

State Employment Relations Board

Board Meeting Minutes  
August 25, 2016

The State Employment Relations Board met on August 25, 2016, at 10:00 a.m., at 65 East State Street, 12<sup>th</sup> 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 AUGUST 4, 2016 BOARD MEETING:**

Vice Chair Schmidt moved that the Board approve the minutes for the August 4, 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:**

There were no mediation matters.

**III. REPRESENTATION MATTERS AT ISSUE:**

1. Case 2016-REP-05-0056 Twinsburg Clerical & Technical Workers Local 1 and Ohio Council 8, American Federation of Federal, State, County and Municipal Employees and City of Twinsburg  
(September 6, 2016 - September 20, 2016)

We have recently been apprised of new developments in this case.

Vice Chair Schmidt moved that the Board allow the Representation Section to remove this case from consideration by the Board at this time to allow time to sort out the new developments. 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-REP-06-0060 Ohio Council 8, AFSCME, AFL-CIO and City of Willoughby Hills  
(September 6, 2016 - September 20, 2016)
3. Case 2016-REP-07-0068 Ohio Patrolmen's Benevolent Association (OPBA) and Fraternal Order of Police, Ohio Labor Council and City of Elyria  
(September 6, 2016 - September 20, 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 and direct mail-ballot elections to be conducted in each case during the polling period of September 6, 2016 through September 20, 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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 2 of 19

4. Case 2016-REP-07-0071 General Truck Drivers and Helpers Local Union No. 92 and Lawrence County Treasurer
5. Case 2016-REP-07-0072 Greene County Deputy Sheriffs Benevolent Association (Corrections Unit) and Greene County Sheriff

The parties in each case jointly filed petitions to amend certifications.

Vice Chair Schmidt moved that the Board approve the jointly filed petitions in each case and amend the certifications accordingly. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE:     Yes     SCHMIDT:     Yes     ZIMPHER:     Yes  
          Affirmed     X                    Denied     \_\_\_\_\_

6. Case 2016-REP-07-0070 DeWayne Hickman and Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO and Trumbull County Engineer

DeWayne Hickman (Petitioner) filed a Petition for Decertification Election seeking to decertify the Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO (Employee Organization), which is the deemed-certified exclusive representative of certain employees of the Trumbull County Engineer (Employer).

Ohio Administrative Code 4117-5-01 (D)(2) provides that a petition for decertification cannot be filed when the incumbent employee organization is a deemed-certified unit. Accordingly, dismissing this Petition for Decertification Election is appropriate. The Petitioner was apprised of the situation.

Vice Chair Schmidt moved that the Board dismiss the Petitioner's Petition for Decertification Election 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     \_\_\_\_\_

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

- There were eight (8) valid ballots cast
- There were zero (0) void ballots
- There were zero (0) challenged ballots
- No Representative received six (6) votes
- International Union of Police Associations (IUPA), AFL- CIO received two (2) votes
- No Representative prevailed in this election

A mail ballot election was held.



**IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:**

1. Case 2016-ULP-03-0053 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and its Local 351 v. Tri-Valley Local School District Board of Education

On March 28, 2016, Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and its Local 351 ("Charging Party") filed unfair labor practice charges against Tri-Valley Local School District Board of Education ("Charged Party"), alleging that Charged Party violated Ohio Revised Code §§ 4117.11(A)(1), (A)(2), and (A)(5).

On June 2, 2016, 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 referred the matter to hearing. The Board further ordered that the parties participate in unfair labor practice mediation. The parties participated in mediation and were able to resolve their differences. No complaint was issued in this matter.

On August 4, 2016, Charging Party filed a request to withdraw this unfair labor practice charge due to settlement of the parties' pending issues before SERB.

Vice Chair Schmidt moved that the Board construe Charging Party's request to withdraw as a motion to withdraw, grant the motion, and dismiss with prejudice the unfair labor practice charges 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 \_\_\_\_\_

2. Case 2016-REP-05-0048 International Union of Police Associations, AFL-CIO v. Defiance County Sheriff's Office

On May 2, 2016, the International Union of Police Associations, AFL-CIO ("IUPA" or "Employee Organization") filed a Petition for Representation Election, seeking to represent all Sheriff's Deputies employed with the Defiance County Sheriff's Office ("Employer"). On March 17, 2016, the Employer filed objections to IUPA's petition, asserting there is an existing contract between the Defiance County Deputy Association ("DCDA") and the Employer that covers the Sheriff's Deputies and expires on December 31, 2016. The Employer asserts that the existing contract between DCDA and the Defiance County Sheriff's Office bars IUPA's petition for representation. On May 23, 2016, IUPA filed a position statement in response to the Employer's objections, stating that the alleged contract is an extension that does not meet the requirements of Ohio Revised Code ("O.R.C.") § 4117.01(C)(6). On June 9, 2016, the Employer withdrew its objections and the parties subsequently entered into a Consent Election Agreement.

On June 9, 2016, IUPA sent a copy of its Petition for Representation Election to DCDA President, Benjamin Moser. On June 16, 2016, Mr. Moser filed a position statement regarding this case. Mr. Moser states that DCDA has been in existence since 1985 and represents the employees sought to be represented by IUPA. Mr. Moser further states that DCDA has a lawful contract with the Employer. On behalf of DCDA, Mr. Moser requests that SERB reconsider the matter because DCDA has a lawful contract with the Employer.

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 5 of 19

On June 21, 2016, IUPA filed a second position statement in response to Mr. Moser's June 16, 2016 filing.

On June 30, 2016, the State Employment Relations Board ("SERB" or "Board") directed this matter to an inquiry to gather information relevant to the issues raised by the aforementioned filings. On July 13, 2016, SERB's Office of General Counsel issued a Procedural Order instructing the parties to supplement the record with additional information. On August 4, 2016, Petitioner IUPA filed a Motion to Withdraw Petition for Representation Election.

Vice Chair Schmidt moved that the Board grant IUPA's Motion to Withdraw and dismiss the instant Petition for Representation Election. 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>		

3. Case 2015-ULP-07-0156 Ayersville Education Association, OEA/NEA v. Ayersville School District Local Board of Education

On July 15, 2015, the Ayersville Education Association, OEA/NEA ("AEA") filed an unfair labor practice charge against the Ayersville School District Local Board of Education ("School District" or "Employer"), alleging violations of Ohio Revised Code ("O.R.C.") §§ 4117.11(A)(1) and (A)(5). On October 1, 2015, the State Employment Relations Board ("SERB" or "Complainant" or "Board") found probable cause to believe that the School District committed violations of O.R.C. Chapter 4117, authorized the issuance of a complaint, and referred the matter to hearing. On November 6, 2015, SERB issued a complaint and scheduled the case for hearing. On November 13, 2015, the Association filed a motion to intervene, which was granted in accordance with Ohio Administrative Code Rule 4117-1-07(A).

On February 23, 2016, assigned Administrative Law Judge, Sarah R. Cole, conducted a hearing, during which, the parties presented testimonial and documentary evidence. All parties filed post-hearing briefs. On June 2, 2016, Administrative Law Judge Cole issued a Proposed Order, recommending the Board find that the Employer violated O.R.C. §§ 4117.11(A)(1) and (A)(5) by unilaterally reassigning the duties of the Athletic Director position to a non-bargaining unit employee. Subsequently, the parties filed exceptions to the Proposed Order, cross-exceptions, and responses to exceptions.

Vice Chair Schmidt moved that the Board:

1. **Adopt** the Findings of Fact and Conclusions of Law in the Proposed Order, finding that the Employer violated O.R.C. §§ 4117.11(A)(1) and (A)(5) by unilaterally reassigning the duties of the Athletic Director position to a non-bargaining unit employee, and
2. **Order** the Ayersville Local School District Board of Education to take the following action:

**A. CEASE AND DESIST FROM:**

[1] Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 by unilaterally

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 6 of 19

reassigning the Athletic Director duties to a non-bargaining unit position, and from otherwise violating Ohio Revised Code § 4117.11(A)(1); and

[2] Refusing to bargain collectively with the exclusive representative of its employees by unilaterally reassigning the Athletic Director duties to a non-bargaining unit position, and from otherwise violating Ohio Revised Code § 4117.11(A)(5).

**B. TAKE THE FOLLOWING AFFIRMATIVE ACTION:**

[1] Restore the status quo ante that was in place prior to the Ayersville Local School District Board of Education's violations of the Act and immediately bargain with the Ayersville Education Association, OEA/NEA regarding the removal of the Athletic Director position.

[2] Post for sixty (60) days in all the usual and normal posting locations where bargaining-unit employees represented by the Ayersville Education Association, OEA/NEA, work, the Notice to Employees furnished by the State Employment Relations Board stating that the Ayersville Local School District Board of Education shall cease and desist from actions set forth in paragraph (A) and shall take the affirmative action set forth in paragraph (B); and

[3] Notify the State Employment Relations Board in writing within twenty (20) calendar days from the date the ORDER becomes final of the steps that have been taken to comply therewith.

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>		

4. Case 2016-ULP-01-0002 SERB v. City of Olmsted Falls

On January 6, 2016, Charging Party, Ohio Patrolmen's Benevolent Association, filed an unfair labor practice charge against the City of Olmsted Falls ("Charged Party" or "Respondent"), alleging that Charged Party violated Ohio Revised Code § 4117.11(A)(1).

On March 10, 2016, the State Employment Relations Board ("SERB" or "the Board" or "Complainant") determined that probable cause existed to believe Charged Party had committed an unfair labor practice, authorized the issuance of a complaint, and referred the matter to hearing. The Board further ordered that the parties participate in unfair labor practice mediation. The parties participated in mediation but were unable to resolve their differences at that time. On June 10, 2016, a complaint was issued and this matter was scheduled for a prehearing and record hearing.

On August 16, 2016, Complainant's Counsel filed a Motion to Dismiss, indicating that the parties had entered into a settlement agreement disposing of the unfair labor practice charge. On August 16, 2016, Charging Party filed a copy of the parties' settlement agreement. Item 4 of the parties' agreement requests that SERB construe the settlement agreement as a motion to dismiss the charge in this matter with prejudice.

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 7 of 19

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 and complaint in Case No. 2016-ULP-01-0002. (The Board retains jurisdiction over this matter for purposes of enforcing the parties' settlement agreement, pursuant to O.A.C. Rule 4117-7-06.) Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE: Yes    SCHMIDT: Yes    ZIMPHER: Yes  
Affirmed    X                      Denied    \_\_\_\_\_

**IV. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:**

1. Case 2016-ULP-05-0110 Paula Tighe v. Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(1) and (6) by restraining or coercing employees in the exercise of their guaranteed rights by failing to fairly represent them.

Information gathered during the investigation revealed that contrary to Paula Tighe's assertion, AFSCME provided information and notices to its members regarding meetings and the negotiations process which included the conciliation procedure. Accordingly, the Union's actions do not rise to the level of (B)(1) and (6) violations 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 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-05-0088 International Brotherhood of Teamsters Local 20 v. Sylvania Township, Lucas County

The unfair labor practice charge alleged that the Township violated Ohio Revised Code §4117.11 (A)(1) and (3) by retaliating against Al Hasenfratz, a Union member.

Information gathered during the investigation revealed that Mr. Hasenfratz is a public employee who engaged in protective activity by filing a grievance. However, the Union failed to show how the Township took adverse action against Mr. Hasenfratz for filing his grievance. In addition, the Township took action to solve the issues raised in the grievance. Accordingly, the Township's actions do not amount to an (A)(3) violation of the statute.

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

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.

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 8 of 19

Vote: LUMPE: Yes SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

3. Case 2016-ULP-05-0092 Fraternal Order of Police, Ohio Labor Council, Inc. v. Lorain County Sheriff

The unfair labor practice charge alleged that the County Sheriff violated Ohio Revised Code §4117.11 (A)(1), (2), (5) and (7) by reorganizing staff at the Sheriff's Department.

Information gathered during the investigation revealed that the Union failed to show how the reorganization is a violation of Ohio Revised Code §4117.11 (A)(1).

The Union did not provide sufficient information or documentation to support the (A)(2), (5) and (7) 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 \_\_\_\_\_

4. Case 2016-ULP-05-0112 JeNae Treece v. Cleveland Police Patrolmen's Association

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(1), (2) and (6) by failing to properly process her resignation of union membership.

Information gathered during the investigation revealed that JeNae Treece believes that the Union failed to process her resignation from the Union in a timely manner causing the Employer to continue deducting Union dues instead of fair share fees. But the Employer is the entity per the contract that processes union dues deductions and remittance to the Union and not the Union itself. Accordingly, the Union's actions do not rise to the level of an (B)(1) violation of the statute.

Ms. Treece did not provide sufficient information or documentation to support the (B)(2) or (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. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE: Yes SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 9 of 19

5. Case 2016-ULP-05-0113 Peter (Pece) V. Gorsevski v. Bowling Green State University

The unfair labor practice charge alleged that the University violated Ohio Revised Code §4117.11 (A)(2) and (6) by failing to following the collective bargaining agreement (CBA) and the Employer's misconduct policies when disciplining Dr. Peter Gorsevski.

Information gathered during the investigation revealed that on May 5, 2016, Dr. Gorsevski received a reprimand from the University. Mr. Gorsevski failed to file a grievance regarding the discipline. Dr. Gorsevski is a union member whose CBA has a grievance-arbitration process, which Dr. Gorsevski failed to utilize. Based on the totality of the circumstances, the University's actions do not amount to an (A)(6) violation of the statute.

The Union did not provide sufficient information or documentation to support the (A)(2) allegation.

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 \_\_\_\_\_

6. Case 2016-ULP-05-0097 Ohio Civil Service Employees Association, AFSCME Local 11 and Donald Hunsbanger v. State of Ohio - Department of Rehabilitation and Correction, Trumbull Correctional Institution

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1) by violating the policies and procedures regarding the health and safety of the bargaining-unit members.

Information gathered during the investigation revealed that due to the nature of the allegations, the Union has selected the correct venue for the resolution of this matter when it filed a grievance. Accordingly, the Department's actions do not rise to the level of an (A)(1) 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 Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE: Yes SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 10 of 19

7. Case 2016-ULP-05-0100 Randy Hiles v. State of Ohio - Department of Rehabilitation and Correction, Southern Ohio Correctional Facility

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1) by interfering with the guaranteed rights of Officer Curtis Campbell during a Pre-Disciplinary Hearing.

Information gathered during the investigation revealed that Randy Hiles failed to provide sufficient information or documentation to show how the Employer interfered with, restrained or coerced Officer Campbell in the exercise of his guaranteed rights. Accordingly, the Employer's actions do not rise to the level of an (A)(1) statutory violation.

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-05-0114 Ohio Civil Service Employees Association, AFSCME Local 11 and Its Local 1835 v. State of Ohio - Department of Rehabilitation and Correction, Northeast Reintegration Center

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1) and (4) by making "despairing statements towards newly elected official of OCSEA Chapter 1835."

Information gathered during the investigation revealed that the Union failed to provide any information or documentation to show how the Department's alleged actions interfered with, restrained or coerced either of those members from engaging in any protected/concerted activities. Accordingly, the Employer's actions do not rise to the level of an (A)(1) violation of the statute.

The Union did not provide any information to support the (A)(4) allegation.

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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 11 of 19

9. Case 2016-ULP-05-0117 Ohio Civil Service Employees Association, AFSCME Local 11 and Its Local 1835 v. State of Ohio - Department of Rehabilitation and Correction, Northeast Reintegration Center

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1) and (4) by making "despairing statements towards newly elected official of OCSEA Chapter 1835."

Information gathered during the investigation revealed that the Union failed to provide any information or documentation to show how the Employer's alleged actions interfered with, restrained or coerced Joan Schumann from engaging in any protected/concerted activities. Accordingly, the Department's actions do not rise to the level of an (A)(1) violation of the statute.

The Union did not provide any information or documentation to support the (A)(4) allegation.

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	_____		

10. Case 2016-ULP-05-0115 Ohio Civil Service Employees Association, AFSCME Local 11 and Its Local 1835 v. State of Ohio - Department of Rehabilitation and Correction, Northeast Reintegration Center

11. Case 2016-ULP-05-0116 Ohio Civil Service Employees Association, AFSCME Local 11 and Its Local 1835 v. State of Ohio - Department of Rehabilitation and Correction, Northeast Reintegration Center

The unfair labor practice charges alleged that the Department violated Ohio Revised Code §4117.11 (A)(1) and (4).

The charges did not set forth any facts relating to an alleged violation. Information gathered during the investigation revealed that on June 2, 2016, the Union's representative was notified, in writing, that a dismissal recommendation would be made to the Board unless the deficiency was corrected no later than June 9, 2016. The Union's representative requested and was granted an extension until June 24, 2016 to provide the amended charge. To date, the Union failed to provide a clear and concise statement of the facts constituting an alleged violation.

Vice Chair Schmidt moved that the Board dismiss the charges without prejudice due to the Union's failure to provide a clear and concise statement of facts constituting an alleged violation. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 12 of 19

Vote: LUMPE:     Yes     SCHMIDT:     Yes     ZIMPHER:     Yes  
          Affirmed     X                    Denied     \_\_\_\_\_

12.    Case   2016-ULP-06-0119   Ohio Civil Service Employees Association, AFSCME Local 11 and Its Local 4720 v. State of Ohio - Department of Rehabilitation and Correction, Lorain Correctional Institution

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1) and (6) by continually violating the parties' grievance settlement agreements regarding Pick-A-Post assignments.

Information gathered during the investigation revealed that the Union has failed to provide information or documentation to support the (A)(6) allegation. Therefore, based on the totality of the circumstances, the Department's actions do not amount to an (A)(6) violation of the statute.

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

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-06-0125   Randy Hiles v. State of Ohio - Department of Rehabilitation and Correction, Southern Ohio Correctional Facility

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1) by unilaterally changing the schedules of the Activity Therapists and the Psychiatric Attendants.

Information gathered during the investigation revealed that Randy Hiles did not provide sufficient information or documentation to support the (A)(1) allegation nor did he allege an (A)(5) violation. In addition, the charge is untimely filed. Based on the totality of the circumstances, the Employer's actions do not rise to the level of an (A)(1) statutory violation.

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     \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 13 of 19

14. Case 2016-ULP-06-0126 Randy Hiles v. State of Ohio - Department of Rehabilitation and Correction, Southern Ohio Correctional Facility

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

Information gathered during the investigation revealed that information was requested, in writing, from Randy Hiles on June 15, 2016 and on July 25, 2016, with a final due date of August 1, 2016. Mr. Hiles did not respond to the written requests for information.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for Mr. Hiles' failure to pursue the matter. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE: Yes SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

15. Case 2016-ULP-06-0127 Randy Hiles v. State of Ohio - Department of Rehabilitation and Correction, Southern Ohio Correctional Facility

16. Case 2016-ULP-06-0128 Randy Hiles v. State of Ohio - Department of Rehabilitation and Correction, Southern Ohio Correctional Facility

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

Randy Hiles filed an unfair labor charge that did not set forth facts relating to an alleged violation. Information gathered during the investigation revealed that on June 15, 2016, Mr. Hiles was notified, in writing, that a dismissal recommendation would be made to the Board unless the deficiency was corrected no later than June 22, 2016. To date, Mr. Hiles, has failed to provide a clear and concise statement of the facts constituting an alleged violation.

Vice Chair Schmidt moved that the Board dismiss the charge without prejudice due to Mr. Hiles' failure to provide a clear and concise statement of facts constituting an alleged violation. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE: Yes SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 14 of 19

17. Case 2016-ULP-06-0131 Ohio Civil Service Employees Association, AFSCME Local 11 v. State of Ohio - Department of Rehabilitation and Correction, Mansfield Correctional Institution

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1), (5) and (8) by refusing to allow Shawn Mowry to have Union Representation at a disciplinary meeting.

Information gathered during the investigation revealed that Mr. Mowry was not entitled to Union Representation because the meeting was not one of the occasions, per the contract, where Union Representation is required. Accordingly, the Department's actions do not amount to (A)(1), (5) and (8) statutory violation.

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 \_\_\_\_\_

18. Case 2016-ULP-06-0134 Ohio Civil Service Employees Association, AFSCME Local 11 v. State of Ohio - Department of Rehabilitation and Correction, Mansfield Correctional Institution

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1), (5) and (8) by creating a hostile work environment through "acts of rage and violence" toward its members.

Information gathered during the investigation revealed that the Union did not provide sufficient information or documentation to show how the Labor Relations Officer, Janet Tobin's, alleged actions at the May 27, 2016 Pre-Disciplinary Hearing interfered with, restrained or coerced the Officers in the exercise of their guaranteed rights. A review of Ms. Tobin's alleged statements and/or threats, taken in the totality of the circumstances, do not rise to the level of an (A)(1) violation of the statute.

The Union did not provide sufficient information or documentation to support the (A)(5) 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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 15 of 19

19. Case 2016-ULP-06-0137 Ohio Civil Service Employees Association, AFSCME Local 11 and Its Local 6100 v. State of Ohio - Department of Rehabilitation and Correction, Noble Correctional Institution

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1), (5) and (6) by unilaterally modifying its members' work schedules regarding Pick-A-Post assignments.

Information gathered during the investigation revealed that the matter is purely contractual, encompassing no arguable statutory violation. Accordingly, the Department's actions do not rise to the level of an (A)(5) violation of the statute.

The Union did not provide any information or documentation to support the (A)(1) 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. Board Member Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE: Yes SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

20. Case 2016-ULP-06-0139 Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO v. State of Ohio - Department of Rehabilitation and Correction, Noble Correctional Institution

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1), (5) and (8) by directly-dealing with its members to resolve their grievances.

Information gathered during the investigation revealed that the matter is purely contractual encompassing no arguable statutory violation. Accordingly, the Employer's actions do not amount to an (A)(5) violation of the statute.

The Union did not provide sufficient information or documentation to support the (A)(1) 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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 16 of 19

21. Case 2016-ULP-06-0142 Ohio Patrolmen's Benevolent Association v. City of Olmsted Falls

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1) and (4) by retaliating against Sergeant Floyd Takacs for his exercise of protected activity when it assigned him to third shift thereby "disregarding" the seniority preferences outlined in Article 29 of the parties' agreement.

Information gathered during the investigation revealed that Union has established a prima facie case of discrimination. However, the City provided a persuasive rebuttal to show that, even though the timing of the re-assignment may have coincided with Sgt. Takacs testimony at the SERB mediation, the change was not due to anti-union animus. Therefore, based on the totality of the circumstances, the City's actions do not amount to an (A)(4) violation of the statute.

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

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 \_\_\_\_\_

22. Case 2016-ULP-06-0148 Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO v. State of Ohio - Department of Rehabilitation and Correction, Mansfield Correctional Institution

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1), (5), (6) and (8) by continually refusing to provide the information requested in order to process grievances; thereby, violating a SERB-facilitated Settlement Agreement.

Information gathered during the investigation revealed that the matter is purely contractual encompassing no arguable statutory violation. The grievances referenced in the charge are still proceeding through the parties' final and binding grievance-arbitration procedure. Based on the totality of the circumstances, the Department's actions do not rise to the level of an (A)(5) violation of the statute.

The Union 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 \_\_\_\_\_

State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 17 of 19

23. Case 2016-ULP-07-0151 Chippewa Local School District Board of Education v. Ohio Association of Public School Employees, AFSCME Local 4 and Its Local 445

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(3) by providing one (1) regressive bargaining proposal during the course of negotiations for a successor agreement.

Information gathered during the investigation revealed that based on the parties' two-plus (2+) years of engaging in negotiations for a successor agreement, the Union's one (1) alleged regressive bargaining proposal does not rise to the level of a statutory violation. Therefore, based on the totality of the circumstances, the Union's actions do not rise to the level of a (B)(3) 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 Lumpe seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: LUMPE:     Yes     SCHMIDT:     Yes     ZIMPHER:     Yes  
          Affirmed     X                    Denied     \_\_\_\_\_

24. Case 2016-ULP-07-0154 Hamilton Professional Firefighters, IAFF, Local 20 v. City of Hamilton

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally creating a new policy regarding Secondary Employment, which affects its members wages, hours and terms and conditions of employment and also contains a disciplinary component.

Information gathered during the investigation revealed that the matter appears to have been resolved through the parties' grievance procedure.

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

Vote: LUMPE:     Yes     SCHMIDT:     Yes     ZIMPHER:     Yes  
          Affirmed     X                    Denied     \_\_\_\_\_

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

The unfair labor practice charge alleged that the Union 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 on June 30, 2016, the Board dismissed the above charge for lack of probable cause.



State Employment Relations Board  
Board Meeting Minutes  
August 25, 2016  
Page 19 of 19

- 2016-ULP-05-0102 Ohio Civil Service Employees Association, AFSCME Local 11 v. Trumbull County Engineers Office and Matthew Blair
- 2016-ULP-05-0103 Ohio Civil Service Employees Association, AFSCME Local 11 v. Trumbull County Engineers Office and Matthew Blair
- 2016-ULP-05-0104 Ohio Civil Service Employees Association, AFSCME Local 11 v. Trumbull County Engineers Office and Randy Smith
- 2016-ULP-05-0108 Ohio Civil Service Employees Association v. Trumbull County Engineers Office

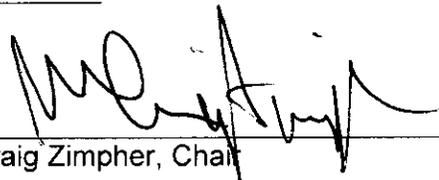
**VII. ADMINISTRATIVE MATTERS:**

**IX. ADJOURNMENT:**

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

Vote: LUMPE: Yes    SCHMIDT: Yes    ZIMPHER: Yes  
Affirmed        X                      Denied \_\_\_\_\_

The Board meeting adjourned at 10:38 a.m.

/s/   
W. Craig Zimpher, Chair