

State Employment Relations Board

Board Meeting Minutes

June 6, 2013

The State Employment Relations Board met on June 6, 2013, at 10:00 a.m., at 65 East State Street, 12th Floor, Columbus, Ohio. Present at the meeting were Chair W. Craig Zimpher and Board Member N. Eugene Brundige. The third SERB member position is vacant.

I. APPROVAL OF MINUTES FOR THE MAY 16, 2013 BOARD MEETING:

Board Member Brundige moved that the Board approve the minutes for the May 16, 2013 Board meeting. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

APPROVAL OF MINUTES FOR THE MAY 16, 2013 EMERGENCY MEETING:

Board Member Brundige moved that the Board approve the minutes for the May 16, 2013 emergency meeting. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Closing of 621 Cases

Board Member Brundige moved that the Board close 621 Mediation cases beginning with Case 2009-MED-01-0023 and ending with Case 2012-MED-12-1461, not consecutively numbered. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 2013-REP-02-0006 United Steelworkers (USW) and City of Westerville
(June 25, 2013 - July 8, 2013)

All parties have executed and filed a Consent Election Agreement seeking a mail-ballot election.

Board Member Brundige moved that the Board approve the Consent Election Agreement and direct a mail-ballot election to be conducted during the polling period of June 25, 2013 through July 8, 2013. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

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2. Case 2013-REP-03-0024 Teamsters Local 24 of the International Brotherhood of Teamsters and Stow-Monroe Falls Classified Employees' Association, OEA/NEA and Stow-Monroe Falls School District Board of Education

The Teamsters filed a Petition for Representation Election. The current collective bargaining agreement expires on June 30, 2013. OEA/NEA requested that SERB hold an evidentiary hearing to determine the authenticity of the showing of interest submitted.

During the election process, OEA/NEA will have the opportunity to address any perceived misinformation. The statement at the top of the showing of interest clearly states the petition's purpose. Any person who signed the petition reasonably knew, or should have known, the intent of the petition. The showing of interest is substantial and there appears to be no information on record to support the necessity to hold an evidentiary hearing. As there is no dispute on record as to the bargaining unit composition, directing the matter to a mail-ballot election appears appropriate.

Board Member Brundige moved that the Board direct that a mail-ballot election be conducted during a polling period to be determined by the Representation Section, in consultation with the parties, and deny the Incumbent Employee Organization's request for an evidentiary hearing.

As required by Ohio Administrative Code Rule 4117-5-07(A), no later than June 17, 2013, the Employer shall serve on the parties and shall file with SERB, a numbered, alphabetized election-eligibility list containing the names and home addresses of all employees eligible to vote as of the last pay period just prior to June 6, 2013. The Employer shall also provide the election-eligibility list to SERB in label format.

Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

3. Case 2013-REP-04-0030 Teamsters Local No. 436, affiliated with the International Brotherhood of Teamsters and Cuyahoga County

The Employee Organization filed a Request for Recognition. The Employer filed objections. The parties agreed that it would be more efficient to add the four employees to an existing Board-certified unit, so they jointly filed a Petition for Amendment of Certification. The proposed amendment appears appropriate.

Board Member Brundige moved that the Board approve the jointly filed petition, amend the unit accordingly, and dismiss the Request for Recognition as moot. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

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4. Case 2013-REP-04-0039 Cleveland Building & Construction Trades Council and Cuyahoga County

The parties jointly filed a Petition for Amendment of Certification seeking to reflect a name change and consolidate several bargaining units. The proposed amendment appears appropriate.

Board Member Brundige moved that the Board approve the jointly filed petition and amend the unit accordingly. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

5. Case 2013-REP-03-0019 Ohio Patrolmen's Benevolent Association and City of Kirtland

The Union filed a Petition for Clarification of Bargaining Unit. The Employer filed objections.

At issue is Officer Chris Anton's hours and whether he is properly excluded as a part-time employee or if he should be included in the bargaining unit. After the petition was filed, Officer Anton's hours were drastically reduced and the union filed an Unfair Labor Practice (2013-ULP-03-0075) on his behalf.

Board Member Brundige moved that the Board direct the matter to hearing and coordinate with Case No. 2013-ULP-03-0075. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

6. Case 2012-REP-09-0093 International Union of Operating Engineers, Local 18 and City of Findlay

7. Case 2012-REP-12-0142 Newton Falls Association of Classified Employees, OEA/NEA and Newton Falls Exempted Village Board of Education

The Employee Organizations filed petitions. The Employers responded by filing objections. The Employee Organizations have now filed motions to withdraw.

Board Member Brundige moved that the Board grant the motions to withdraw and dismiss without prejudice the petitions. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

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8. Case 2013-REP-04-0029 Fraternal Order of Police, Ohio Labor Council, Inc. and City of Mt. Healthy

The Employee Organization filed a Request for Recognition. The Employer responded by filing objections. The Employee Organization has now filed a Motion to Withdraw.

Board Member Brundige moved that the Board grant the motion, and dismiss without prejudice the Request for Recognition. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

9. Case 2012-REP-09-0102 Fraternal Order of Police, Lodge 116 and City of Willowick

- There were 7 valid ballots cast
- There were 0 void ballots
- There was 1 challenged ballot
- No Representative received 0 votes
- Fraternal Order of Police, Lodge 116 received 7 votes and prevailed in this election.

10. Case 2012-REP-09-0104 Fraternal Order of Police, Lodge 15 and City of North Royalton
(Corrections Officers)

- There were 10 valid ballots cast
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 0 votes
- Fraternal Order of Police, Lodge 15 received 10 votes and prevailed in this election.

11. Case 2012-REP-09-0105 Fraternal Order of Police, Lodge 15 and City of North Royalton
(Hourly rated employees)

- There were 6 valid ballots cast
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 0 votes
- Fraternal Order of Police, Lodge 15 received 6 votes and prevailed in this election.

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12. Case 2012-REP-10-0117 Fraternal Order of Police, Ohio Labor Council, Inc. and University of Cincinnati, Department of Public Safety
- There were 4 valid ballots cast
 - There were 0 void ballots
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 4 votes and prevailed in this election.
13. Case 2012-REP-11-0126 Fraternal Order of Police, Ohio Labor Council, Inc. and Bath Township, Summit County
(Sergeants & Lieutenants)
- There were 5 valid ballots cast
 - There were 0 void ballots
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 5 votes and prevailed in this election.
14. Case 2012-REP-11-0127 Fraternal Order of Police, Ohio Labor Council, Inc. and Bath Township, Summit County
(Dispatchers)
- There were 5 valid ballots cast
 - There were 0 void ballots
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 5 votes and prevailed in this election.
15. Case 2012-REP-11-0128 Fraternal Order of Police, Ohio Labor Council, Inc. and Bath Township, Summit County
(Police Officers)
- There were 13 valid ballots cast
 - There were 0 void ballots
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 13 votes and prevailed in this election.

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16. Case 2012-REP-12-0138 Teamsters Local 20 and Ottawa County Commissioners

- There were 3 valid ballot casts
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 0 votes
- Teamsters Local 20 received 3 votes and prevailed in this election.

17. Case 2012-REP-09-0108 Fraternal Order of Police, Lodge 15 and Ohio Patrolmen's Benevolent Association and City of Strongsville

- There were 11 valid ballot casts
- There was 1 void ballot
- There were 0 challenged ballots
- No Representative received 0 votes
- Ohio Patrolmen's Benevolent Association received 0 votes
- Fraternal Order of Police, Lodge 15 received 11 votes and prevailed in this election.

18. Case 2012-REP-11-0130 Cleveland State University Chapter of the American Association of University Professors (SCU/AAUP) and Cleveland State University (Subsequent Tally Held May 20, 2013)

- There were 31 valid ballot casts
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 14 votes
- Cleveland State University Chapter of the American Association of University Professors (SCU/AAUP) received 17 votes and prevailed in this election.

Board Member Brundige moved that the Board certify the election results and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining unit. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

There were no Administrative Law Judge or Board Matters at Issue.

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 2013-ULP-01-0006 Highland Heights Firefighters, IAFF Local 2380 v. City of Highland Heights

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally modifying health insurance benefits.

Information gathered during the investigation revealed the issues raised are strictly contractual with no evidence of a statutory violation.

Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

2. Case 2013-ULP-02-0049 United Auto Workers, International Union v. Lucas County Sheriff's Office

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1).

Information gathered during the investigation revealed pursuant to the Board's investigation, under Ohio Revised Code 4117.12, information was requested in writing from Charging Party on March 1, 2013 and April 24, 2013. Charging Party did not respond to the written requests for information.

Board Member Brundige moved that the Board dismiss the charge with prejudice because the Charging Party failed to pursue the matter. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

3. Case 2013-ULP-03-0052 Laborers' Local 860 v. City of Geneva

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally implementing an attendance policy.

Information gathered during the investigation revealed pursuant to Prong 1 of Youngstown, the absenteeism policy does not appear to be related to wages, hours or terms and conditions of employment. Prong 2 supports the Charged Party's argument that it had the management right to implement the policy. Under Prong 3, the parties' collective bargaining agreement provides for the right to file grievances regarding changes to the work rules. Charging Party did not file a grievance.

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Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

4. Case 2013-ULP-03-0055 Polaris Education Association, OEA/NEA v. Polaris Joint Vocational School District Board of Education

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1) and (3) by commencing termination proceedings against Kevin Mauser as a result of his protected, concerted activities.

Information gathered during the investigation revealed Charging Party has established a prima facie case of discrimination. However, Charged Party provided a persuasive rebuttal to show that Mr. Mauser's termination was unrelated to his protected activities.

Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

5. Case 2013-ULP-03-0061 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 521 v. New London Local School District Board of Education

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1), (2), (3) and (8) by making threats to the OAPSE President in an attempt to interfere with her exercise of guaranteed rights and the administration of the Union.

Information gathered during the investigation revealed although the alleged threats made to Ms. Kamm are in dispute, Charging Parties failed to provide any information to support the (A)(1), (2), or (3) allegations.

Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

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6. Case 2013-ULP-03-0062 Arnold Couch v. Ohio Civil Service Employees Association, AFSCME Local 11

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (B)(6) by failing to fairly represent him.

Information gathered during the investigation revealed Charged Party's actions do not appear to rise to a violation of the statute. Charging Party did not provide information to support the (B)(6) allegation.

Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

7. Case 2013-ULP-03-0067 Service Employees International Union, District 1199 v. Auglaize Acres

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(5).

Pursuant to the Board's investigation, under Ohio Revised Code 4117.12, information was requested in writing from Charging Party on March 28, 2013 and April 29, 2013. Charging Party did not respond to the written requests for information.

Board Member Brundige moved that the Board dismiss the charge with prejudice because the Charging Party failed to pursue the matter. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

8. Case 2013-ULP-03-0075 Ohio Patrolmen's Benevolent Association v. City of Kirtland

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1), (3), and (5) by reducing Chris Anton's hours in retaliation for exercising his guaranteed rights.

Information gathered during the investigation revealed Charging Party has established a prima facie case of discrimination. Charged Party failed to provide a persuasive rebuttal to show that Officer Anton's reduction in hours was unrelated to his protected activities. Additionally there appears to be a credibility issue with respect to the scheduling of Officer Anton. While Charged Party contends Officer Anton voluntarily picked up the extra hours, Charging Party contends he was pre-scheduled for the full-time hours. The matter appears best addressed through a hearing.

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Board Member Brundige moved that the Board find probable cause to believe an unfair labor practice has been committed, coordinate with Case No. 2013-REP-03-0019, order the parties immediately to ULP mediation for a period not to exceed 45 days, authorize the assigned mediator, after consultation with the parties, to issue and e-mail a mediator's procedural order, including date, time, and location of mediation within the time period designated. If the mediation is unsuccessful, authorize the issuance of a complaint and refer the matter to hearing to determine if Charged Party violated Ohio Revised Code 4117.11(A)(1) and (3), but not (5) by reducing Chris Anton's hours in retaliation for exercising his guaranteed rights. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

9. Case 2013-ULP-03-0076 John Knapp v. State of Ohio - Department of Job & Family Services

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(7) by investigating his actions in an attempt to discipline him.

Information gathered during the investigation revealed despite Charging Party's belief that it was unjust to investigate him, the actions of the Charged Party do not rise to the level of a violation of the statute.

Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

10. Case 2013-ULP-03-0078 Bernard J. Thyen v. Service Employees International Union, District 1199

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (B)(6) by failing to fairly represent him.

Information gathered during the investigation revealed Charged Party's actions do not appear to rise to a violation of the statute. Charging Party failed to provide information to support the (B)(6) allegation.

Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

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11. Case 2013-ULP-04-0090 Otis Davenport v. State of Ohio, Bureau of Workers Compensation

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1), (2), (3), (4), (5), (6), (7), and (8) by attempting to interfere with, restrain or coerce him from filing grievances.

Information gathered during the investigation revealed Charging Party was issued a Direct Order to follow the chain of command with respect to complaint issues. A review of the Direct Order does not prohibit Charging Party from filing grievances. Despite Charging Party's claim he is being retaliated against, the information provided does not support his claim.

Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

12. Case 2013-ULP-01-0007 Larry Dillard v. Toledo Area Sanitary District

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1) by wrongfully terminating him as a result of his efforts to defend his rights as a union member.

Information gathered during the investigation revealed on April 4, 2013, the Board dismissed the above charge for lack of probable cause. On April 22, 2013, Charging Party filed a timely request for reconsideration. Charging Party did not provide any new information meriting reconsideration.

Board Member Brundige moved that the Board construe the request for reconsideration as a Motion for Reconsideration, and deny the motion with prejudice. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

13. Case 2013-ULP-03-0068 Stow-Munroe Falls City School District Board of Education v. Stow-Munroe Falls Classified Employees Association, OEA/NEA

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (B)(3) by attempting to use the grievance procedure to change the terms and conditions of the negotiated agreement.

Information gathered during the investigation revealed it does not appear Charged Party is attempting to contravene the terms of the parties' agreement by advancing the grievance to arbitration when the parties could not agree on a resolution to the issue

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contained in the grievance. Charging Party did not provide sufficient information or documentation to show how the grievance filing was a contravention of the terms of the agreement. The matter appears to be purely contractual encompassing no arguable statutory violation. Also, the charge appears to be untimely filed based on the December 3, 2013 date of when Charged Party notified Charging Party of its intent to arbitrate the grievance, the charge should have been filed on or before March 4, 2013, but was not filed until March 20, 2013.

Board Member Brundige moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed and as untimely filed. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

14. Case 2013-ULP-03-0084 Elyria Schools Support Staff, OEA/NEA v. Elyria City School District Board of Education

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally adding a Customer Service criteria to the previously negotiated evaluation form and by changing the past practice of who evaluates the building secretaries.

Information gathered during the investigation revealed the allegation of who evaluates the secretaries appears to be untimely filed. Charging Party knew or should have known no later than October 25, 2012 that Ms. Younglas would be evaluating the secretaries. A charge containing that allegation should have been filed on or before January 23, 2013. The allegation of adding a customer service component to the evaluation form appears to be prematurely filed. Evaluation documents show the secretaries 2013 evaluations do not contain any mention of customer service. The evaluations were issued in March 2013, prior to Ms. Younglas' April 12th statement regarding customer service.

Board Member Brundige moved that the Board dismiss with prejudice the allegation of changing the past practice of who evaluates the secretaries as untimely filed, and dismiss without prejudice the allegation of unilaterally adding a customer service criteria to the evaluation form as prematurely filed. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

15. Case 2013-ULP-03-0085 Elyria Schools Support Staff, OEA/NEA v. Elyria City School District Board of Education

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1), (3), and (5) by retaliating against Union President Pam Snider for her exercise of guaranteed rights.

Information gathered during the investigation revealed Charging Party has established a prima facie case of discrimination. However, Charged Party provided a persuasive

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rebuttal to show Ms. Snider's discipline was administered due to the many written and verbal complaints it received regarding her demeanor and not anti-union animus. Charging Party did not file a grievance regarding Ms. Snider's verbal warning. Charging Party did not provide sufficient information or documentation to support the (A)(5) allegation.

Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
 Affirmed X Denied _____

16. Case 2013-ULP-04-0086 Beavercreek Education Association, OEA/NEA and Beavercreek Classified Employees Association, OEA/NEA v. Beavercreek City School District Board of Education

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally changing the past practice and policy of providing wage continuation benefits for members injured on the job.

Information gathered during the investigation revealed the parties' agreements are silent on the subject of salary continuation agreements. Charged Party provided 6 previous examples of Union members' continuation agreements expiring, which were not renewed and/or not even being offered continuation agreements and no objections were filed by either Union. It appears if Charging Parties had a question regarding the BWC policy, its recourse would have been to contact BWC for clarification. Charged Party's actions do not appear to rise to the level of a statutory violation. Charging Parties did not provide sufficient information or documentation to support the (A)(1) allegation.

Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
 Affirmed X Denied _____

17. Case 2013-ULP-04-0088 Kenston Education Association, OEA/NEA v. Kenston Local School District Board of Education

The unfair labor practice charge alleged that Charged Party 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 a volunteer does not fall into the description of a nonbargaining-unit employee as identified in O.R.C. 4117.01(C). Charging Party did not provide sufficient information or documentation to show how Mrs. Gretkierewicz's work with students 2 days per week affected the wages, hours or terms and conditions of employment for any of its Academic Tutors. Charging Party's

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documentation failed to support what Mrs. Gretkierewicz was covering was the exact material that only the Academic Tutors are permitted to be covering with their students. Charging Party did not provide sufficient information or documentation to support the (A)(1) allegation.

Board Member Brundige 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
 Affirmed X Denied _____

18. Case 2012-ULP-12-0334 Association of Cuyahoga County Employees for Special Students v. Cuyahoga County Board of Developmental Disabilities

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1) and (5) by interfering with bargaining-unit members' rights to be recalled and unilaterally permitting an external third party to perform bargaining-unit duties.

Board Member Brundige moved that the Board, without rendering any judgment on the merits, order the parties to pre-determination mediation for a period not to exceed 30 days with instructions to the mediator to report back to the Board at the conclusion of the mediation or the mediation period, whichever comes first, authorize the assigned mediator, after consultation with the parties to issue and e-mail a mediator's procedural order, including date, time, and location of mediation within the time period designated. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
 Affirmed X Denied _____

19. Case 2012-ULP-04-0089 International Association of Fire Fighters Local 92 v. City of Toledo

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (A)(1), (3), and (5) by interfering, restraining and discriminating against an employee in the exercise of his guaranteed rights by refusing union representation.

Information gathered during the investigation revealed on July 19, 2012, the Board deferred the charge to the parties' grievance-arbitration procedure. On April 2, 2013, the arbitrator issued an award. On April 8, 2013, Charging Party requested SERB review the award. The award addressed the facts of the grievance, but the alleged statutory violation remained. It appears Charged Party's refusal to allow Lt. Dougherty to have Union representation during his disciplinary hearings rises to the level of a statutory violation. Mediation is not recommended.

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Board Member Brundige moved that the Board construe Charging Party's letter as a Motion to Review, grant the motion and find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, and refer the matter to a hearing to determine if the Charged Party violated Ohio Revised Code 4117.11(A)(1), (3) and (5) for refusing to allow union representation during disciplinary hearings. Chair Zimpher seconded the motion. Chair Zimpher called for discussion.

Board Member Brundige stated that he has questions about what issues may be left that were not addressed in the arbitrator's award, but he will vote for the recommendation and let the Administrative Law Judge sort it out. Chair Zimpher stated that he agreed.

Chair Zimpher called for the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

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| 20. | Case | 2013-ULP-03-0072 | <u>Mike Rogers, John Neth, Dave Deitering, Greg Holobaugh, Wayne Ledyard v. Ohio Civil Service Employees Association, AFSCME Local 11</u> |
| 21. | Case | 2013-ULP-04-0093 | <u>Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Wilmington</u> |
| 22. | Case | 2013-ULP-04-0102 | <u>Josh Marshall v. Ohio Civil Service Employees Association, AFSCME Local 11</u> |
| 23. | Case | 2013-ULP-04-0107 | <u>Carlton Furry v. Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO</u> |
| 24. | Case | 2013-ULP-04-0108 | <u>Todd Gordon v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO</u> |
| 25. | Case | 2013-ULP-04-0112 | <u>Communications Workers of America Local 4319 v. University of Toledo</u> |
| 26. | Case | 2013-ULP-05-0135 | <u>Laborers' Local 860 v. Cuyahoga County</u> |

Board Member Brundige moved that the Board construe the SERB mediated settlement agreements and the requests to withdraw as motions to withdraw, and grant the motions with prejudice. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

VI. TABLED AND OTHER MATTERS:

- | | | | |
|----|------|------------------|---|
| 1. | Case | 2013-ULP-01-0019 | <u>Springboro Education Association, OEA/NEA v. Springboro Community City Schools Board of Education</u>
Hold In Abeyance – March 14, 2013 |
|----|------|------------------|---|

VII. ADMINISTRATIVE MATTERS:

SERB REGULAR SCHEDULED MEETING DATES:

- Reminder of the next regular scheduled meeting dates of the State Employment Relations Board:
 - **June 27, 2013**
 - **July 25, 2013**
 - **August 15, 2013**
 - **September 12, 2013**

SYSTEM UPDATES:

- **Employee Organization (E.O.) Annual Reporting Requirements update: 747**
Organizations have a fiscal year end of 12/31/2012. Filing deadline was May 15th. Currently 63 organizations are not in compliance. If these Employee Organizations have not come into compliance by June 15th they will receive a final notice of requirement to file an annual report and financial report. The notice will indicate they are 31 days past the deadline to file the required reports. They will be put on notice that the Board may withhold certification of an employee organization that willfully refuses to register or file appropriately. If there is no valid response to the notice SERB can issue a Show Cause Hearing notice (Directive to Hearing).
- **Cost of Health Insurance in the Public Sector Survey update:** Of the 1,325 surveys sent 1,222 have been completed. To date the response rate is 92.2%. Justin Brown of Research and Training is working on finalizing the SPSS database. He plans to run the SPSS Syntax Monday June 10th which will provide him with the numbers to transfer to the actual insurance report. Finalization is projected for around July 1. Publication of the official report is set for August 1st or sooner.
- **Spring Cleaning/Paint and Carpet updates:** A much needed overhaul of certain areas of the 12th floor will be painted and get new carpet to replace old and worn out/torn carpet. This will entail a long overdue clean out the files in the effected office areas in order to prepare for the work. The work is scheduled to begin this Friday evening through the weekend and into the week after hours. This will follow with the carpet installation. The carpet will be installed at night beginning next Monday and continuing on Tuesday, Wednesday, and Thursday and then continuing until completion on the following Monday and Tuesday evenings after working hours. This will be a major inconvenience for a short period of time but the end result will be most positive.
- **XLN/CMDS:** XLN continues to move toward the completion of CMDS. Everything is anticipated to be completed no later than mid June. SMDS enhancements have been collected and submitted to be funded for XLN project in FY14.
- **Controlling Board regarding lease of premises:** The current term of the lease for the 12th floor expires June 30, 2013. We have requested to renew the lease for an additional term beginning July 1, 2013 and ending June 30, 2015 at an annual rate of \$14.00 per square foot for a total of \$208,638.00. This is contingent upon Controlling Board approval pursuant to Section 127.16(B) (2) of the Ohio Revised Code. The Controlling Board convenes on Monday, June 10, 2013; our two (2) year lease is on the agenda. SERB leases 14,685 square feet of office space plus 277 square feet of storage space for a total of 14, 962 square feet. I will be at the meeting to represent SERB.
- **Ohio Association of Public Treasurers Public Finance Officers Training Institute:** Donald Collins, Christine Dietsch and Justin Brown will present on the topic of Collective Bargaining and SERB Procedure at the 33rd annual meeting of the Ohio Association of Public Treasurers on Tuesday, June 11, 2013, in Sandusky, Ohio.

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- **FY14 OBM Allotment Budget Template:** Template was submitted on May 29, 2013 and will be uploaded into OAKS on June 10, 2013. This is the proposed budget which is still tracking positively in House Bill 59. Total GRF funding (operating budget) is \$3,761,457 and non-GRF (Training and Publications) is \$85,000 for a total of \$3,846,457. The same funding level is proposed for FY15.
- **Summer Legal Interns:** The legal interns will be attending the 2013 Summer Associate Seminar, *Legal Research for a Successful Summer*, on **Friday, June 7, 2013** from 8:30 a.m. to 2:30 p.m. This is hosted by The Legal Research and Information Resources Committee of the Columbus Bar Association. They are holding the seminar at the Columbus Bar Association, 175 South third Street, Columbus. The seminar is designed for first or second year law students who are summer associates at law firms, courts or government offices in Columbus.

REMINDER:

- **Ethics Training:** Susan Willeke, Education and Communications Administrator of the Ohio Ethics Commission, will once again provide the required Ethics training on site at SERB as we did last year. It is scheduled for 6/27/13 at 1 p.m. in Hearing Room 1.
- **Conference on Ohio Public Sector Fact Finding: the Ohio State Employment Relations Board** will be held Friday, August 16, 2013 at the Crowne Plaza Hotel, Dublin. This conference brings together presenters and participant professionals who are part of the Fact-Finding process. It includes representatives of labor and management, neutrals who preside as Fact Finders, staff of the State Employment Relations Board under whose jurisdiction the Fact-finding is conducted, and attorneys whose practice includes representing the parties at Fact Finding.

WELCOME:

Angela Phelps-White has accepted the position of Labor Relations Administrator at SERB. Angela received both her Bachelors degree and Law degree from the University of Dayton. Angela brings significant legal, labor relations, employment law and management experience to the agency. Most recently, Angela has served as the Assistant Section Chief in the Attorney General's Labor Relations Section, where she has supervised and evaluated staff attorneys, paralegals and investigators. Equally importantly, Angela has litigated in courts throughout Ohio in SERB's defense. Angela also currently serves as the Attorney General's representative for the State Personnel Board of Review.

Her prior experience includes service on the Franklin County Court of Common Pleas, where she presided over court proceedings, pre-trial conferences and conducted mediations involving a variety of legal issues. Angela has also served as an Adjunct Professor at Capital University Law School. Among her many accomplishments have been the selection by the League of Women Voters as Member of the Year in 1999, Black Women of Courage Honoree for 1999, and The National Library of Poetry's 1996 Editor's Choice Award winner. Her community involvements have included mentoring at Mound Elementary School, involvement in the Ohio Children's Defense Fund, and as a Board Member of the Jo Ann Davidson Leadership Institute. One of her most distinguished accomplishments, from 1999 to present, has been as a Reader for the Ohio State Bar Examination.

Angela will join us on June 17, 2013; please join us in welcoming her to SERB.

Kenneth Hickey has accepted the challenge of working full time with SERB as a Mediator effective June 17, 2013. He fills the position most recently vacated by the retirement of Mediator Craig Young. Ken has been with SERB as an Intermittent Mediator since October 24, 2011 and has done an outstanding job serving with distinction. Ken's prior experience in the legal profession and especially in labor/management negotiations, mediation, and related specialties has enabled him to transition very ably to our mission at SERB.

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We're very fortunate to have Ken join us on a full time basis and continue to contribute his skills to our mediation program. Welcome him aboard. And thanks for his continued commitment to SERB!

VII. EXECUTIVE SESSION:

Board Member Brundige moved that the Board go into executive session, pursuant to Ohio Revised Code § 121.22(G)(3) to confer with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

The Board went into Executive Session at 10:36 a.m.

Board Member Brundige moved that the Board exit from Executive Session. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

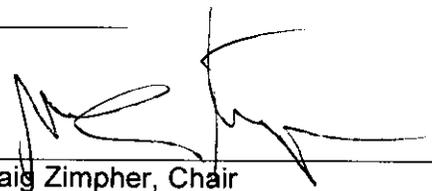
The Board exited from Executive Session at 10:50 a.m.

IX. ADJOURNMENT:

Board Member Brundige moved that the Board adjourn the meeting. Chair Zimpher seconded the motion. Chair Zimpher called for the vote.

Vote: BRUNDIGE: Yes ZIMPHER: Yes
Affirmed X Denied _____

The Board meeting adjourned at 10:51 a.m.


/s/
W. Craig Zimpher, Chair