

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

Olmsted Township, Cuyahoga County,

Respondent.

Case Nos. 98-ULP-07-0447 & 98-ULP-08-0455

**ORDER  
(OPINION ATTACHED)**

Before Chairman Pohler, Vice Chairman Gillmor, and Board Member Verich:  
September 2, 1999.

On July 31, 1998 and August 5, 1998, the Ohio Patrolmen's Benevolent Association ("OPBA") filed an unfair labor practice charge against Olmsted Township, Cuyahoga County ("Respondent"). On November 19, 1998, the State Employment Relations Board ("Board" or "Complainant") determined that probable cause existed for believing the Respondent had committed or was committing unfair labor practices by unilaterally changing a past practice by restricting officers to taking breaks inside township limits only and by excessively monitoring bargaining-unit employees in violation of Ohio Revised Code Sections 4117.11(A)(1), (A)(3), and (A)(5), authorized the issuance of a complaint, referred the matter to hearing, and directed the parties to the unfair labor practice mediation process.

On April 7, 1999, the Administrative Law Judge's Proposed Order was issued, recommending that the Board find that the Respondent had violated Ohio Revised Code Sections 4117.11(A)(1) and (A)(5), but not (A)(3). On April 27, 1999, the Complainant filed exceptions to the Proposed Order. On April 30, 1999, the Respondent filed exceptions to the Proposed Order. On May 10, 1999, the Complainant filed its response to the Respondent's exceptions.

After a review of the Proposed Order, exceptions, response to exceptions, and the record before us, the Findings of Fact and Conclusions of Law in the Proposed Order are adopted for the reasons in the attached Opinion, incorporated by reference.

Olmsted Township, Cuyahoga County is ordered to:

A. Cease and desist from:

Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 and refusing to bargain with the exclusive representative of its employees, in violation of Ohio Revised Code Sections 4117.11(A)(1) and (A)(5), by unilaterally changing a past practice when it restricted third-shift officers to taking breaks inside township limits only and by prohibiting third-shift officers from taking breaks at their residences within the township limits;

B. Take the following affirmative action:

1. Return to the status quo relative to the past practice that allowed third-shift officers to take breaks outside township limits and at their residences within the township limits;
2. Bargain in good faith with the OPBA regarding any revisions to the lunch and break policy for third-shift officers;
3. Post the NOTICE TO EMPLOYEES furnished by the State Employment Relations Board, which states that Olmsted Township, Cuyahoga County shall cease and desist from the actions set forth in paragraph A and shall take the affirmative action set forth in paragraph B, for sixty days in all of the usual and normal posting locations where employees represented by the Ohio Patrolmen's Benevolent Association work; and
4. Within twenty calendar days from the issuance of the Order, notify the State Employment Relations Board in writing of the steps that have been taken to comply therewith.

Order  
Case Nos. 98-ULP-07-0447 & 98-ULP-08-0455  
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It is so directed.

POHLER, Chairman; GILLMOR, Vice Chairman; and VERICH, Board Member,  
concur.



SUE POHLER, CHAIRMAN

You are hereby notified that an appeal may be perfected, pursuant to Ohio Revised Code Section 4117.13(D) by filing a notice of appeal with the State Employment Relations Board at 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, and with the court of common pleas in the county where the unfair labor practice in question was alleged to have been engaged in, or where the person resides or transacts business, within fifteen days after the mailing of the State Employment Relations Board's order.

I certify that this document was filed and a copy served upon each party on this  
7<sup>th</sup> day of September, 1999.



SALLY L. BARAILLOUX, EXECUTIVE SECRETARY



# NOTICE TO EMPLOYEES

## FROM THE STATE EMPLOYMENT RELATIONS BOARD

POSTED PURSUANT TO AN ORDER OF THE  
STATE EMPLOYMENT RELATIONS BOARD  
AN AGENCY OF THE STATE OF OHIO

After a hearing in which all parties had an opportunity to present evidence, the State Employment Relations Board has determined that we have violated the law and has ordered us to post this Notice. We intend to carry out the order of the State Employment Relations Board and abide by the following:

**A. CEASE AND DESIST FROM:**

Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 and refusing to bargain with the exclusive representative of its employees, in violation of Ohio Revised Code Sections 4117.11(A)(1) and (A)(5), by unilaterally changing a past practice when it restricted third-shift officers to taking breaks inside township limits only and by prohibiting third-shift officers from taking breaks at their residences within the township limits;

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

1. Return to the status quo relative to the past practice that allowed third-shift officers to take breaks outside township limits and at their residences within the township limits;
2. Bargain in good faith with the Ohio Patrolmen's Benevolent Association regarding any revisions to the lunch and break policy for third-shift officers;
3. Post the NOTICE TO EMPLOYEES furnished by the State Employment Relations Board, which states that Olmsted Township, Cuyahoga County shall cease and desist from the actions set forth in paragraph A and shall take the affirmative action set forth in paragraph B, for sixty days in all of the usual and normal posting locations where employees represented by the Ohio Patrolmen's Benevolent Association work; and
4. Within twenty calendar days from the issuance of the Order, notify the State Employment Relations Board in writing of the steps that have been taken to comply therewith.

OLMSTED TOWNSHIP, CUYAHOGA COUNTY,  
CASE NOS. 98-ULP-07-0447 & 98-ULP-08-0455

BY \_\_\_\_\_

DATE \_\_\_\_\_

TITLE \_\_\_\_\_

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED**

ERB 2012 This Notice must remain posted for sixty consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this Notice or compliance with its provisions may be directed to the State Employment Relations Board.

**STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

Olmsted Township, Cuyahoga County,

Respondent.

Case Nos. 98-ULP-07-0447 & 98-ULP-08-0455

**OPINION**

POHLER, Chairman:

This unfair labor practice case comes before the State Employment Relations Board ("Complainant" or "SERB") on the Exceptions and Response to Exceptions to the Administrative Law Judge's Proposed Order. For the reasons below, we find that Olmsted Township, Cuyahoga County violated Ohio Revised Code ("O.R.C.") §§ 4117.11(A)(1) and (A)(5) when it unilaterally changed its policy or practice concerning where breaks may be taken. We also find that it did not violate O.R.C. §§ 4117.11(A)(1) and (3) by discriminating against bargaining-unit members through these changes to its policy or practice.

**I. BACKGROUND**

Olmsted Township, Cuyahoga County ("Township" or "Respondent") has a population of 9,000 and a geographic area of approximately 10.5 square miles. Its police department ("Department") consists of 12 full-time officers and 3-4 part-time officers, and usually has two or three cars on patrol and one dispatcher on duty at any time. During the

day, and until midnight, restaurants and convenience stores are open where officers can purchase food and coffee. After midnight, all such establishments within the Township are closed.

Before 1989, officers were permitted to leave the Township to pick up food or coffee and bring it back into the Township. In 1989, the Township issued a written policy that, in part, prohibited officers from leaving the Township during their shifts. In February 1990, this policy was reiterated as a result of officers' abuse of the privilege according to a memorandum issued by then-Sergeant Dennis McCafferty. At some point after February 1990, the department again allowed officers to leave the Township to pick up food or coffee to bring back into the Township. In late 1997 or early 1998, the Township eliminated the out-of-Township privilege for officers on first and second shifts. The police chief issued a memorandum dated July 24, 1998, prohibiting officers on third shift from leaving the Township on their breaks.

Since before 1990, officers who lived within the Township, or on the border, were allowed to stop at their residences for lunch during their shifts. The July 24, 1998 memorandum issued by Chief McCafferty also prohibited this practice from continuing. Trustees Straka and Stallard contend that these changes were precipitated by their receipt of complaints from Township residents and by their personal observations of officers being out of the Township while on duty or loitering at their homes.

In June 1998, Trustees Karen Straka and Michael Stallard monitored activities of the Township's on-duty officers. The Trustees took this action after receiving at least 8 to 10 complaints from Township residents about officers being outside the Township or loitering at places within the Township. These citizen complaints were received during the period of October 1997 through May 1998. Chief McCafferty did not recall ever receiving any complaints concerning this issue from anyone other than the Trustees.

Trustee Straka's and Trustee Stallard's monitoring log for Saturday, June 20, 1998, through Thursday, June 30, 1998, reflected some apparent violations of the break policy. Some of the apparent violations were explained by Chief McCafferty's response on July 13, 1998; others were actual violations of the break policy, for which the offending officers were disciplined.

Trustee Straka chose the seven consecutive nights of surveillance at random, and her intent was to monitor all patrol cars on the road during that period. Trustee Straka chose the night shift instead of the day shift because she felt she would be less readily observed. The validity of the Trustees' log itself was called into question when it became clear that one officer was in the station when the log referred to him as being on the road, and when Trustee Straka admitted it was difficult to tell one uniformed officer from another in a car in the dark from another car.

On July 2, 1998, Trustee Straka wrote a letter to Chief McCafferty enclosing copies of her monitoring log and requesting that he rescind the policy regarding officers going outside the Township for food. Trustee Straka's letter referred to Chief McCafferty's alleged failure to police abuse, failure to act, and lack of administrative initiative. Chief McCafferty issued his July 24, 1998 memorandum, mentioned above in response to Trustee Straka's letter, prohibiting officers from going outside the Township for food and from stopping at their residences.

On July 31, 1998, the union filed an unfair labor practice charge (Case No. 98-ULP-07-0447) alleging that the Township violated O.R.C. §§ 4117.11(A)(1) and (A)(5) by unilaterally changing the established practice of allowing officers to obtain food and coffee outside the Township while on duty and by prohibiting officers from stopping at their homes for lunch breaks during their shifts.

On August 5, 1998, the union filed an unfair labor practice charge (Case No. 98-ULP-08-0455) alleging that the Township violated O.R.C. § 4117.11(A)(3) by harassing and intimidating union members, by making statements expressing its desire to terminate the employment of certain union members, by following union members in order to observe infractions of the changed policies, and by ordering the Chief to discipline officers although no infractions were observed.

## II. DISCUSSION

### A. The Respondent Violated O.R.C. §§ 4117.11(A)(1) and (A)(5)

The first issue in this case is whether the Township's unilateral changes to its policy or practice concerning where breaks may be taken violate O.R.C. §§ 4117.11(A)(1) and (A)(5), which provide in part:

(A) It is an unfair labor practice for a public employer, its agents, or representatives to:

(1) Interfere with, restrain, or coerce employees in the exercise of their rights guaranteed in Chapter 4117. of the Revised Code or an employee organization in the selection of its representative for the purposes of collective bargaining or the adjustment of grievances;

\* \* \*

(5) Refuse to bargain collectively with the representative of its employees recognized as the exclusive representative or certified pursuant to Chapter 4117. of the Revised Code[.]

#### 1. **Past Practices**

When an unfair labor practice charge alleges a unilateral change of an established past practice, SERB's analysis must begin with the determination of whether the activity changed was, in fact, a "past practice" as that term is used in settled labor law. If the activity is determined to be a "past practice," SERB will first look to the existing collective bargaining agreement to determine whether the collective bargaining agreement clearly addresses that issue. If it does, the collective bargaining agreement's terms will prevail

over any past practice since the collective bargaining agreement is what the parties bargained for and accepted as the rules governing the way the parties intend their working relationships to operate. *In re Defiance City School Dist Bd of Ed*, SERB 97-016 (11-21-97). Where, as here, the collective bargaining agreement is silent on the activities at issue, SERB must determine: (a) whether the past practice is "a term or condition of employment" and (b) if it is a term or condition of employment, whether it is a mandatory or permissive subject of bargaining. *Id.*

"A past practice is a custom or practice evolved as a normal reaction to a recurring situation; it must be shown to be an accepted course of conduct characteristically repeated in response to a given set of underlying circumstances." *Defiance, supra* at 3-109 (footnote omitted). An employer's past practice refers to an activity that has been satisfactorily established by practice or custom. *Id.*; *Dow Jones & Co.*, 150 L.R.R.M. 1089, 1091 (NLRB 1995); *Exxon Shipping Co.*, 291 NLRB 489, 131 L.R.R.M. 1233 (1988). "The nature of the past practice, its duration, and the reasonable expectations of the parties may justify its attaining the status of a term or condition of employment." *Defiance, supra* at 3-109. The "term or condition of employment" approach is consistently followed by the federal courts as well as other public sector jurisdictions. Federal cases: *see, e.g., Smiths Industries, Inc. v. NLRB*, 152 L.R.R.M. 2475 (6th Cir. 1996); *Borden, Inc. v. NLRB*, 19 F.3d 502, 145 L.R.R.M. 2833 (10th Cir. 1994), *cert. denied*, 115 S.Ct. 316, 147 L.R.R.M. 2512 (1994); *NLRB v. Frontier Homes Corp.*, 371 F.2d 974, 64 L.R.R.M. 2320 (8th Cir. 1967). Public sector jurisdictions: *see, e.g., City of Detroit v. Goolsby*, 151 L.R.R.M. 2787 (MI Ct. App. 1995); *Board of County Comm'rs of Orange County v. Central Fla. Professional Fire Fighters Assn.*, 467 So.2d 1023 (FL Ct. App. 1985); *Oberle v. City of Aberdeen*, 139 L.R.R.M. 2337 (SD S.Ct. 1991); *Appeal of Town of Rye*, 154 L.R.R.M. 2653 (NH S.Ct. 1995); *Rhode Island v. R.I. Council 94*, 155 L.R.R.M. 2071 (RI S.Ct. 1997); *Shamong Township Bd. of Education*, 19 NJPER ¶ 21213 (NJ PERC 1990); *County of Nassau*, 26 NYPER ¶ 3083 (NY PERB 1993).

The record in the present case shows that Township police officers who lived within the Township, or on its border, were allowed to stop at their residences for lunch during their shifts before 1990. Similarly, officers were allowed to leave the Township to pick up food or coffee since at least 1990. Thus, because of their duration and frequency, these activities appear to fall squarely within the generally accepted definition of a past practice. This conclusion, however, is not dispositive of the issue. The next determinations to be made are whether the subject of "where" breaks may be taken involves the exercise of inherent managerial prerogatives and, if so, whether the subject also materially affects wages, hours, or terms and conditions of employment.

## **2. Application of the Balancing Test**

Unless otherwise provided, a public employer maintains the authority to determine matters of inherent managerial policy as outlined in O.R.C. § 4117.08(C). The employer is required, however, to bargain with an exclusive representative on all matters relating to wages, hours, or terms and other conditions of employment under O.R.C. § 4117.08(A). *In re City of Broadview Heights*, SERB 99-005 (3-5-99); *In re Ottawa County Riverview Nursing Home*, SERB 96-006 (5-31-96). Thus, if a given subject involves the exercise of inherent managerial discretion and also materially affects any of these factors, a balancing test must be applied to determine whether the subject is a mandatory or permissive subject of bargaining. *SERB v. Youngstown City School Dist. Bd. of Ed.*, SERB 95-010 (1995) ("*Youngstown*"). See also *In re City of Akron*, SERB 97-012 (7-10-97). Management decisions which are found, on balance, to be mandatory subjects, must be bargained before implementation, upon notice by the employer and timely request by the employee organization, except where emergency situations render prior bargaining impossible. *Youngstown, supra*.

The use of a balancing test is consistent with decisions from other jurisdictions that have found that not every unilateral change in working conditions breaches the duty to

bargain. The change must be material, substantial, and significant. See *Peerless Food Products*, 236 NLRB 161, 98 L.R.R.M. 1183 (1978); *La Mousse, Inc.*, 259 NLRB 37, 108 L.R.R.M. 1356 (1981), *enforced without opinion*, 703 F.2d 576 (9th Cir. 1983); *Hillsboro County School Board*, 7 FPER ¶ 12411, *recon. denied* 8 FPER ¶ 13074 (FL PERC 10-1-81), *aff'd*, 423 So. 2d 969 (FL 1st Dist. Ct. App. 1983); *Lee County Port Authority*, 18 FPER ¶ 23241 (FL General Counsel, 8-20-92).

The balancing test adopted in *Youngstown* requires that the following factors be balanced to determine whether subjects of bargaining are mandatory or permissive:

- 1) The extent to which the subject is logically and reasonably related to wages, hours, terms and conditions of employment;
- 2) The extent to which the employer's obligation to negotiate may significantly abridge its freedom to exercise those managerial prerogatives set forth in and anticipated by O.R.C. 4117.08(C), including an examination of the type of employer involved and whether inherent discretion on the subject matter at issue is necessary to achieve the employer's essential mission and its obligations to the general public; and
- 3) The extent to which the mediatory influence of collective bargaining and, when necessary, any impasse resolution mechanisms available to the parties are the appropriate means of resolving conflicts over the subject matter. *Id.* at 3-76, 3-77.

O. R. C. § 4117.08(C) provides that, unless it agrees otherwise, a public employer's rights and responsibilities are unimpaired in certain matters. Among these areas are the right and responsibility to determine matters of inherent managerial policy that include areas of discretion or policy such as standards of services, to direct and supervise employees, to maintain and improve the efficiency and effectiveness of governmental operations, to determine the overall methods, process, and means by which governmental operations are to be conducted, to assign and schedule employees, to effectively manage the work force, and to take actions to carry out the mission of the public employer as a governmental unit.

Since the availability and response time of law enforcement officers can have profound consequences on the safety and welfare of every citizen, the employer's right to set standards of service, maintain and approve the efficiency and effectiveness of operations, as well as exercise other management prerogatives cannot be seriously questioned. Determining where and when officers may leave their jurisdiction or otherwise make themselves unavailable, or less available, to respond to emergency situations is clearly an employer's responsibility. Therefore, setting parameters on where breaks may be taken involves the exercise of inherent managerial prerogatives.

Having decided that the policy changes at issue involve the exercise of inherent managerial policy, we must next determine whether such changes have a material affect on terms and conditions of employment since it was not argued that the changes had any impact on wages and hours.

### **3. "Inside The Township" Restriction**

The record shows that the change in policy or practice restricting officers to taking breaks within the Township changed only where breaks could be taken. Neither the number nor the duration of such breaks were changed. The record also shows that the restaurants and convenience stores selling food and coffee are available to officers within the Township during the day and until midnight. The record further supports the conclusion that travel outside the jurisdiction could increase the time officers will take to respond to an emergency inside the Township.<sup>1</sup> The Township eliminated the out-of-Township privilege for officers on the first and second shifts in late 1997 or early 1998. These unfair labor practice charges were not filed within ninety days after that change was implemented. Therefore, the question regarding whether the Township had a duty to bargain over the change is not before the Board at this time. O.R.C. § 4117.12 (B).

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<sup>1</sup>Witnesses may have differed about response times depending on where the emergency occurred and where the officer was taking his or her break, but even Officer Olson conceded that some out-of-Township travel could create a potential safety hazard. (T.181-182).

With regard to those officers working at night when no reasonable alternatives exist for obtaining food or coffee, the restriction does have a material effect on terms and conditions of employment. This restriction could have the effect of denying meal breaks at various times or subjecting employees to health risks associated with contamination of food from samples of bodily fluids obtained from suspects.<sup>2</sup> Therefore, the balancing test set forth in *Youngstown* must be applied to determine whether the restriction is a mandatory or permissive subject of bargaining.

Under the first prong of the balancing test, the restriction falls within the statutory phrase “terms and other conditions of employment” because it clearly has a material effect on the ability of the night-shift officers to take breaks to which they are entitled. Under the second prong of the test, the evidence weighs in heavily on the employer’s ability to perform one of its essential missions and obligations to the general public, i.e., to protect the safety and welfare of its citizens. But where, as here, the Respondent’s failure to provide a reasonable alternative results in essentially the denial of the benefit (as opposed to merely changing where the benefit may be enjoyed), the right of the Respondent to exercise its management prerogatives without negotiating with the employee organization is significantly diminished. Under the third prong of the test, the mediatory influence of collective bargaining is demonstrated by the communication failure between the parties. The Township claims that it was not aware of the problems with the refrigerator or that refreshments may not be available at all times to night-shift employees. Had the Respondent bargained with the employee organization when requested to do so, it could have purchased equipment to eliminate the problems or made an exception for night-shift officers.

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<sup>2</sup>Use of a refrigerator, which also is used to store urine and blood samples, or a coffee maker that may or may not be available, is not a reasonable alternative. (Finding of Fact Nos. 16 and 17).

Balancing the three prongs, we find that the union's interest under the first prong is strong, the Township's interest under the second prong is strong, and that the mediatory influence of collective bargaining under the third prong is not only appropriate for the subject matter, but, had it been utilized, both parties could have resolved their differences without jeopardizing public safety or denying a benefit to the employees. We find, therefore, that the Township was required to bargain over the change in policy restricting night-shift employees to breaks within the Township. Thus, the Township committed an unfair labor practice when it refused to bargain with the exclusive bargaining representative of its employees over the implementation of the in-Township break restriction as applied to night-shift bargaining-unit employees.

#### **4. "Breaks At Residence" Restriction**

Applying the same analysis to the restriction on breaks at an officer's residence, we find that the Respondent was required to bargain over this change in policy for the night-shift officers for the same reasons set forth above. The Township did not present a viable alternative for these officers. For the first and second shift officers, the change did not affect whether they could take their breaks; the change merely affected where they could take their breaks, which is not a right that must be bargained. For the third-shift officers, this change eliminated a location within the Township for breaks. Therefore, the Township's interest in prong two of the balancing test is significantly diminished.

We find therefore that the Respondent violated for O.R.C. §§ 4117.11(A)(1) and (A)(5) by unilaterally changing the past practice and restricting night-shift officers to taking breaks inside the Township limits only, and by prohibiting officers from stopping at home within the Township on breaks. The violation of O.R.C. § 4117.11(A)(1) is a derivative violation of O.R.C. § 4117.11(A)(5) in this instance. *In re Amalgamated Transit Union, Local 268*, SERB 93-013 (6-25-93) at n.14; *In re City of Broadview Heights, supra* at 3-30.

**B. The Respondent Did Not Violate O.R.C. § 4117.11(A)(3)**

The second issue in this case is whether the Township's on-duty surveillance of bargaining-unit members violated O.R.C. § 4117.11(A)(3), which provides in part:

(A) It is an unfair labor practice for a public employer, its agents, or representatives to:

\* \* \*

(3) Discriminate in regard to hire or tenure of employment or any term or condition of employment on the basis of the exercise of rights guaranteed by Chapter 4117. of the Revised Code[.]

We find that the Township did not commit an unfair labor practice under these allegations. The Complainant has the burden to demonstrate by a preponderance of the evidence that an unfair labor practice has been committed. O.R.C. § 4117.12(B)(3). The Complainant has not met the burden of proof for this allegation. A review of the record does not reveal facts that support this allegation.

Moreover, the mere act of an employer in "following" or "monitoring" employees in the performance of their duties is not an unfair labor practice. Public employers have a right — indeed a responsibility — to ensure that their employees are actually performing the work for which they are being paid, as well as performing that work in the manner prescribed by the public employers. Consequently, it is not an unfair labor practice to follow and observe officers performing their duties as long as it is done for the legitimate purpose of determining whether officers are performing their duties at the appropriate locations.

Most public employees' job performances are observed on a daily basis simply because they work at fixed locations or are otherwise in close physical proximity to their supervisors. The fact that a police officer is operating a cruiser does not insulate the officer from being monitored, visually or otherwise, in the performance of his or her duties. If it

can be proven that the effect of such monitoring or oversight is to punish or intimidate employees for exercising their rights guaranteed by O.R.C. Chapter 4117, then what would normally be a proper exercise of management prerogatives might become an unfair labor practice under O.R.C. Chapter 4117. As a result, we agree with the findings of the Administrative Law Judge that, from the evidence presented, the monitoring of officers was not due to anti-union animus.

### **III. CONCLUSION**

For the foregoing reasons, we find that Olmsted Township, Cuyahoga County violated O.R.C. §§ 4117.11(A)(1) and (A)(5) when it unilaterally changed its policy or practice concerning where breaks may be taken. We order the Respondent to: (a) restore its break policy for the bargaining unit represented by the Ohio Patrolmen's Benevolent Association to the status quo in effect before July 24, 1998; (b) bargain in good faith with the Ohio Patrolmen's Benevolent Association regarding the changes to the break policy that were the subject of this case; (c) post the Notice to Employees issued by SERB for sixty days in all of the usual and normal posting locations where bargaining-unit employees represented by the Ohio Patrolmen's Benevolent Association work; and (d) notify SERB within twenty calendar days from the date that the Order is issued that the steps have been taken to comply with the Order. We also find that the Township did not violate O.R.C. § 4117.11(A)(3) by discriminating against bargaining-unit members through these changes to its policy or practice.

Gillmor, Vice Chairman, and Verich, Board Member, concur.