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2. Case 06-REP-01-0013 International Association of Machinists and Aerospace Workers, AFL-CIO, District 54 and City of Rocky River

- There were 12 ballots cast
- There were 0 challenged ballots
- No Representative received 0 votes
- International Association of Machinists and Aerospace Workers, AFL-CIO, District 54 received 12 votes and prevailed in this election.

3. Case 06-REP-06-0085 Dawn M. Bloomfield District 1199/SEIU, AFL-CIO The Health Care and Social Service Union, and Wood County Child Support Enforcement Agency

- There were 21 ballots cast
- There were 0 challenged ballots
- No Representative received 8 votes
- District 1199/SEIU, AFL-CIO The Health Care and Social Service Union received 13 votes and prevailed in this election.

Vice Chairman Gillmor moved that the Board certify the election results and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining units. 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-05-0250 SERB v. Highland Local School District Board of Education

2. Case 05-ULP-11-0630 SERB v. Wood County Sheriff

Board Member Verich moved that the Board grant the motions to dismiss, 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-07-0342 Robert James Post v. Ohio Patrolmen's Benevolent Association

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. Information gathered during the investigation revealed the Charged Party took the basic and required steps to process the grievances filed by the other part-time patrol officers who contended the Employer was violating the contract by giving the Charging Party preferential treatment. The Charging Party failed to provide any information to show how the Charged Party's actions were arbitrary, discriminatory, or in bad faith.

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

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

2. Case 06-ULP-07-0344 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 763 v. Washington County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by terminating a newly hired employee in retaliation for engaging in protected activities. Information gathered during the investigation revealed Kristie Bartlett was not terminated by the Charged Party. The Charging Parties failed to provide any information to support the allegations of the charge.

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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3. Case 06-ULP-07-0353 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Cuyahoga Falls, Police Department and Chief John Conley

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (3) by removing members of the bargaining unit from Special Operations duties to Road Patrol in retaliation for engaging in protected activities. Information gathered during the investigation revealed the officers' reassignments had no effect on seniority status, shifts, vacations, holidays, or any other employment benefit, and were not an attempt to punish the officers in retaliation for their participation on the bargaining team. Two other officers, not engaged in protected activity, were also reassigned.

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-07-0380 Anthony J. George v. State of Ohio, Department of Rehabilitation and Correction, Pickaway Correctional Institution

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(1) by interfering with the Charging Party's guaranteed rights. Information gathered during the investigation revealed the Charging Party was afforded representation during the processing of his grievance. The Charged Party did not interfere with the Charging Party's Ohio Revised Code Chapter 4117 rights since it only guarantees representation by the certified representative, and not the choice of the individual providing the representation.

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. Cases 06-ULP-08-0388 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Cuyahoga Falls, Police Department and Chief John Conley
 06-ULP-08-0389

The unfair labor practice charges allege the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing the past practice of granting compensatory time. Information gathered during the investigation revealed the Charged Parties were not attempting to punish the employees by making a decision to terminate the ability to take compensatory time. A review of the Charged Parties' July 6, 2006 memorandum provides that in lieu of compensatory time, employees would be paid overtime. The parties' collective bargaining agreement provides that the Charged Parties can determine to compensate employees with overtime pay in lieu of compensatory time.

Vice Chairman Gillmor 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 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-08-0411 Tracy L. Stephens v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO, Chapter 2200

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. Information gathered during the investigation revealed on or about November 23, 2003, the Charging Party was disability separated and ceased to be a bargaining-unit member on that day. The Charging Party paid no dues after that date. The Charged Party asserts that the Charging Party was not a member of the bargaining unit, and it owed her no duty of fair representation. The disability separation matter is appropriately before the State Personnel Board of Review.

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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7. Case 06-ULP-08-0412 Tracy L. Stephens v. Ohio Veteran's Home

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by interfering with the Charging Party's rights when it failed to reinstate her to her former position of Nursing Assistant. Information gathered during the investigation revealed the Charging Party was not involved in any protected/concerted activity. The Charging Party has failed to provide information to support the allegations of the charge. The Charging Party is appropriately appealing her separation of employment with the State Personnel Board of Review.

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

8. Cases 06-ULP-07-0371 Annette M. Fazi v. City of Garfield Heights
- 06-ULP-07-0372 Bernadette T. Guarino v. City of Garfield Heights
- 06-ULP-07-0373 Christine L. Louis v. City of Garfield Heights
- 06-ULP-07-0374 Tracy D. Love v. City of Garfield Heights
- 06-ULP-07-0375 Joan M. MacMeans v. City of Garfield Heights
- 06-ULP-07-0376 Lynn M. McCollum v. City of Garfield Heights
- 06-ULP-07-0377 David B. Soros v. City of Garfield Heights
- 06-ULP-07-0378 Barb J. Wolfe v. City of Garfield Heights
- 06-ULP-07-0381 Kathleen M. Rinella v. City of Garfield Heights

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) when it retaliated against them for filing a Petition for Representation Election by withholding a pay increase. Information gathered during the investigation revealed the Charging Parties have established a prima facie case of discrimination. The Charged Party provided a persuasive rebuttal as to why the Charging Parties' pay increases were delayed, which was caused by a disagreement on the "appropriateness" of some of the increases. Once the disagreement was resolved, the Charging Parties received their pay increases.

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Board Member Verich moved that the Board dismiss the charges 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-08-0390 Ohio Association of Public School Employees, AFSCME Local 4 and Its Local 177 v. Forest Hills Local School District Board of Education

The unfair labor practice charge alleges the Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (2), (3), and (8) by interfering with and coercing Mary Young and Glenda Beard in the exercise of their guaranteed rights. Information gathered during the investigation revealed the Charged Party did not interfere with, restrain, or coerce Ms. Young or Ms. Beard in the exercise of their guaranteed rights. Ms. Young was given a verbal reprimand due to her failure to follow the pre-trip procedures established by the Transportation Department. Neither Ms. Young nor Ms. Beard filed a grievance over their reprimand or personal leave request. The Charging Parties failed to provide sufficient information to support the Ohio Revised Code § 4117.11(A)(2) and (8) allegations.

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 _____

10. Case 06-ULP-08-0391 Marlington Educators' Association, OEA/NEA v. Marlington Local School District Board of Education

The unfair labor practice charge alleged the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3) by discriminating against Susan Bucheit for the exercise of her guaranteed rights. Information gathered during the investigation revealed that while interpreting contract provisions, such as Articles 10 and 11, the issue of the validity of the performance evaluation should be addressed by the arbitrator due to the fact that Susan Bucheit received her normal step pay increases after receiving the evaluation.

Board Member Verich moved that the Board retain jurisdiction and defer the charge for resolution through the grievance-arbitration procedure 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 _____

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11. Case 06-ULP-08-0397

Erie County MR/DD Employees
Association, OEA/NEA v. Erie County
Board of Mental Retardation and
Developmental Disabilities

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally assigning bargaining-unit work to nonbargaining-unit employees. Information gathered during the investigation revealed the Charged Party did not interfere with, restrain, or coerce the bargaining-unit members in the exercise of their guaranteed rights. The Charged Party did not assign bargaining-unit work to nonbargaining-unit employees. The Lead Workers were hired and paid through the not-for-profit Double S Industries, Inc. (SS). SS is not a public employer as defined in Ohio Revised Code Chapter 4117. The Charged Party has a contract with SS to provide services, but SS is not under contractual obligation to use the Charged Party's employees. As for management personnel doing bargaining-unit work, it is permitted on a limited basis as addressed in Section 5.14 of the parties' agreement.

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-08-0427

Barberton City School District Board of
Education v. Barberton Education
Association, OEA

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(B)(5) and (8) by directing the entire teaching staff to boycott the Charging Party's Open Houses. The Charging Party has filed a motion to withdraw the charge.

Board Member Verich moved that the Board grant the motion to withdraw 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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13. Case 06-ULP-09-0442 Edgerton Education Association, OEA/NEA v. Edgerton Local School District Board of Education

The unfair labor practice charge alleged the Charged Parties violated Ohio Revised Code § 4117.11(A)(1) and (5) by ceasing negotiations due to the filing of a Petition for Representation Election. Information gathered during the investigation revealed the charge is a duplicate filing of Case 06-ULP-06-0314. The issue of failing to bargain due to the Petition for Representation Election being filed was addressed in Case 06-ULP-06-0314, and the Board previously found probable cause to believe an unfair labor practice occurred in that case, and ordered an expedited hearing.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice as being a duplicate filing. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

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

On August 31, 2006, the Board dismissed the unfair labor practice charge for lack of probable cause. The Charging Party alleged that the Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by failing to represent all public employees in the bargaining unit. On October 4, 2006, Charging Party filed a timely request for reconsideration. The Charging Party did not provide any new information meriting reconsideration.

Board Member Verich moved that the Board construe the Charging Party's request as a motion for reconsideration, and deny the motion with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

15. Cases 06-ULP-06-0289 Barbara Conroy v. Ledgemont Local School District Board of Education
06-ULP-06-0290 Ledgemont Association of Support Staff v. Ledgemont Local School District Board of Education
06-ULP-06-0291 Dorothy Mitchell v. Ledgemont Local School District Board of Education

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06-ULP-06-0292 Ilona Schmid v. Ledgemont Local School District Board of Education

06-ULP-06-0293 Kathryn Sizemore v. Ledgemont Local School District Board of Education

The unfair labor practice charges allege the Charged Party violated Ohio Revised Code § 4117.11(1), (2), (3), and (8) by retaliating against the Union's leadership for engaging in protected activities. Information gathered during the investigation revealed that a statement by Assistant Principal David Rogaliner indicated that the actions taken by the Charged Party against the Charging Parties may have been in retaliation of their filing grievances. Information provided failed to support the Ohio Revised Code § 4117.11(2) and (8) allegations.

Vice Chairman Gillmor moved that the Board find probable cause to believe unfair labor practices have been committed, authorize the issuance of a complaint, refer the matters to hearing to determine if the Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (3), but not (2) and (8), by informing the Charging Parties that filing grievances was the reason for adverse actions against the Charging Parties and by taking adverse actions, direct the parties to ULP mediation, and grant the Charged Party's motion to consolidate the cases. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

16. Case 06-ULP-09-0474 Robert Foster, III v. Annamarie of Aurora

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(4) and (6). Information gathered during the investigation revealed the charge does not contain any allegation that the Board is responsible for investigating. The Charging Party is not a public employee. The Charged Party is a private company and not a public employer under the Board's jurisdiction.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of jurisdiction. 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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17. Case 06-ULP-09-0475 Robert Foster, II v. Laurel Lake Retirement Community

The unfair labor practice charge alleges the Charged Party violated Ohio Revised Code § 4117.11(A)(4) and (6). Information gathered during the investigation revealed the charge does not contain any allegation that the Board is responsible for investigating. The Charging Party is not a public employee. The Charged Party is a private company and not a public employer under the Board's jurisdiction.

Vice Chairman Gillmor moved that the Board dismiss the charge with prejudice for lack of jurisdiction. Board Member Verich seconded the motion. Chairman Mayton called for the vote.

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

18. Case 06-ULP-09-0460 Barberton Education Association, OEA/NEA v. Barberton City School District Board of Education

19. Case 06-ULP-10-0492 Western Reserve Education Association, OEA/NEA v. Western Reserve City School District Board of Education

20. Case 06-ULP-09-0487 Kalida Education Association, OEA/NEA v. Kalida Local School District Board of Education

21. Case 06-ULP-10-0521 Kalida Education Association, OEA/NEA v. Kalida Local School District Board of Education

Board Member Verich moved that the Board grant the motions to withdraw with prejudice. Vice Chairman Gillmor seconded the motion. Chairman Mayton called for the vote.

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

