

State Employment Relations Board

Board Meeting Minutes
June 30, 2016

The State Employment Relations Board met on June 30, 2016, 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 J. Richard Lumpe.

I. APPROVAL OF MINUTES FOR THE JUNE 2, 2016 BOARD MEETING:

Vice Chair Schmidt moved that the Board approve the minutes for the June 2, 2016 Board meeting. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Closing of 426 Cases

Vice Chair Schmidt moved that the Board close 426 Mediation cases beginning with Case No. 2012-MED-01-0022 and ending with Case No. 2015-MED-12-1255, not consecutively numbered. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

2. Cases 2016-MED-01-0059 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Northfield Center-Sagamore Hills Fire District
2016-ULP-05-0087

At the June 2, 2016 meeting, the Board denied the employer's Motion to Dismiss the Notice to Negotiate filed by the union because the employer wanted to withdraw from the joint fire district. Since then, the employer has filed a Motion for Reconsideration reiterating its prior argument. It also included a Resolution authorizing a letter of withdrawal be sent to the Northfield Center-Sagamore Hills Fire District and the Northfield Center Board of Township Trustees. The letter was not included in the materials submitted to the Board nor was any evidence of the date when this Joint Fire District is to dissolve. The date of September 14, 2016 was mentioned in the employer's reply brief with no authentication.

Since then, on June 20, a Fact finding was held before Melvin Feinberg. At this juncture, the parties are free to reject or accept the Fact Finder's recommendation. The Fact Finder will make a recommendation on the disputed employee issues. A plan for dissolution of the employer does not obviate the employer's collective bargaining obligations. As of this date the employer is still the Northfield Center-Sagamore Hills Fire District.

Vice Chair Schmidt moved that the Board deny the Employer's Motion for Reconsideration. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 2016-REP-03-0032 Ohio Patrolmen's Benevolent Association and Miami County Sheriff's Department
(July 12, 2016 - July 26, 2016)
2. Case 2016-REP-04-0041 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Perry County Transit
(July 12, 2016 - July 26, 2016)

The parties have entered into Consent Election Agreements seeking mail-ballot elections.

Vice Chair Schmidt moved that the Board approve the Consent Election Agreements in each case and direct mail-ballot elections to be conducted during the polling period of July 12, 2016 through July 26, 2016. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

3. Case 2016-REP-04-0044 Fraternal Order of Police, Ohio Labor Council, Inc. and Cleveland State University
(July 12, 2016 - July 26, 2016)

The Employer filed a motion to determine the sufficiency of the union's petition.

It has been determined that the showing of interest filed with the Fraternal Order of Police's petition is sufficient. Furthermore, this Investigator found no evidence of any irregularities or deficiencies in the Fraternal Order of Police's petition or the showing of interest accompanying the petition. Accordingly, denying the Employer's motion and directing the matter to a mail-ballot election seems appropriate.

Vice Chair Schmidt moved that the Board deny the Employer's motion, approve the Consent Election Agreement and direct a mail-ballot election to be conducted during the polling period of July 12, 2016 through July 26, 2016. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

4. Case 2016-REP-05-0049 International Union of Police Associations (IUPA), AFL-CIO and Defiance County Sheriff
(July 12, 2016 - July 26, 2016)

The parties have entered into a Consent Election Agreement seeking a mail-ballot election.

Vice Chair Schmidt moved that the Board approve the Consent Election Agreement and direct a mail-ballot election to be conducted during the polling period of July 12, 2016 through July 26, 2016. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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Vice Chair Schmidt moved that the Board order the parties to participate in an Inquiry regarding representation and the existence of a lawful contract and all other relevant matters. The date and time of the Inquiry and the Inquiry procedures will be addressed in a procedural order issued by the Office of the General Counsel of the State Employment Relations Board. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

9. Case 2016-REP-05-0051 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4/AFL-CIO and Rocky River City School District Board of Education

Ohio Association of Public School Employees /AFSCME Local 4/AFL-CIO filed an Opt-In Request for Recognition seeking to represent certain employees of the Rocky River City School District Board of Education. However, on June 6, 2016, the Employee Organization filed a letter seeking to withdraw the request.

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

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

10. Case 2016-REP-01-0002 Tom Moses and International Union of Operating Engineers, Local 18 and City of Findlay

- There were forty-three (43) valid ballots cast
- There were zero (0) void ballots
- There were zero (0) challenged ballots
- International Union of Operating Engineers, Local 18 received seventeen (17) votes
- No Representative received twenty-six (26) votes
- No Representative prevailed in this election

11. Case 2016-REP-01-0011 Joseph Sizemore and Fraternal Order of Police, Ohio Labor Council, Inc. and Gallia County Sheriff's Office

- There were seventeen (17) valid ballots cast
- There were zero (0) void ballots
- There were zero (0) challenged ballots
- Fraternal Order of Police, Ohio Labor Council, Inc. received seven (7) votes
- No Representative received ten (10) votes
- No Representative prevailed in this election

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Vice Chair Schmidt moved that the Board certify the election results in each case and certify that the employees in the unit have chosen to have no exclusive representative for the purposes of collective bargaining. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE:	<u>Yes</u>	SCHMIDT:	<u>Yes</u>	ZIMPHER:	<u>Yes</u>
Affirmed	<u>X</u>	Denied	<u> </u>		

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 2015-ULP-10-0220 Wooster Education Association v. Wooster City School District Board of Education

On October 13, 2015, Wooster Education Association ("Charging Party") filed an unfair labor practice charge against Wooster City School District Board of Education ("Charged Party"), alleging that Charged Party violated Ohio Revised Code 4117.11. On December 17, 2015, the State Employment Relations Board ("SERB" or "the Board") determined that probable cause existed to believe Charged Party had committed or was committing an unfair labor practice, authorized the issuance of a complaint, and directed the parties to a hearing on the matter. The Board further ordered the parties to participate in unfair labor practice mediation. On April 8, 2016, the parties participated in mediation and were able to resolve their differences. No complaint has been issued in this matter.

On June 7, 2016, the parties filed a copy of their settlement agreement. Paragraph 5(B) of the parties' agreement requests that SERB construe the settlement agreement as a motion to dismiss the unfair labor practice charge with prejudice.

Vice Chair Schmidt moved that the Board construe the parties' settlement agreement as a motion to dismiss, grant the motion, and dismiss with prejudice the unfair labor practice charge in Case No. 2015-ULP-10-0220. (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 Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE:	<u>Yes</u>	SCHMIDT:	<u>Yes</u>	ZIMPHER:	<u>Yes</u>
Affirmed	<u>X</u>	Denied	<u> </u>		

2. Case 2016-REP-02-0012 Ohio Patrolmen's Benevolent Association, and Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, and Southeast Emergency Communications Center

On February 4, 2016, Ohio Patrolmen's Benevolent Association ("OPBA") filed a Petition for Representation with the State Employment Relations Board ("SERB" or "Board") seeking to represent all full-time and part-time Dispatchers of the Southeast Emergency Communications Center ("SECC"). On February 10, 2016, Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO ("Ohio Council 8") filed a motion to intervene and a motion to dismiss.

Ohio Council 8 maintains that it is the incumbent employee organization of the petitioned-for employees and, as such, should be treated as a party to this matter. Ohio Council 8

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further maintains that OPBA's Petition for Representation Election should be dismissed because the petition is prohibited by the "certification bar," as set forth in Ohio Administrative Code Rule 4117-5-11(C), and the "election bar," as set forth in O.R.C. § 4117.07(C)(6). OPBA did not file a response to SECC's motion to intervene or motion to dismiss.

On April 21, 2016, SERB directed this matter to its Office of General Counsel to conduct an inquiry regarding the issues raised by Ohio Council 8's motion to dismiss.

On April 28, 2016, SERB's Office of General Counsel issued a Procedural Order granting Ohio Council 8's motion to intervene pursuant to Ohio Administrative Code Rule 4117-1-07. The Procedural Order directed OPBA to file a response to Ohio Council 8's motion to dismiss and SECC to file its position statement regarding the issues raised in Ohio Council 8's motion to dismiss.

The information gathered during the inquiry revealed that OPBA filed the instant Petition for Representation Election seeking to overturn the results of SERB's mail-ballot election and certification in Case No. 2015-REP-02-0017 during the one-year "certification bar" and "election bar" period. OPBA provided no justifiable reason to revoke certification in Case No. 2015-REP-02-0017.

On June 8, 2016, SERB's staff attorney submitted to the Board an Inquiry Report and Recommendation, finding no justifiable reason to revoke the certification in Case No. 2015-REP-02-0017 and recommending that OPBA's Petition for Representation Election be dismissed since it was filed within the one-year "certification bar" and "election bar" period identified in O.R.C. §§ 4117.04(A) and 4117.07(C)(6) and Ohio Administrative Code Rule 4117-5-11(C).

Vice Chair Schmidt moved that the Board adopt the Findings of Fact, Conclusions of Law, and Recommendation in the Report and Recommendation and dismiss OPBA's Petition for Representation Election pursuant to O.R.C. §§ 4117.04(A) and 4117.07(C)(6) and Ohio Administrative Code Rule 4117-5-11(C). Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE:	<u>Yes</u>	SCHMIDT:	<u>Yes</u>	ZIMPHER:	<u>Yes</u>
Affirmed	<u>X</u>	Denied	<u> </u>		

IV. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 2015-ULP-12-0264 Angela Baron v. Ohio Civil Service Employee's Association, Local 11

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(6) by informing Angela Baron's Employer that she is a part-time employee working full-time hours.

Information gathered during the investigation revealed that the Employer determined that Ms. Barron's part-time work status should not be made full-time. Ms. Barron now works the same hours as the other part-time permanent staff. Based on the information provided by Ms. Barron, the Association's actions do not rise to the level of a statutory violation.

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

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

2. Case 2016-ULP-01-0003 Clearview Education Association, OEA/NEA v. Clearview 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 intimidating and coercing the Union and failing to bargain in good faith.

Information gathered during the investigation revealed that contract interpretation and application appear to lie at the heart of both the unfair labor practice charge and grievance dispute.

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

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

3. Case 2016-ULP-02-0037 Oakwood Fraternal Order of Police Lodge 107 v. City of Oakwood

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(5) by refusing to bargain with the Union regarding an Automatic Mutual Response Services (AMARS) agreement with the City of Kettering which impacts the terms and conditions of employment.

Information gathered during the investigation revealed that contract interpretation and application appear to lie at the heart of both the unfair labor practice charge and grievance dispute.

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

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

4. Case 2016-ULP-03-0051 Crystal A. Marble v. Ohio Council 8, AFSCME, AFL-CIO and Its Local 2853

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(1), (2), (3), (4), (5), (6), (7) and (8) by failing to properly represent Crystal A. Marble regarding her termination from employment with the Toledo Public Schools.

Information gathered during the investigation revealed that the Union provided

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documentation demonstrating that they represented Ms. Marble during both the disciplinary and the grievance processes. The Union requested that Ms. Marble be allowed to transfer to a different job, which the Employer refused. The Union also provided documentation to show that they sent e-mails to the Employer's payroll department in order to resolve Ms. Marble's pay discrepancy. Ms. Marble failed to provide documentation to demonstrate a (B)(6) violation.

Based on the documentation provided, Ms. Marble did not provide sufficient information to support the (B)(1), (2), (3), (4), (5), (7) or (8) 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. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE:	<u>Yes</u>	SCHMIDT:	<u>Yes</u>	ZIMPHER:	<u>Yes</u>
Affirmed	<u>X</u>	Denied	<u> </u>		

5. Case 2016-ULP-03-0044 Cleveland Teachers Union, AFT Local 279, AFL-CIO v. Cleveland Metropolitan 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 address "issues of critical importance" by engaging in surface bargaining, by violating the parties' ground rules by engaging in public bargaining, by directly dealing with its members regarding negotiations and by "attempting to influence negotiations by eliciting support from people outside the negotiation process."

6. Case 2016-ULP-03-0047 Cleveland Metropolitan School District Board of Education v. Cleveland Teachers Union, Local No. 279 AFT, AFL-CIO

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(3) by failing to address "issues of critical importance" by engaging in surface bargaining, by violating the parties' ground rules by engaging in public bargaining, and by directly dealing with its Board of Education members regarding negotiations.

Chair Zimpher moved an alternative recommendation that the Board hold matters #5 and #6 in abeyance, and refer them to the Office of SERB's General Counsel in order to secure from the parties a report on the status of contract negotiations and, subsequent to review of that information, to prepare a report and recommendation to be presented at the earliest possible Board meeting. Vice Chair Schmidt seconded the motion.

Chair Zimpher called for discussion.

Chair Zimpher read the following: "After a review of the relevant briefs, position papers, and without rendering judgment on the specific merits of the charges in cases numbered 2016-ULP-03-0044 and 2016-ULP-03-0047, nor the thoroughness and professional character of the Investigator's Reports, I believe Alternative Recommendations are warranted. My understanding is that the parties remain in negotiations; given SERB's stated mission of promoting orderly and constructive relations between labor and management; and in furtherance of attempting to achieve that mission, I propose to hold matters #5 and #6 in abeyance, and refer them to the Office of SERB's General Counsel in order to secure from

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the parties a report on the status of contract negotiations and, subsequent to review of that information, to prepare a report and recommendation to be presented at the earliest possible Board meeting. This delay in the processing of said ULPs is not, and should not be construed to be, in any way prejudicial to either party but is meant solely to help effect SERB's mission of fostering orderly labor/management relations."

Chair Zimpher called for the vote.

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

7. Case 2016-ULP-03-0057 Jewell L. Walker v. City of Cleveland - Division of Police

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1), (4), (7) and (8) by retaliating against Jewell L. Walker for engaging in protected/concerted activity.

Information gathered during the investigation revealed that Ms. Walker failed to establish a prima facie case of discrimination. However, had a prima facie case been established, the City provided a persuasive rebuttal to show that its investigation of Ms. Walker's alleged violation of the LEADS rules and security regulations was based on policy violations and not on anti-union animus. Based on the totality of the circumstances, the City's actions do not amount to an (A)(4) violation of the statute.

Ms. Walker did not provide sufficient information or documentation to support the (A)(1), (7) and (8) 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. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

8. Case 2016-ULP-04-0072 Jewell L. Walker v. Ohio Council 8, AFSCME, AFL-CIO

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (B)(1), (2), (4) and (6) by failing to provide Jewell L. Walker with proper representation during the Employer's investigation and her subsequent reassignment.

Information gathered during the investigation revealed that a series of emails were sent from the Union President, Louis Brown, to the City on Ms. Walker's behalf requesting it cease and desist from its current treatment of Ms. Walker. The Union filed and has advanced Ms. Walker's grievance to Step 3 of the process. Therefore, based on the totality of the circumstances, the Union's actions do not rise to the levels of a (B)(1) and (6) violation of the statute.

Ms. Walker did not provide sufficient information or documentation to support the (B)(2) and (4) allegations.

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

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

9. Case 2016-ULP-04-0059 Annette McClair v. Toledo Public School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1), (3), (5), (6) and (8) by failing to follow the contract when it issued Annette McClair a 5-day unpaid suspension and a permanent letter of reprimand.

Information gathered during the investigation revealed that Ms. McClair failed to establish a prima facie case of discrimination. The documentation provided shows that her discipline was the result of the violations alleged in the January 20th letter from the District and not on anti-union animus. Based on the totality of the circumstances, the District's actions do not rise to the level of an (A)(3) violation of the statute.

The remaining allegations contained in the charge are contractual and do not encompass any statutory violation. Therefore, the District's actions do not amount to an (A)(5) violation of the statute.

Ms. McClair did not provide sufficient information or documentation to support the (A)(1), (6) and (8) 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. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

10. Case 2016-ULP-04-0060 Annette McClair v. Ohio Council 8, AFSCME, AFL-CIO and Its Local 272

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(1), (2) and (6) by denying Annette McClair Steps 1 and 2 of the Disciplinary procedure, allowing the Employer to violate the timelines to provide its response to the Hearing Officer's recommendation and denying her request for arbitration.

Information gathered during the investigation revealed that based on the totality of the circumstances, the Union's actions in its handling of Ms. McClair's discipline were not arbitrary, discriminatory or in bad faith. Therefore, the Union's actions do not rise to the level of a (B)(6) violation of the statute.

Ms. McClair did not provide sufficient information or documentation to support the (B)(1) and (2) allegations.

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

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

11. Case 2016-ULP-04-0062 State of Ohio - Department of Administrative Services - Office of Collective Bargaining v. Ohio Civil Service Employees Association, AFSCME Local 11 and Doug Solitto

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(2) by allowing a "series of threats and on-going harassment" by Union Staff Representative, Doug Sollitto, to continue against members of management in the performance of their management responsibilities.

Information gathered during the investigation revealed that Mr. Sollitto's actions in the four (4) events may have been an attempt to cause the Employer to violate the statute. The matter would be best addressed through a hearing to determine whether Mr. Sollitto's actions amount to a (B)(2) violation of the statute.

Vice Chair Schmidt moved that the Board find probable cause to believe an unfair labor practice has been committed, 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 whether the Association violated Ohio Revised Code 4117.11(B)(2). Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

12. Case 2016-ULP-04-0067 Jodie Williams v. City of Mansfield - Safety Services Division

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(3) and (4) by unjustly terminating Jodie Williams employment.

Information gathered during the investigation revealed that Ms. Williams failed to establish a prima facie case of discrimination. However, even if a prima facie case had been established, the City provided a persuasive rebuttal to show that, pursuant to Article 11 of the parties' negotiated agreement, a probationary employee may be terminated at anytime during the probationary period. The City also provided documentation to show that during her probationary period, Ms. Williams had been involved in a serious rule violation, which resulted in the extension of her original probationary period. Based on the totality of the circumstances, the City's actions do not amount to (A)(3) and (4) violations of the statute.

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

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

13. Case 2016-ULP-04-0070 Nicole L. Cissell v. Amalgamated Transit Union Local 627

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(1) when its Vice-President, Rico Owens, became "irritated" when Nicole L. Cissell asked for clarification of her Last Chance Agreement at a December 5, 2015 Union meeting.

Information gathered during the investigation revealed that Ms. Cissell did not provide sufficient information or documentation to show how she was restrained or coerced by Mr. Owens' alleged actions. Therefore, the Union's actions do not rise to the level of a (B)(1) statutory violation.

Based on the information provided by the Union, the December 5, 2015 meeting actually occurred on December 4, 2014, which also makes the charge untimely filed.

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 untimely filed. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

14. Case 2016-ULP-04-0074 Tri-Valley Local School District Board of Education v. Ohio Association of Public School Employees, AFSCME Local 4 and Its Local 351

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(1) and (3) by engaging in regressive bargaining and directly dealing with the Board of Education regarding negotiations.

Information gathered during the investigation revealed that the District did not provide sufficient new information or documentation, that was not previously provided in Case No. 2016-ULP-03-0053, to support either the (B)(1) or (3) allegations. Therefore, based on the totality of the circumstances, the issues raised in this charge will be fully vetted in Case No. 2016-ULP-03-0053.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice on the basis that the issues raised in this charge will be fully vetted in Case No. 2016-ULP-03-0053. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

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15. Case 2016-ULP-04-0066 International Association of Fire Fighters, Local 1235 v. City of Fairborn

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1), (2), (3), (5), (6) and (7) by failing to maintain the status quo during negotiations for a successor agreement when it changed the terms and conditions of employment for its members, including, but not limited to, refusing to collect and remit union dues and refusing to grant union leave in order for the members to attend contract negotiations.

May it please the Board as a point of clarification of the Investigator's Report, the investigation findings consists of specific situations where it is alleged that the City failed to maintain the status quo.

Information gathered during the investigation revealed the City has failed to maintain the status quo after the expiration of the contract. On March 16, 2016, the City appears to have changed the terms and conditions of the existing, expired agreement when it issued the letter outlining the terms of the contract that it would and would not be honoring. The matter appears to be best addressed through a hearing.

The Union did not provide sufficient information or documentation to support the (A)(3), (6) and (7) allegations.

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, refer the matter to an expedited hearing to determine whether the City violated Ohio Revised Code § 4117.11(A)(1), (2) and (5), but not (3), (6) and (7) by failing to bargain in good faith and failing to maintain the status quo prior to the exhaustion of the parties' MAD. Further mediation is not recommended. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

16. Case 2016-ULP-05-0081 City of Fairborn v. International Association of Fire Fighters, Local 1235

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(1), (2), (3) and (6) by attempting to cause it to commit an unfair labor practice when the Union President, Tom O'Malley, refused to provide clarification of the allegations contained in a grievance in order for it to be addressed and by engaging in surface bargaining during negotiations for a successor agreement.

Information gathered during the investigation revealed that the City failed to provide sufficient information or documentation to show how the Union President's refusal to clarify the grievance caused or attempted it to commit an unfair labor practice. Therefore, the Union's actions do not rise to the level of a (B)(2) violation of the statute.

The investigation also revealed that the City did not provide sufficient information or documentation to show how the Union refused to bargain or was engaging in surface bargaining. Therefore, the Union's actions do not rise to the level of a (B)(3) violation of the statute.

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The City did not provide sufficient information or documentation to support the (B)(1) and (6) allegations. It must be noted that it is inappropriate for the City to file a (B)(6) allegation on behalf of the Union's membership.

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

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

17. Case 2015-ULP-08-0185 Forest Park Firefighters, Local 302 v. City of Forest Park

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(5) by proposing to change job descriptions of members in the Union without consulting with the Union on the proposed changes.

Information gathered during the investigation revealed that the Union did not provide any new or additional information to merit the Board changing its previously considered decision in this matter.

Vice Chair Schmidt moved that the Board construe the Union's request for reconsideration as a motion for reconsideration, and deny the motion with prejudice. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

18. Case 2015-ULP-09-0194 International Association of Firefighters, Local 606 v. City of Delaware

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1), (3), (5) and (7) by choosing to make decisions that are governed by contractual provisions without bargaining, discussing or requesting input from the Union on how the decisions would affect the bargaining-unit staff.

Information gathered during the investigation revealed the Association provided information, but the information does not merit reversing the Board's previously considered decision.

Vice Chair Schmidt moved that the Board construe the Association's request for reconsideration as a motion for reconsideration, and deny the motion with prejudice. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

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19. Case 2016-ULP-03-0052 Mary Louise Allen v. Stark State College

The unfair labor practice charge alleged that the College violated Ohio Revised Code §4117.11 (A)(1), (2), (3), (4), (5), (6), (7) and (8).

Information gathered during the investigation revealed that Mary Louise Allen did not provide any new or additional information meriting reconsideration.

Vice Chair Schmidt moved that the Board construe Ms. Allen's request for reconsideration as a motion for reconsideration, and deny the motion with prejudice. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE:	<u>Yes</u>	SCHMIDT:	<u>Yes</u>	ZIMPHER:	<u>Yes</u>
Affirmed	<u>X</u>	Denied	<u> </u>		

20. Case 2016-ULP-03-0050 Ohio Civil Service Employees Association, AFSCME Local 11 v. Trumbull County Engineer's Office

The unfair labor practice charge alleged that the County Engineer violated Ohio Revised Code §4117.11 (A)(1) and (2) by placing its Chapter Vice-President on administrative leave with pay pending the investigation of a variety of workplace violence threats.

Information gathered during the investigation revealed that on June 16, 2016, the parties executed a Settlement Agreement. Pursuant to paragraph one (1) of that agreement, the parties agreed to defer the instant charge for resolution through the parties' final and binding grievance-arbitration procedure.

Vice Chair Schmidt moved that the Board, at the parties' request pursuant to the Settlement Agreement, defer the matter for resolution through the grievance-arbitration procedure and retain jurisdiction in accordance with *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). The parties have thirty (30) days from the issuance of the arbitration award to file a request with the Board seeking review of the remaining issues, if any. If nothing is filed within the thirty (30) days, this Board will assume all issues were resolved in the grievance-arbitration procedure and dismiss the matter. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE:	<u>Yes</u>	SCHMIDT:	<u>Yes</u>	ZIMPHER:	<u>Yes</u>
Affirmed	<u>X</u>	Denied	<u> </u>		

21. Cases 2016-ULP-03-0042 Ohio Civil Service Employees Association, AFSCME
2016-ULP-04-0078 Local 11 v. Trumbull County Engineers Office

The above-referenced cases were consolidated with other unfair labor practice charges involving the same parties and were before the State Employment Relations Board (SERB) at the May 12, 2016 Board Meeting. The Board directed the parties to pre-determination mediation. The pre-determination mediation was held on June 16, 2016.

Information gathered during the investigation revealed that pursuant to the Settlement Agreement, the parties agreed to hold these matters in abeyance pending the outcome of the Communications Seminar.

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Vice Chair Schmidt moved that the Board grant the parties' request, pursuant to the Settlement Agreement, to hold the matters in abeyance until the conclusion of the Communications Seminar. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

22. Case 2015-ULP-05-0096 The Cleveland Police Patrolmen's Association v. City of Cleveland

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally implementing policies and procedures regarding a camera system.

Information gathered during the investigation revealed that the matter was Item No. 8 at the September 10, 2015 Board meeting. The Board deferred the matter through the parties' grievance-arbitration procedure and retained jurisdiction pursuant to *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92).

On May 26, 2016, the Association filed a Motion to Withdraw that charge as having been resolved through the parties' grievance-arbitration procedure.

Vice Chair Schmidt moved that the Board grant the Association's motion to withdraw the charge and dismiss the charge with prejudice as having been resolved through the parties' grievance-arbitration procedure. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

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

23. Cases 2016-ULP-01-0011 Ohio Civil Service Employees Association, AFSCME
 2016-ULP-01-0012 Local 11 v. Trumbull County Engineer's Office
 2016-ULP-01-0013
 2016-ULP-01-0014
 2016-ULP-04-0077

24. Case 2016-ULP-02-0039 Riverside Local Education Association, OEA/NEA v. Riverside Local School District Board of Education

25. Case 2016-ULP-05-0091 Amalgamated Transit Union, Local 285 v. Steel Valley Regional Transit Authority

Settlements, motions and requests for withdrawal were filed in ULP matters 23 through and including 25.

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Vice Chair Schmidt moved that the Board construe the settlements and requests to withdraw as motions to withdraw, and grant all motions with prejudice. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Chair Zimpher asked Mr. Collins to express his appreciation to the SERB Mediators involved in settling the cases in ULP matter 23.

Vote: LUMPE: 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:

- August 04, 2016
- August 25, 2016
- September 15, 2016
- October 06, 2016
- October 27, 2016
- November 17, 2016
- December 15, 2016

SYSTEM UPDATES:

- **Employee Organization Annual Report Filings:** For fiscal year ending 1/31/2015, 5 Employee Organizations were required to report not later than 6/15/2016. To date, 5 Employee Organizations have filed. Licia Sapp of the Research and Training Section tracks their status and works with the Employee Organizations to encourage compliance before the deadline. At this time there are 0 employee organizations 31 days past due.
- **24th Annual Report on the Cost of Health Insurance in Ohio's Public Sector:** The response rate for the 2016 survey is 92.1% (1,216 completed / 1,320 surveys sent). This compares to the 2015 survey which had a 95.2% response rate (1,266 completed/1,322 surveys sent). The 2016 report is assembled; the data is being reviewed to verify the accuracy of the statistics. It is estimated a "final" draft should be completed by the end of this week. Scott Marshall is being trained on the complexities of survey development and distribution, data collection, research and data scrubbing to be able to assume these responsibilities next year.
- **XLN Progress on SMDS Update:** XLN has completed the work for the REP and ULP sections. Everything is coming along quite well and on time. MED is almost complete. Phase two will commence in the new fiscal year for the remaining upgrades of the current case management software environment of SMDS and CMDS to the supported level of Java. This will include the Case Management Docketing System (CMDS), CIVITAS (Civil Service Commission data collection), "Barn Burner" (Employee Organization annual and financial report tracking) and the Hearings Section.

- **FY17 OBM Allotment Budget Template:** The FY 17 Allotment Budget Template was submitted to CSA on 6/01/16 and will be forwarded on to OBM for uploading into the system.
- **FY 17 OBM GRF Estimated Disbursements Spreadsheet:** A draft of the SERB FY17 OBM GRF Estimated Disbursements was submitted to Todd Clark, our OBM Analyst on Thursday, June 23, 2016. The final is due on Friday, July 8, 2016.

TRAINING:

- **Ethics Training:** Was held on June 23, 2016 at 11 a.m. in Hearing Room 1. Susan Willeke of the Ohio Ethics Commission conducted the annual training for staff and members of both SERB and SPBR boards. Following that presentation, Jim Sprague presented on Prohibited Partisan Political Activity, a mandatory training.
- **Fact-Finding Conference:** Scheduled for August 19, 2016. On Wednesday, June 15, 2016, a Fact-Finding Conference Registration Letter and Agenda were sent as a mass email to over 3,600 contacts. Application has been made to the Supreme Court of Ohio, Commission on Continuing Legal Education, for 5.75 credit hours. The RSVP deadline is August 1st. A reminder email will be sent on Monday, July 18th. We currently have 44 total registrations (12 paying attendees, 32 neutrals/staff/presenters). The Conference will be held at the Crowne Plaza North.
- **Fall/Winter SERB Academy:** Scheduled for December 7 and 8, 2016 at the Crowne Plaza Dublin.
- **Spring SPBR Academy:** Tentatively scheduled for Friday, March 24, 2017 at the Crowne Plaza Dublin.

VII. EXECUTIVE SESSION:

Chair Zimpher 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: LUMPE: Yes SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

The Board went into Executive Session at 10:55 a.m.

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

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

The Board exited from Executive Session at 11:15 a.m.

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VIII. ADJOURNMENT:

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

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

The Board meeting adjourned at 11:15 a.m.

/s/ 
W. Craig Zimpher, Chair