged ballots
- No Representative received 2 votes
- International Union, United Automobile, Aerospace Agricultural Implement Workers of America, UAW received 17 votes and prevailed in this election.

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

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

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 7 of 21

V. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 02-ULP-11-0773 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO v. Green Local School District Board of Education

The Charging Party had previously filed an unfair labor practice charge against the Charged Party. The Board had found probable cause to believe that an unfair labor practice had occurred, authorized the issuance of a complaint, directed the matter to an expedited hearing, and directed the parties to unfair labor practice mediation. The parties had filed a settlement agreement that resolved the underlying dispute in the charge. The Board had approved and adopted the settlement agreement, had construed the settlement agreement as a motion to withdraw, had granted the motion, and had dismissed with prejudice the unfair labor practice charge.

The Charging Party filed a motion to enforce settlement agreement, contending that the Custodial Supervisor was violating the settlement agreement by performing bargaining-unit work. The Charged Party submitted a letter to show compliance with the settlement agreement.

The Charging Party had also filed an unfair labor practice charge (Case 06-ULP-06-0261) alleging that the Charged Party had violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) by violating a settlement agreement prohibiting the Custodial Supervisor from performing bargaining-unit work. The investigation revealed that the circumstances surrounding the 2006 events were much different than those addressed in the settlement agreement, especially since the Charging Party had not filed a grievance over this matter. On August 15, 2006, the Board dismissed the charge for lack of probable cause.

Vice Chairman Gillmor moved that the Board deny the motion to enforce settlement agreement. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 8 of 21

2. Case 05-ULP-05-0237 SERB v. Hamilton County Sheriff

The Charging Party filed an unfair labor practice charge against Respondent. The Board found probable cause to believe that Respondent had committed an unfair labor practice, authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to unfair labor practice mediation. The Administrative Law Judge issued a Proposed Order, recommending that the Board find that Respondent violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(8) when Respondent denied a bargaining-unit member the right to be represented by his chosen representative at a Step 3 grievance meeting and intimidated the bargaining-unit member to proceed with the grievance meeting without his representative. The Administrative Law Judge also recommended that the Board issue a cease-and-desist order with a Notice to Employees to be posted by Respondent for sixty days where bargaining-unit members represented by the Charging Party work and to notify the Board in writing within twenty days after the order becomes final of the steps that have been taken to comply with the order.

No exceptions were filed to the Proposed Order. Ohio Revised Code § 4117.12(B)(2) provides that if no exceptions are filed to a proposed order, then the proposed order shall become the order of the Board.

Board Member Verich moved that the Proposed Order become the order of the Board, pursuant to Ohio Revised Code § 4117.12(B)(2), since no exceptions were filed by any 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-03-0086 Ohio Patrolmen's Benevolent Association v. City of Kirtland

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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 9 of 21

VI. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 06-ULP-06-0256 Richard D. Smith v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to represent all public employees in the bargaining unit. The investigation revealed the Charged Party's actions were not arbitrary, discriminatory, or in bad faith when it represented the Charging Party during the grievance process. The Charged Party took the basic and required steps in its representation. Knowledge of the alleged events prior to March 3, 2006, occurred more than 90 days before the charge was filed with the Board. No mitigating circumstances existed 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 events occurring prior to March 3, 2006. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

2. Case 06-ULP-06-0267 Toledo Fire Fighters, Local 92 v. City of Toledo

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by engaging in bad-faith bargaining when it presented regressive and escalating bargaining proposals. The investigation reveals the parties are still in negotiations and have not reached ultimate impasse. The Charging Party has failed to show the Charged Party's proposals were an attempt to frustrate or avoid a mutual agreement during negotiations. The matter should be handled through the parties' previously agreed upon dispute resolution procedure.

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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 10 of 21

3. Case 06-ULP-06-0280 Calvin L. Hairston v. Ohio Council 8,  
American Federation of State, County and  
Municipal Employees, AFL-CIO

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to mediate the grievance regarding Charging Party's termination. The investigation reveals insufficient information and documentation was provided to support how the Charged Party's actions were arbitrary, discriminatory, or in bad faith in its processing of the Charging Party's termination grievance. The Charged Party has represented the Charging Party at every step of the grievance process. The Charging Party's grievance is still pending arbitration.

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-06-0281 Calvin L. Hairston v. Columbus Regional  
Airport Authority

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by unjustly terminating the Charging Party for failing to work overtime. The investigation reveals the Charging Party had acquired knowledge of the termination, and received actual harm from being terminated, on February 1, 2006. The events in the charge are untimely filed, and 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 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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 11 of 21

5. Case 06-ULP-06-0282 Ta-Rance S. White v. State of Ohio,  
Department of Rehabilitation and Correction,  
Hocking Correctional Institution

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), (4), and (7) by jeopardizing the Charging Party's safety in retaliation for exercising his guaranteed rights. The investigation reveals the Charging Party did not provide sufficient information and documentation to support the allegation that the May 19, 2006 trip was assigned as retaliation for exercising his guaranteed rights. The hospital trips are part of the duties of the HUB/Utility Correction Officers. Insufficient information and documentation has been provided to support the Ohio Revised Code § 4117.11 (A)(3), (4), 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 Party. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

6. Case 06-ULP-06-0295 Darryl E. Sullivan v. Amalgamated Transit  
Union, Local 268

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(2) and (6) by failing to properly represent the Charging Party through the grievance process. The investigation reveals the Charged Party's actions were not arbitrary, discriminatory, or in bad faith in its processing of the Charging Party's grievance. The Charging Party has been represented at every step in the grievance process by either the Union President, a Business Agent, or Stewards. The Charged Party has succeeded in getting the Charging Party's discipline reduced to a First Written Reminder.

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

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 12 of 21

7. Case 06-ULP-06-0296 Darryl E. Sullivan v. Greater Cleveland Regional Transit Authority

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (4) by pressuring the Charging Party to admit guilt during the grievance process. The investigation reveals that the Charged Party did not interfere with, restrain, or coerce the Charging Party in the exercise of his guaranteed rights. The Charging Party has still been able to file the grievance and have it heard through Step 4 of the process by the Charged Party. Insufficient information and documentation has been provided to support the Ohio Revised Code § 4117.11(A)(4) allegation.

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

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

8. Case 06-ULP-05-0203 Communications Workers of America, Local 4546 v. Summit County Children Services

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), (5) and (8) by disciplining the Vice President of the Local and docking her pay in retaliation for the exercise of guaranteed rights. The investigation reveals that the Charged Party's actions may have been an attempt to interfere with, restrain, or coerce the Vice President of the Local in her responsibility to represent the bargaining unit.

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), (2), (3), and (8), but not (5), by disciplining the Vice President of the Local, docking her pay in retaliation for the exercise of guaranteed rights, and interfering with the administration of the Charging Party, 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

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 13 of 21

9. Case 06-ULP-05-0205 Communications Workers of America,  
Local 4546 v. Summit County Children  
Services

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), (5) and (8) by unilaterally changing terms and conditions of employment with respect to release time for Union Representatives. The investigation reveals the Charged Party's actions may have been an attempt to circumvent the bargaining process by failing to maintain the status quo during the parties' statutory dispute resolution procedure.

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), (2), and (5), but not (3) and (8), by unilaterally changing terms and conditions of employment with respect to release time for Union Representatives, 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 \_\_\_\_\_

10. Cases 06-ULP-05-0204 Communications Workers of America,  
06-ULP-05-0206 Local 4546 v. Summit County Children  
Services

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), (5), and (8) by issuing two disciplinary orders to the Local President, disciplining the Local President, and docking the Local President's pay. The investigation reveals the Charged Party's actions may have been an attempt to interfere with, restrain, or coerce the Local President in her responsibility to represent the bargaining unit. The Charged Party's actions appear to violate Ohio Revised Code § 4117.11(A)(2) and (8) specifically when it attempted to interfere with the administration of the Charging Party by interfering with the Local President's responsibility to represent the bargaining unit, and when the Charged Party attempted to cause the Local President to fail to fairly represent bargaining-unit employees.

Vice Chairman Gillmor moved that the Board find probable cause to believe unfair labor practices have been committed, consolidate these charges with Cases 06-ULP-05-0203 and 06-ULP-05-0205, 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), (2), (3), and (8), but not (5), by disciplining the President of the Local, docking her pay in retaliation for the exercise of guaranteed rights, and interfering with the administration of the union, 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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 14 of 21

11. Case 06-ULP-06-0257 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 bargaining-unit positions, reclassifying the positions as professional/administrative positions, and filling the positions as nonbargaining-unit positions. The investigation reveals the Maintenance Engineer 1, Accountant 3, and Data Systems Coordinator 2 positions were renamed and filled by nonbargaining-unit employees. The Charged Party's actions appear to be a unilateral reassignment of bargaining-unit work outside of the unit.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, coordinate with Case 06-ULP-04-0178, 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 the Maintenance Engineer 1, Accountant 3, and Data Systems Coordinator 2 bargaining-unit positions, reclassifying the positions as professional/administrative, and filling the positions as nonbargaining-unit positions, 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 \_\_\_\_\_

12. Case 06-ULP-06-0259 Stanley Koplan v. City of Cleveland

13. Case 06-ULP-06-0260 Stanley Koplan v. International Union of Operating Engineers, Local 10

In Case 06-ULP-06-0259, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (8) by interfering with the Charging Party's rights when it failed to compensate the Charging Party according to the parties' collective bargaining agreement.

In Case 06-ULP-06-0260, the unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(1), (2), and (6) by failing to fairly represent the Charging Party.

The investigation reveals the charges are untimely filed. No mitigating circumstances exist that warrant equitable tolling of the statute of limitations.

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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 15 of 21

14. Case 06-ULP-03-0144 Viviane Bushong v. Delaware City School District Board of Education, Principal Scott Best, and Vice Principal Heidi Kegley

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(4) and (7) by harassing and intimidating the Charging Party since the filing of her unfair labor practice charge in 2005. The investigation reveals the Charging Party requested to withdraw all untimely allegations for events occurring more than 90 days prior to the filing of the charge. The Charged Parties' actions are unrelated to the Charging Party having filed a previous unfair labor practice charge. Insufficient information has been provided to support the Ohio Revised Code § 4117.11(A)(7) allegation that the Charging Party was locked out or otherwise prevented from performing her regularly assigned duties in order to bring pressure on her or the Union to compromise or capitulate to the Charged Parties' terms regarding a labor relations dispute.

Board Member Verich moved that the Board construe the Charging Party's request to withdraw all untimely allegations as a motion to withdraw allegations for events occurring more than 90 days prior to the filing of the charges, grant the motion with prejudice, and for all remaining allegations, dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Charged Parties, and deny the Charged Parties' motion as moot. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

15. Case 06-ULP-04-0148 Transport Workers Union of America, Local 208 v. Central Ohio Transit Authority

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by disciplining an employee for engaging in protected activity. The investigation reveals Keith Mason was acting in his capacity as a union representative when he challenged an action he considered to be a violation of a recent resolution between the union and the Charged Party over who would be assigned to truck-driving duties. Mr. Mason appears to have been disciplined for acting in his capacity as a union representative.

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 (3) by disciplining employee Keith Mason for engaging in protected activity, and direct the parties to ULP mediation. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 16 of 21

16. Case 06-ULP-05-0222 Lester R. Howard, Jr. v. City of Trotwood

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (8) by placing the Charging Party on an "Early Warning System" in violation of his contract. The investigation reveals the Charged Party did not interfere with, restrain, or coerce the Charging Party in the exercise of his guaranteed rights. The Charged Party's actions do not cause the union to commit a violation because the union is in agreement with the application and interpretation of the "Early Warning System."

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 \_\_\_\_\_

17. Case 06-ULP-05-0201 International Association of Fire Fighters, Local 1729 v. City of Whitehall

18. Case 06-ULP-05-0223 Lester R. Howard, Jr. v. Ohio Patrolmen's Benevolent Association

19. Case 06-ULP-05-0238 Patricia L. McLaurin v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charges alleged the Charged Parties violated Ohio Revised Code § 4117.11. The Charging Parties failed to pursue the matters when they did not respond to requests for information.

Vice Chairman Gillmor moved that the Board dismiss the charges with prejudice because the Charging Parties have 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 \_\_\_\_\_



State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 18 of 21

24. Case 06-ULP-06-0297 Cambridge Education Association v. Cambridge City School District Board of Education
25. Case 06-ULP-07-0320 Chesapeake Local Teachers Association, OEA/NEA v. Chesapeake Union Exempted Village School District Board of Education
26. Case 06-ULP-07-0334 Ohio Association of Public School Employees, AFSCME Local 4 and Its Locals 179, 530, and 635, AFL-CIO v. Springfield Local School District Board of Education

Board Member Verich moved that the Board construe the notice and letter 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 \_\_\_\_\_

27. Case 06-ULP-03-0091 Kurt C. Eyman v. City of Euclid, Mayor Bill Cervenik, and Police Chief David Maine

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by announcing, then implementing, an eight-hour rotating shift schedule that included third shift for the first time while the bargaining-unit employees were considering and voting on a twelve-hour shift schedule, and by changing the procedure for selecting vacation time. The investigation reveals the Charged Parties may have attempted to interfere with the employees' right to vote on the twelve-hour shift issue by announcing and then implementing another shift schedule. The allegation regarding the change in procedure for selecting vacation time is untimely filed since the policy was implemented more than 90 days prior to the filing of the charge. No mitigating circumstances have been provided to warrant equitable tolling of the statute of limitations.

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 Parties violated Ohio Revised Code § 4117.11(A)(1), but not (5), by announcing, then implementing, an eight-hour rotating shift schedule that included third shift for the first time while the bargaining-unit employees were considering and voting on a twelve-hour shift schedule, direct the parties to ULP mediation, and dismiss the allegation for changing the procedure of selecting vacation time 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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 19 of 21

28. Case 06-ULP-06-0306 Fraternal Order of Police, Ohio Labor Council, Inc. v. Miami County Park District

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (5) by refusing to bargain in good faith with the newly certified bargaining unit, and by directly dealing with two bargaining-unit members. The investigation reveals the Charged Party refused to negotiate in good faith and interfered with the existence of the Charging Party when it did not offer any counter-proposals, but threatened it was going to contract-out all the new bargaining-unit positions. Contracting-out of bargaining-unit positions is a mandatory subject of bargaining. The Charged Party appears to have been "going through the motions" when it stated that the contracting-out threat was its counter-proposal.

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), (2), and (5), but not (3), by failing to bargain in good faith during the initial contract negotiations when it threatened to contract out the law enforcement duties currently assigned to the bargaining-unit members, 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                     

29. Case 06-ULP-06-0311 Edward C. Johnson, Jr. v. Shaker Heights City School District Board of Education, David Puffer, and Dr. Mark Freeman

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(2), (3), (5), (6), (7), and (8) by changing the terms and conditions of employment without bargaining when they initiated a layoff. The investigation reveals the Charging Party was a public employee who was harmed when he was part of the District's layoffs, but the Charging Party has not shown he was engaged in any protected activity at the time of the layoff. The Charging Party has failed to establish a prima facie case of discrimination. The Charging Party is one of twenty bargaining-unit members, some with more seniority than the Charging Party and some with less, who were affected by the layoffs.

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



State Employment Relations Board  
Board Meeting Minutes  
August 31, 2006  
Page 21 of 21

**Appointments** – Vice Chairman Gillmor moved that the Board approve the hiring of an internal Board candidate, Timothea G. Johnson, as Administrative Assistant 1 (Classification No. 63121), PCN No. 32.0, in Pay Range 8, as soon as administratively feasible. 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 approve the hiring of an external candidate as Researcher 3 (Classification No. 66923), PCN No. 31.0, in Pay Range 12, as soon as administratively feasible and contingent upon successful completion of further reference check. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

**Employee Recognition Program Announcement** - Executive Director Marziale reported that the reviewing committee had selected Ms. Vera Wehr as the Board's "Most Productive Employee" and that she would receive the award when it was announced to all staff later that afternoon in the Board's offices.

VIII. 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