

State Employment Relations Board

Board Meeting Minutes

February 12, 2015

The State Employment Relations Board met on February 12, 2015, at 10:00 a.m., at 65 East State Street, 12th Floor, Columbus, Ohio. Present at the meeting were Chair W. Craig Zimpher, Vice Chair Aaron A. Schmidt, and Board Member N. Eugene Brundige.

I. APPROVAL OF MINUTES FOR THE JANUARY 15, 2015 BOARD MEETING:

Board Member Brundige moved that the Board approve the minutes for the January 15, 2015 Board meeting. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Closing of 454 Cases

Vice Chair Schmidt moved that the Board close 454 Mediation cases beginning with Case No. 2011-MED-01-0001 and ending with Case No. 2014-MED-05-0754, not consecutively numbered. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 2014-REP-12-0148 Maple Organization Support Team/OEA/NEA and
and Maple Heights City School District Board of
Education

The Employee Organization filed an Opt-In Request for Recognition. The substantial evidence is sufficient and no objections have been filed. The Employer has complied with the posting requirements.

Board Member Brundige moved that the Board certify the Employee Organization as the exclusive representative of all employees subject to the request and add them to the Employee Organization's existing unit. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

2. Case 2014-REP-11-0132 International Brotherhood of Electrical Workers
(IBEW) Local Union 245 and Lake Township, Wood
County
(February 24, 2015 – March 9, 2015)

3. Case 2014-REP-11-0133 International Brotherhood of Electrical Workers
(IBEW) Local Union 245 and Lake Township Fire
Department, Wood County
(February 24, 2015 – March 9, 2015)

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4. Case 2014-REP-12-0147 Tipp City Education Association, OEA/NEA and Tipp City Exempted Village School District Board of Education
(February 24, 2015 – March 9, 2015)
5. Case 2014-REP-12-0149 Shaker Heights Teachers Association and Shaker Heights City School District
(February 24, 2015 – March 9, 2015)

All parties have executed and filed the appropriate Consent Election Agreements.

Vice Chair Schmidt moved that the Board approve the Consent Election Agreements and direct mail-ballot elections to be conducted during the polling periods indicated. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

6. Case 2014-REP-11-0137 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and City of North College Hill

The Employee Organization filed a Petition for Amendment of Certification. In support of affiliation, the Employee Organization provided information verifying that the standards set by the Board have been met. No questions concerning representation are pending. The Employer has not filed objections or a position statement.

Board Member Brundige moved that the Board approve the petition and amend the certification accordingly. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

7. Case 2014-REP-12-0140 West Geauga Education Association, OEA/NEA and West Geauga Local Schools
8. Case 2015-REP-01-0003 Ohio Council 8, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO and City of Napoleon

The parties jointly filed Petitions for Amendment of Certification and they appear appropriate.

Vice Chair Schmidt moved that the Board approve the jointly filed petitions and amend the units accordingly. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

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9. Case 1995-REP-03-0061 City, County & Waste Paper Drivers Union Local No. 244 and City of Euclid

The Employee Organization filed a Notice of Disclaimer of Interest. The Employer has not opposed the request. The collective bargaining agreement expired on December 31, 2014.

Board Member Brundige moved that the Board construe the Notice of Disclaimer of Interest as a Motion to Revoke Certification, grant the motion, and revoke the Employee Organization's certification. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

10. Case 2014-REP-10-0128 Goshen Township Police Association and Goshen Township, Clermont County

The Employee Organization filed an Opt-In Request for Recognition. The Employer responded by filing objections and an Opt-In Petition for Representation Election. A conference call was conducted; however, the parties could not reach an agreement concerning an appropriate bargaining unit.

Chair Zimpher moved an alternative recommendation that the Board direct this matter to SERB's Office of General Counsel to assign a staff member to conduct an inquiry regarding whether the employee in question is a "public employee" pursuant to Ohio Revised Code Chapter 4117, and, if found to be, to determine an appropriate bargaining unit and for all other relevant issues. Upon completion of the inquiry, a report and recommendation shall be submitted to the Board. The Office of General Counsel may engage the parties in mediation if the situation warrants. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

11. Case 2014-REP-12-0144 Ohio Patrolmen's Benevolent Association and City of Ravenna

The Employee Organization filed an amended Petition for Representation Election. The Employer responded by timely filing objections stating that the proposed unit consists entirely of supervisors. A conference call was conducted; however, the parties could not reach an agreement concerning an appropriate bargaining unit and the dispute remains.

Chair Zimpher moved an alternative recommendation that the Board direct this matter to SERB's Office of General Counsel to assign a staff member to conduct an inquiry regarding whether the employees in question are "public employees" pursuant to Ohio Revised Code Chapter 4117, and, if found to be, to determine an appropriate bargaining unit and for all other relevant issues. Upon completion of the inquiry, a report and recommendation shall be submitted to the Board. The Office of General Counsel may engage the parties in mediation if the situation warrants. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

12. Case 2014-REP-12-0146 Teamsters Local Union No. 413 affiliated with the International Brotherhood of Teamsters and Franklin County Sheriff's Office

The Employee Organization filed an Opt-In Request for Recognition. The Employer filed objections. A conference call was conducted and as a result the Employee Organization sent an e-mail seeking to withdraw the request.

Vice Chair Schmidt moved that the Board construe the Employee Organization's e-mail as a motion to withdraw, grant the motion, and dismiss without prejudice the Opt-In Request for Recognition. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

13. Case 2015-REP-01-0005 IUOE Local 20 and UC Health, LLC

The Employee Organization filed a Petition for Clarification of Bargaining Unit and has now filed a Notice of Withdrawal.

Board Member Brundige moved that the Board construe the Employee Organization's Notice of Withdrawal as a motion to dismiss, grant the motion, and dismiss without prejudice the Petition for Clarification of Bargaining Unit. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

14. Case 2014-REP-08-0097 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Fairfield County Sheriff (f/t Sergeants & Lieutenants)

- There were 11 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 0 votes
- Ohio Patrolmen's Benevolent Association received 11 votes and prevailed in this election.

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15. Case 2014-REP-08-0098 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Fairfield County Sheriff and Fairfield County Sheriff
(f/t sworn Deputies & Corrections Deputies)
- There were 73 valid ballots cast
 - There were 3 void ballots
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 4 votes
 - Ohio Patrolmen's Benevolent Association received 69 votes and prevailed in this election.
16. Case 2014-REP-10-0118 Ohio Council 8, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO and Ashland County Board of County Commissioners and Ashland County Department of Job and Family Services
- There were 5 valid ballots cast
 - There were 0 void ballots
 - There were 0 challenged ballots
 - No Representative received 1 vote
 - Ohio Council 8, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO received 4 votes and prevailed in this election.
17. Case 2014-REP-10-0119 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Village of Ada, Hardin County
(Dispatchers)
- There were 2 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 0 votes
 - Ohio Patrolmen's Benevolent Association received 2 votes and prevailed in this election.

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18. Case 2014-REP-10-0120 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Village of Ada, Hardin County
(Patrol Officers)
- 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 0 votes
 - Ohio Patrolmen's Benevolent Association received 5 votes and prevailed in this election.
19. Case 2014-REP-09-0116 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Lodge 15 and City of Parma
- 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, Lodge 15 received 0 votes
 - Ohio Patrolmen's Benevolent Association received 5 votes and prevailed in this election.
20. Case 2014-REP-09-0113 Fraternal Order of Police, Ohio Labor Council, Inc. and Carroll County Sheriff's Office
- There were 3 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 3 votes and prevailed in this election.
21. Case 2014-REP-10-0122 Kirtland Professional Fire Fighters IAFF Local #3735 and City of Kirtland
- There were 9 valid ballots cast
 - There were 0 void ballots
 - There were 0 challenged ballots
 - No Representative received 1 vote
 - Kirtland Professional Fire Fighters IAFF Local #3735 received 8 votes and prevailed in this election.

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On November 21, 2014, the Board issued a complaint and notice of unfair labor practice hearing. On February 2, 2015, counsel for Complainant filed a motion to dismiss and a copy of the parties' executed settlement agreement.

Vice Chair Schmidt moved that the Board grant the motion to dismiss and dismiss with prejudice the unfair labor practice charge and complaint in Case No. 2014-ULP-04-0055. (The Board retains jurisdiction over this matter for purposes of enforcing the parties' settlement agreement, pursuant to Ohio Administrative Code Rule 4117-7-06.) Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

2. Case 2014-REP-10-0125 Fraternal Order of Police, Ohio Labor Council, Inc. and Clermont County Commissioners

On October 15, 2014, Fraternal Order of Police, Ohio Labor Council, Inc. ("Employee Organization") filed a Request for Recognition, seeking to represent approximately four full-time Emergency Resource Supervisors employed by the Clermont County Commissioners in the county's Department of Public Safety Services. On October 22, 2014, the Clermont County Commissioners filed a Petition for Representation Election and Objections, asserting that the employees in question are "supervisors" as defined by O.R.C. § 4117.01(F) and, therefore, they not "public employees" pursuant to O.R.C. § 4117.01(C)(10).

On December 18, 2014, the State Employment Relations Board ("Board") directed this matter to an inquiry to gather relevant information for the Board to determine whether the employees in question are "public employees" under O.R.C. Chapter 4117. The inquiry was scheduled for February 26, 2015.

On January 22, 2015, the Employee Organization filed a request to withdraw its Request for Recognition.

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

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

3. Case 2014-ULP-09-0181 David Nebbia v. Municipal Construction Equipment Operators Labor Council

Pursuant to the Board's directive, a review has been conducted of the investigators file as well as case law regarding the above matter.

The crux of this dispute is whether the union can require an individual grievant to shoulder the cost of obtaining a panel of Arbitrators from the American Arbitration Association as well as paying for one half of the Arbitrator fees.

The facts are fairly straight forward. The Grievant, David Nebbia received a one day

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suspension for damage to his city vehicle caused when a piece of ice, he knocked from a retaining wall, fell and dented his city truck. He was suspended on May 24, 2014.

He grieved his suspension through the grievance procedure in Article 38 of the labor agreement and was represented all steps by either a union representative or a union attorney. Step 4 is the final step in the grievance procedure and consists of binding arbitration where the costs of the arbitration are "... borne equally by the city and the union."

It was at this last step that Mr. Nebbia was informed that if he wished to pursue arbitration he would need to pay his share of the Arbitrator fee as well as the cost of obtaining a panel of Arbitrators. The union would provide an attorney for him, however they would not pay any other fees. The basis of the union action is a policy adopted by the union several years ago. That policy, adopted because of a need to conserve funds, requires the grievant to pay for the arbitration. In support the union presented an affidavit from the union president and instances where several grievants have paid the arbitration fees to have their grievances heard. They argue their decision is not without basis and is supported by law.

The union further cites SERB 2007-004, Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO as authority for its position. There the Board held:

When an unfair labor practice is charged because a union has allegedly violated its duty of fair representation, SERB will look to see if the union's actions are arbitrary, discriminatory, or in bad faith. If any of these components are found, there is a breach of the duty.

SERB's authority is premised the Supreme Court decision in *Vaca V. Sipes*, 87 S. Ct. 903 (1967) wherein the court opined that 'A breach of the statutory duty of fair representation occurs only when a union's conduct toward a member of the collective bargaining unit is arbitrary, discriminatory, or in bad faith.' Id. 916. Here the question is whether requiring the grievant to pay Arbitrator fees contravenes the foregoing.

That financial health of the union, when deciding to take a case to arbitration, has been considered previously. In *Curth V. Faraday Inc.*, 401 F. Supp. 678, the court permitted the union to consider the expense of Arbitration and the impact on its finances. The court stated:

If the plaintiff had set forth facts showing that the union did have enough funds to arbitrate this grievance without jeopardizing its financial stability, we would have a different case to consider. In this case, however, the union's decision not to arbitrate was fair and rational. Id. 681

Curth was discharged and went through the grievance procedure up to the point of arbitration. The union refused to go further. He argued the union refused to arbitrate a grievance of merit and the union argued it was because its treasury was low.

Here a review of the MCEO 2014 Annual Report shows total income of \$187,716.51 and expenses of \$176,518.86 leaving a balance of \$11,197.65. Nebbia can of course obtain further analysis by requesting to inspect the financial accounts of the union pursuant to Article 10 of MCEO's By Laws and Ohio Revised Code 4117.19.

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In this matter Nebbia acknowledges that the cost of going to Arbitration would be over \$1,000 while his recovery would be his \$250.00 in lost wages. Other grievants have had to pay the Arbitration costs for longer suspensions making it difficult to support the argument that Nebbia is being treated in an arbitrary, discriminatory or bad faith manner.

MCEO's policy leaves unresolved an issue that is not before us, and that is, does the policy give the employer the upper hand if they know in advance, expensive arbitrations such as discharge, present the grievant with an additional obstacle to overcome?

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice as it relates to the one day suspension of the charging party and deny the charged party's motion to dismiss as moot. Board Member Brundige seconded the motion.

Chair Zimpher called for discussion.

Board Member Brundige read the following statement: "I am voting to support the recommendation based on the specific facts in this case only and not as an endorsement of the policy of the union to refuse to pay for any arbitration costs. It is clear that the actions in this case are not arbitrary, capricious or in bad faith. The broader policy is not before us." Chair Zimpher concurred.

Chair Zimpher called for the vote.

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

IV. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 2014-ULP-10-0205 Owens Faculty Association v. Owens Community College

The unfair labor practice charge alleged that the Community College violated Ohio Revised Code §4117.11 (A)(1) by "investigating" Union Representative, John Abel, regarding his protected/concerted activities.

Information gathered during the investigation revealed that the Association did not allege that the comments supposedly made regarding Mr. Abel's Union activity were threatening. In addition, the Association did not provide any information to show that the Community College's comments had a chilling effect. Accordingly in this instance, the Employer's actions do not rise to the level of an (A)(1) 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. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

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2. Case 2014-ULP-10-0214 Butler County Children's Services Independent Union v. Butler County Commissioners

The unfair labor practice charge alleged that the County violated Ohio Revised Code §4117.11 (A)(1), (2), (3) and (5) by retaliating against its members who had participated in the strike, by unilaterally eroding the bargaining unit when it eliminated those positions and subcontracted-out the eliminated positions.

Information gathered during the investigation revealed that the County has the obligation to actually bargain with the Union.

The investigation also reveals that the Union established a prima facie case of discrimination that was not rebutted in the County's discipline of Rebecca Palmer. However, the Union failed to establish a prima facie case of discrimination regarding Dianne Minnich.

The investigation further revealed that the County's action in laying off the employees who returned from a strike and replacing them with nonbargaining unit employees could be viewed as interfering with the continued existence of the Union; and if so, constitutes a violation of R.C. 4117.11(A)(2). The Union did not provide sufficient information or documentation to support the (A)(1) allegation.

These matters would be best addressed through an expedited hearing.

Vice Chair Schmidt moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, and refer the matter to an expedited hearing to determine whether the County violated Ohio Revised Code 4117.11(A)(2), (3) and (5); but not (1). Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

3. Case 2014-ULP-11-0230 Cincinnati State Technical and Community College v. Service Employees International Union, District 1199

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(2) by "adopting a pattern and practice of harassing the President in the performance of his lawful duties."

Information gathered during the investigation revealed that the Community College did not provide sufficient information or documentation to show how the Union's actions caused, or attempted to cause it to violate (B)(2) of the statute. Also, allegations dealing with the harassment of the President and the Union's motive for filing the August 1, 2014 public records request are outside of the 90-day statutory time frame to file an unfair labor practice charge.

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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 and for being untimely filed. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

4. Case 2014-ULP-11-0254 Laborers' Local 1099 v. City of Cleveland

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1), (5) and (6) by failing to comply with the request for information necessary to enforce the contract and by "willfully causing delays" in the grievance-arbitration process.

Information gathered during the investigation revealed that the City's actions do not rise to the level of a statutory violation. Since the City provided all of the requested information, the matter is also moot.

The Union did not provide sufficient information or documentation to support the (A)(1) and (5) allegations.

Vice Chair Schmidt 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 for being moot. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

5. Case 2014-ULP-11-0256 Nicholaus John Stull v. Ohio Education Association

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(6) when the Union Vice President, Michael Smith, attempted to have Nicholaus John Stull removed from his mid-day bus run and by making derogatory statements about him to his supervisor.

Information gathered during the investigation revealed that the Association's actions were not arbitrary, discriminatory or in bad faith and its actions do not amount to a (B)(6) 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. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

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6. Case 2014-ULP-11-0257 Bonnie M. Rocks v. Ohio Education Association

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(6) by failing to fairly represent Bonnie M. Rocks when it had her bus run hours reduced.

Information gathered during the investigation revealed that Ms. Rocks' 8-hour workday has not been changed. The Association's actions were not arbitrary, discriminatory or in bad faith and its actions do not amount to a (B)(6) violation of the statute.

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

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

7. Case 2014-ULP-12-0258 Holgate Teachers Association, OEA/NEA v. Holgate Local School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1) and (5) by failing to maintain the status quo when it unilaterally implemented changes to the teacher evaluation procedure while the parties are still in negotiations for a successor agreement and by directly-dealing with its members regarding these changes.

Information gathered during the investigation revealed that after a review of R.C. Chapter 4117 in conjunction with R.C. § 3319.111(A) and (H), it does not appear that the District's actions of implementing the new teacher evaluations rise to the level of an (A)(5) statutory violation.

The Union 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. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

8. Case 2014-ULP-12-0264 Trumbull County Engineer v. Ohio Civil Service Employees Association, AFSCME Local 11 and Dennis Falcione, Staff Rep.

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(2) and (3) by "forcing" it to reschedule an investigatory interview when Dennis Falcione removed all three of the Union's Stewards' duties and responsibilities in order for them to be unavailable to represent the bargaining-unit member.

Information gathered during the investigation revealed that based on the totality of the

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certain positions as fiduciary. On December 18, 2014 SERB dismissed that petition and found that the duties being performed by the proposed new positions were substantively the same as the old positions. The employer apparently went ahead and implemented the new positions without bargaining with the union and apparently met with bargaining unit employees without the prior knowledge of the union or presence of a union official. Failure of the board to fail to recognize these missing steps would appear that we are condoning what could be proven to be inappropriate behavior. Perhaps through mediation the parties can resolve this matter.”

Chair Zimpher called for the vote.

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

11. Case 2014-ULP-09-0167 Carol S. Lee v. Richland County Board of Developmental Disabilities - Richland Newhope Center

The unfair labor practice charge alleged that the County Board violated Ohio Revised Code §4117.11 (A)(5) and (6) by failing to provide Carol Lee with the appropriate leave time accrual and failing to process her grievance.

Information gathered during the investigation revealed that upon a review of the evidence, the County Board's actions do not rise to the level of a statutory violation. Ms. Lee did not provide sufficient information or documentation to support the (A)(5) and (6) allegations.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed, as being purely contractual and deny the County Board's motion as being moot. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

12. Case 2014-ULP-09-0168 Carol S. Lee v. Office and Professional Employees International, Local 19

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(3) and (6) by failing to fairly represent Carol S. Lee.

Information gathered during the investigation revealed that the Union's actions were not arbitrary, discriminatory or in bad faith and that it took the necessary steps to remedy all grievances, including Ms. Lee's. Ms. Lee did not provide sufficient information or documentation to support the (B)(3) and (6) 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. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

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13. Case 2014-ULP-09-0182 Jean B. Lifter v. Cleveland State University - College of Law

The unfair labor practice charge alleged that the University violated Ohio Revised Code §4117.11 (A)(1), (3), and (4) by interfering, restraining, coercing, discriminating and retaliating against Jean B. Lifter for her husband's (Sheldon Gelman) protected/concerted union activity.

Information gathered during the investigation revealed that Ms. Lifter has failed to establish a prima facie case of discrimination. Furthermore, Ms. Lifter is not a public employee and she was not engaged in any protected activity. In addition, there is no nexus between the Ms. Lifter's layoff and her husband's union activity. As a result, the University's actions do not constitute a statutory violation. Ms. Lifter did not provide sufficient information to support the (A)(1), (3) and (4) allegations.

Vice Chair Schmidt 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 for lack of standing to file an unfair labor practice charge. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

14. Case 2014-ULP-09-0183 Sheldon Gelman v. Cleveland State University - College of Law

The unfair labor practice charge alleged that the University violated Ohio Revised Code §4117.11 (A)(1), (3) and (4) by interfering, restraining or coercing Sheldon Gelman in the exercise of his guaranteed rights and by discriminating against him for charges filed or testimony given in an unfair labor practice case.

Information gathered during the investigation revealed that Mr. Gelman has failed to establish a prima facie case of discrimination. He did not provide any evidence to demonstrate a nexus between his protected activities and his wife's (Jean Lifter's) layoff. Furthermore, assuming a prima facie case had been established, the University provided a persuasive rebuttal to show that its actions toward Mr. Gelman were not based on anti-union animus, but that Ms. Lifter's layoff was implemented due to the need to reorganize because of budgetary issues. Therefore, the University's actions do not rise to the level of a statutory violation.

Mr. Gelman did not provide sufficient information to support the (A)(1), (3) and (4) 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. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

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15. Case 2015-ULP-01-0016 Peter McGee v. Clarke Contractors

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

Information gathered during the investigation revealed that on January 26, 2015, the Investigator contacted Mr. McGee to advise him that Clarke Contractors does not meet the definition of a "public employer" as set forth in Ohio Revised Code 4117.01(B). As a result, the State Employment Relations Board does not have the requisite jurisdiction.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for lack of jurisdiction. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

16. Cases 2014-ULP-10-0215 Ohio Association of Public School Employees/
2014-ULP-11-0246 AFSCME Local 4, AFL-CIO v. Parma City School
District Board of Education
17. Case 2014-ULP-11-0231 Will M. Perkins v. Ohio Association of Public School
Employees/CSEA
18. Case 2014-ULP-11-0233 Brunswick Education Association, OEA/NEA v.
Brunswick City School District Board of Education
19. Case 2014-ULP-11-0235 Riverside Local Education Association, OEA/NEA v.
Riverside Local School District Board of Education
20. Case 2014-ULP-12-0265 Brandy J. Buchanan v. Edison Local School District
Board of Education
21. Case 2014-ULP-12-0268 Teamsters Local Union No. 507 v. City of Shaker
Heights
22. Case 2015-ULP-01-0011 Ohio Patrolmen's Benevolent Association v. City of
North Canton
23. Cases 2014-ULP-10-0200 Ohio Association of Public School Employees,
AFSCME Local 4, AFL-CIO and its Local 351 v. Tri-
Valley Local School District Board of Education
- 2014-ULP-10-0217 Tri-Valley Local School District Board of Education v.
Ohio Association of Public School Employees,
AFSCME Local 4, AFL-CIO and its Local 351

Items 16 through and including 23 were withdrawn pursuant to a request, settlement or motion to withdraw.

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Board Member Brundige moved that the Board construe the requests to withdraw and the settlement agreement as motions to withdraw the charge, and grant the motions with prejudice. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

VI. TABLED AND OTHER MATTERS:

There are no tabled matters.

VII. ADMINISTRATIVE MATTERS:

SERB REGULAR SCHEDULED MEETING DATES:

- March 12, 2015
- April 16, 2015
- May 07, 2015
- June 04, 2015

SYSTEM UPDATES:

- Employee Organization Annual Report Filings: For fiscal year ending 08/31/2014 one Employee Organization was required to report not later than 01/15/2015. The Employee Organizations filed and is therefore in compliance. There are no employee organizations 31 days past due.
- 2015 Report on the Cost of Health Insurance in Ohio's Public Sector: The survey is in full swing. They are due February 27. Following that, Justin Brown allows for one month of late responses. Everything is going well and is on track.
- Labor Relations Specialist 2 Position: The position, which was posted on Monday, January 12, 2015 and ran for 10 days, yielded 161 applications. Following a thorough review of the applications the list was narrowed to a group of applicants to interview. The panel has been interviewing candidates the entire of last week and most of this week. First round interviews will conclude next week. The most promising candidates will be invited back for a second interview; the finalists will then interview with the Chairman. Hopefully, within two weeks we will be prepared to make an offer.
- State of Ohio Combined Charitable Campaign: We received written notification that SERB earned a Gold bar for achieving our monetary goal for this year. SERB's staff and members of both the SERB and SPBR, generously contributed \$12,704 for the 2014 campaign. Once again, we thank Judy Knapp for her time, talent and energy to assist all of us in making it so easy to give to this worthwhile cause.

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- **Emergency System Test:** On Wednesday, February 04, 2015, a "Table Top" exercise was conducted to fully test the Monitored Alarm System and related protocols. There were a couple of areas where we noted we could enhance the system and the protocol. The Ohio State Highway Patrol was great in their response. As a result the SERB Security Monitored Alarm System Protocol was updated and issued to staff at an All Hands Meeting that followed in the afternoon.
- **MBE Meeting with the team from the Office of the Governor:** Last Thursday, February 05, 2015, Shane Trace and I met with the team from the Office of the Governor that oversees the MBE/EDGE program. The purpose of the meeting was to update them on the progress SERB is making to achieve the annual goal of 15% spent for MBE/EDGE purposes. At this juncture, SERB is on track at 9% and will make the 15% without a problem. The past two years SERB has exceeded the 15% goal. Shane Trace does an excellent job of assuring purchases that qualify are made with an MBE/EDGE vendor.

TRAINING:

- **SPBR Academy:** SPBR Academy is scheduled for February 24, 2015 at the Crowne Plaza – North. To date there are 123 registrations.
- **SERB Academy:** Planning is underway for the next SERB Academy scheduled for April 09 and 10, 2015 at the Crowne Plaza – North. At this early stage there are currently 5 registrations.

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

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

The Board went into Executive Session at 10:34 a.m.

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

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

The Board exited from Executive Session at 10:47 a.m.

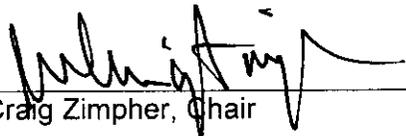
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IX. ADJOURNMENT:

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

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

The Board meeting adjourned at 10:47 a.m.

/s/ 

W. Craig Zimpher, Chair