

# State Employment Relations Board

*“promoting orderly and constructive relationships  
between labor and management”*



## Annual Report 2014

**Governor of the State of Ohio  
John R. Kasich**

**SERB Chairperson  
W. Craig Zimpher**

**SERB Vice Chairperson  
Aaron Schmidt**

**SERB Member  
N. Eugene Brundige**

# SERB

"Promoting Orderly and Constructive  
Labor Relations Since 1984"

**State  
Employment  
Relations  
Board**



65 East State Street, 12<sup>th</sup> Floor  
Columbus, Ohio 43215-4213  
Phone 614.644.8573  
Fax 614.466.3074  
[www.serb.state.oh.us](http://www.serb.state.oh.us)

W. Craig Zimpher, Chair  
Aaron A. Schmidt, Vice Chair  
N. Eugene Brundige, Board Member

Christine A. Dietsch, Executive Director

John R. Kasich, Governor

August 1, 2014

The Honorable John R. Kasich  
Office of the Governor  
Riffe Center, 30<sup>th</sup> Floor  
77 South High Street  
Columbus, Ohio 43215-6117

Dear Governor Kasich,

Attached is the Annual Report of the State Employment Relations Board (SERB), as mandated by the Ohio Revised Code. Copies of the Report have also been presented to the respective leaders of the Ohio General Assembly. The Report details SERB's accomplishments achieved during the past year in furthering our statutory mission of "promoting orderly and constructive relations between labor and management."

We remain committed to realizing that goal with efficiency, objectivity and prudence.

We are honored to serve all of the stakeholders in Ohio's public sector collective bargaining system, and remain committed to the fair and impartial adjudication of matters under our jurisdiction.

Thank you very much.

Sincerely,

W. Craig Zimpher, Chair

Aaron A. Schmidt, Vice Chair

N. Eugene Brundige, Board Member

Identical copies to:

The Honorable William G. Batchelder, Speaker, Ohio House of Representatives  
The Honorable Tracy Maxwell Heard, Minority Leader, Ohio House of Representatives  
The Honorable Keith Faber, President, The Ohio Senate  
The Honorable Joe Schiavoni, Minority Leader, The Ohio Senate

*SERB is an Equal Opportunity Employer and Service Provider*

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## Report from the Board

The publication of the 2014 Annual Report of the State Employment Relations Board (SERB) will again demonstrate that the agency has fulfilled its statutory mission of “promoting orderly and constructive labor relations” with both effectiveness and efficiency. We have executed our functions with an understanding and appreciation that the above referenced objective must be managed with a commitment to impartiality, neutrality, and efficient and timely processing and adjudication of the various matters for which SERB and the State Personnel Board of Review (SPBR) are responsible.

We are pleased to report that the legislatively mandated merger of both agencies (SERB/SPBR), and the merger of staff under SERB’s jurisdiction, continues to operate well and, as reported last year, without interruptions or detainments. Between these agencies, virtually every aspect of Ohio’s public sector employment relationship is overseen or regulated. Members of both Boards remain committed to their statutory responsibilities for fair and impartial administration of their respective duties.

We are pleased to report that our charge to educate and inform the various labor and management stakeholders has been very successfully accomplished. Seminars, symposia, and conferences provided in-depth training and orientation for professional labor/management practitioners. Over 500 practitioners attended these SERB and SPBR programs. Topics covered emerging labor law and review of relevant statutory or administrative law governing the processes engaged by SERB and SPBR. Each practitioner is asked to complete a detailed program evaluation upon completion; these evaluations continue to reflect very high remarks for the program’s content and presentation. Credit for these successes resides with SERB staff. Through their knowledge and professionalism, they remain committed to training and educating the attendees who are engaged in managing the employment relationship. The SERB and SPBR Board members express our deepest appreciation to our associates for their dedication and loyalty.

The agency was again fortunate to benefit from the efforts and talents of law school interns from The Ohio State University’s Moritz College of Law and Capital University Law School. The interns’ participation and immersion in agency operations provided them with invaluable “real world” opportunities and experiences by working with our Mediators, Administrative Law Judges, and other Professional Staff.

SERB continues to exercise prudence in the management of our fiscal/budget resources. We appreciate the General Assembly and Executive Administration’s support for our biennial budget requests. We assure both that their confidence and trust is being earned through our careful and judicious use of these resources.

The redesign of our legacy computer system was discussed in last year’s report. We are pleased to note that those efforts have continued to pay dividends by enhancing productivity and assuring greater accuracy in our operations. Indeed, improved data collection and analytical capability have provided our management team with a greater opportunity to measure, monitor, and assess process effectiveness. The adage that something cannot be managed if it cannot be measured may very well be accurate; our systems now sustain metrics and analytics by which we are able to regularly measure our various functions. This “business like” function now assures us a high level of confidence in our management oversight.

SERB’s twenty-first Annual Report on the Cost of Health Insurance in Ohio’s Public Sector, produced by our Research and Training Section, will be published August 1, 2014. This report is widely utilized by the various stakeholders in the public labor/management arena because of its reliable and comprehensive data. This year’s response rate from employers reached an all-time high of 92.8%, for which we are very appreciative. As noted last year, such high response adds to the report’s statistical accuracy. This year’s findings indicate, as the report will show, that the increase in health insurance costs has been slightly more than in previous years. From January 2013 to January 2014, single person coverage grew at 4.9%; family coverage costs at 4.7%. And, regardless of whether single or family coverage, the average annual cost per employee for medical insurance, including prescription coverage, was \$13,200. During 2013, the frequency of “employee pickup” of health insurance costs decreased 1.5%. And, interestingly, 2013 again witnessed no appreciable increase in the use of joint employer

health plan purchasing arrangements, notwithstanding evidence which indicates the cost effectiveness of such arrangements. The final report will be posted on SERB's website ([www.serb.state.oh.us](http://www.serb.state.oh.us)) and we encourage all interested to make use of it.

SERB's Investigations Section conducts investigations related to Unfair Labor Practice charges and various union representation issues. The unit's investigations are thorough and unbiased, and we have enhanced that effort by securing all necessary documentation to support or negate allegations made in such charges. As a part of our due diligence, we encourage affidavits, as opposed to witness statements, and conduct actual witness interviews. We also encourage mediating cases early in the process to facilitate communications between the parties. Phone conferences are regularly conducted with the litigants to help identify pertinent issues, determine the parties' respective positions, and to strategize "best practices" in managing cases.

The positive effects of mediation are best illustrated by the fact that amicable resolutions result in less friction, lower litigation costs, improved communication among adversarial parties, and better appreciation of opposing views. For example, this past year, the SERB Board referred 33 Unfair Labor Practice charges to mediation, wherein Probable Cause had been found that a statutory violation occurred. Of those, 20 charges were settled and resolved. This 66% success rate resulted in less cost for the parties by obviating the need for a hearing, and all of the attendant expenses incurred therein, as well as a greater likelihood of producing improved and more harmonious labor relations.

Another example of the Board's work in facilitating an informed and productive bargaining process is the maintenance of our extensive website ([www.serb.state.oh.us](http://www.serb.state.oh.us)). This site is the repository of literally thousands of collective bargaining agreements (CBAs) in effect at the local, regional, or state level, from townships to our major universities and state government. The comparative data contained on the website provide factual and accurate information for reference by all parties, both labor and management. This website, with constant updates, also provides the backdrop for dozens of specialized reports SERB's staff produces throughout the year, at the request of various interested parties.

SERB's constructive relationship with the Federal Mediation and Conciliation Service continued throughout the year as well. Our emphasis on mediation as a critical component in the labor/management sector, as noted above, will guide our focus and attention in resolving and, indeed, preventing conflict.

SERB maintains a comprehensive electronic monitoring system to assure compliance with Ohio Revised Code Section 4117.19. We again report that the system is operating very effectively and we express our appreciation to Ohio's public sector labor organizations for their assistance with this compliance responsibility.

Other noteworthy achievements during the past year include:

- All SERB Opinions since 1984 are now searchable on the SERB website. Previously, only Opinions from 1999 were available.
- A review of the active and inactive members of the Roster of Neutrals, those individuals recognized by SERB to conduct fact-finding and conciliation, was conducted. Inactive members of the Roster were contacted regarding their continuing interest in remaining in active status. The Board removed seven members. Correspondingly, ten candidates were recommended for membership onto the Roster of Neutrals. These candidates submitted the required application, writing samples and references. Adding these candidates to the Roster of Neutrals improves the diversity of the panel.
- The Board approved revisions to the State Employment Relations Board Fact Finding Guidebook. The Guidebook, for use by Fact Finders on the SERB Roster of Neutrals, has been updated and reformatted, including a table of contents for ease of looking up information.
- The annual report summarizing entry level salaries for BA/BS teachers in Ohio's various school districts was sent to the Ohio Board of Education on 1/27/14 for calendar year 2013. These data are

distilled from collective bargaining agreements entered into by Boards of Education and organizations representing teachers.

- The Annual IT Workforce Plan for 2014 was submitted to the Office of the Governor, DAS and CSA on November 5, 2013, in order to address more fully the OIT and SERB relationship in the Executive Summary. A strategy for migrating SERB's three servers to a new environment at the SOCC is in process. This includes: SQL Server, File Share Server, and a Terminal/Application Server.
- All staff participated in a retreat, held at the State Library, on Friday, December 20, 2013. The presenter was Diane Alexander, MindWorks, Inc. She presented a full day seminar on Advanced Skills for Conflict Resolution. CLEs were approved for the legal staff for the training. Future developmental opportunities for our staff are planned for the coming year. Such programs enhance our work environment, improve productivity, and assist each associate to fulfill her/his fullest professional potential.
- An exit conference with the Ohio Auditor of State's office for the Regular Biennial audit for the period 7/01/2010 through 6/30/2012 was held on January 22, 2013. The management letter included comments regarding performing regular and timely reconciliation of work done by Central Services Administration (CSA) comparing internal records to OAKS for verification and approvals of payroll, revenue and expenditure transactions. SERB took exception to this comment in that the Board contracts with CSA for these specific services. However, the Board has since implemented procedures related to monthly reconciliation of both invoices and revenue. It was also recommended that the Board develop and implement policies and procedures related to both SERB and SPBR records management and retention schedules. The Board has always followed the procedures set forth by the Department of Administrative Services. The Board has since taken a comprehensive review of its management and retention schedules and plans to modify the existing schedules to reflect advancements in technology. Most importantly, however, was the audit's conclusion that no major or noteworthy operational/fiscal discrepancies were noted.

In conclusion, the Board wishes to recognize and thank the associates with whom it is our pleasure to work and interact. Their loyalty to the State of Ohio was perhaps best exemplified during a recent SERB conference when Senior Members of the Ohio House of Representatives and Senate presented our team with Joint Resolutions recognizing and commending the agency on its thirtieth anniversary. We look forward to another year of success and accomplishment in helping maintain an environment that fosters healthy labor/management relations. We are equally committed to delivering that service in the most innovative and efficient manner possible. To all elected or appointed government officials and labor representatives, we pledge to faithfully execute our mission fairly and impartially. Thank you for your continued support.

Respectfully submitted,

The State Employment Relations Board

## SERB Statutory Functions

The following are the major statutory duties SERB performs pursuant to the Ohio Public Employees' Collective Bargaining Act of 1983, Chapter 4117 of the Ohio Revised Code:

- Investigation or mediation of alleged unfair labor practices. [Section 4117.12]
- Issuance and prosecution of unfair labor practice complaints when probable cause is found after investigation of charges. [Section 4117.12]
- Adjudication of alleged unfair labor practices based upon formal evidence and legal arguments presented by the parties at hearing. Such cases are heard by SERB administrative law judges, the SERB Board, or individual Board members, who make recommendations that are submitted to the Board for ultimate determination. [Section 4117.12]
- Enforcement of unfair labor practice remedial orders. [Section 4117.13]
- Review of employee challenges to fair share fees paid by them to unions. [Section 4117.09]
- Establishment of standards for and review of employee organization trusteeships. [Section 4117.19]
- Establishment and communication of timetables for all negotiation cases to which the statutory impasse resolution procedure applies. [Section 4117.14]
- Analysis and resolution of legal issues raised by negotiation cases in which the parties dispute the proper procedure. [Section 4117.14]
- Assignment of mediators to resolve impasses in negotiations and to prevent or shorten the duration of public-sector strikes. [Section 4117.14]
- Compilation and submission to parties of lists from which fact finders and conciliators are chosen. [Section 4117.14]
- Subsequent appointment of fact finder and conciliator with proper notification to parties and the appointed neutral and revision of assignments as necessary after ascertaining availability. [Section 4117.14]
- Selection of qualified individuals to serve on SERB's Roster of Neutrals. [Section 4117.02]
- Investigation of petitions for election (initial representation elections, challenge elections by rival unions, or decertification elections), including an examination of a showing of interest required to demonstrate adequate employee interest in an election. Also, investigation of requests for voluntary recognition in which elections may be unnecessary. [Sections 4117.05 and 4117.07]
- Determination or mediation of appropriate bargaining-unit configurations (often through hearing) that may involve the determination of whether employees are confidential, management level, or supervisory. [Sections 4117.01 and 4117.06]
- Conducting secret ballot elections by mail for eligible employees in appropriate units. [Section 4117.07]
- Resolution, through evidential hearing, of other disputed issues associated with representation activity, such as contract bar, election bar, standing, objectionable campaign activity by a party, and eligibility of voters. [Section 4117.02]
- Determination, through evidential hearing and legal arguments, whether job actions constitute prohibited strikes. [Section 4117.23]
- Determination, through evidential hearing and legal arguments, whether otherwise legal strikes pose a clear and present danger. [Section 4117.16]
- Acquisition and analysis of more than 2,900 Ohio public-sector collective bargaining agreements for use as an informational clearinghouse. [Section 4117.02]
- Production of reports reflecting bargaining agreement terms for political subdivision categories, in further fulfillment of the clearinghouse and analysis functions. [Section 4117.02]
- Annually update a list of school districts that have collective bargaining agreements with teacher unions to show, for each district for the current fiscal year, the starting salary in the district for teachers with no prior teaching experience who hold bachelors degrees, and send a copy of the updated list to the state board of education. [Section 4117.102]
- Presentation of training programs for representatives of employee organizations and public employers, and preparation of educational bulletins and manuals. [Section 4117.02]
- Development and implementation of labor-management cooperation initiatives, including interest-based bargaining and labor-management committee training and facilitation. [Section 4117.02]
- Collection, organization, and verification of union financial and organizational reports. [Section 4117.19]
- Investigation of alleged failure to comply with employee organization reporting requirements and possible imposition of penalties. [Section 4117.19]
- Dissemination of information regarding the Ohio Public Employees' Collective Bargaining Act to interested parties such as organizations, public employees, employers, and academicians. [Section 4117.02]

# The Board

The three-member State Employment Relations Board and its administrative staff were created by Ohio's Public Employees' Collective Bargaining Act of 1983. The Act was incorporated as Chapter 4117 of the Ohio Revised Code. Acting as a neutral, the quasi-judicial board determines appropriate bargaining units, conducts representation elections, certifies exclusive bargaining representatives, monitors and enforces statutory dispute procedures, adjudicates unfair labor practice charges, and determines unauthorized strikes. Board appointments are made by the governor with the advice and consent of the Senate. A board member's term is six years.

## W. Craig Zimpher, Chair

W. Craig Zimpher was appointed Chairman of the State Employment Relations Board by Governor John R. Kasich effective January 21, 2011. Prior to his appointment, he had served as Vice President for Government Affairs at Nationwide Insurance Enterprise. In that role Mr. Zimpher oversaw the management of the company's corporate political and outreach programs. He has testified on financial services legislation many times before state legislatures and congressional committees.

Mr. Zimpher's private-sector positions included service as Assistant V.P. of Ohio Operations for Gates, McDonald and Company and Assistant Dean of Students at Ohio Wesleyan University.

Mr. Zimpher's previous public-sector work includes serving as Chairman of the Industrial Commission of Ohio; an appointment by Governor Richard F. Celeste to the Commission on Workers Compensation Administration; served as Deputy Assistant to Governor James A. Rhodes and as Legislative Assistant to the Minority Leader of the Ohio House of Representatives.

Mr. Zimpher, a native of Piqua, Ohio, received his B.A. and M.A. degrees in History from The Ohio State University. He served as a 1st Lieutenant in the U. S. Army. He is married to Park T. Zimpher, and is the father of three sons, Fletch, Peter, and Nathaniel.

Mr. Zimpher has served on the Boards of Directors of Nationwide Children's Hospital Foundation; the Ohio Statehouse Foundation; the Ohio Chamber of Commerce; and the Ohio Council of Retail Merchants. He was elected twice to the vestry of St. Mark's Episcopal Church in Upper Arlington, Ohio. Mr. Zimpher also served as a Chair of the Ohio State College of Arts and Sciences Alumni Advisory Council. He also teaches at Ohio Dominican University as an Adjunct Instructor in History.

## Aaron Schmidt, Vice Chairperson

Aaron Schmidt was appointed to the State Employment Relations Board by Governor John R. Kasich effective January 2, 2014. Mr. Schmidt is an attorney with extensive legal experience in both the public and private sectors. At the time of his appointment, Mr. Schmidt served as legal counsel to the Ohio Lottery Commission.

Mr. Schmidt provided legal advice to the Lottery on a variety of legal matters, including contracts, compliance, litigation, labor relations, intellectual property, public records, and administrative law. He assisted in the promulgation of administrative rules, policies, and procedures, and represented the Lottery at hearings before the Joint Committee on Agency Rule Review (JCARR). He advised the Executive Director, Commissioners, and the Governor's Office on legal matters affecting the Lottery.

Prior to serving at the Ohio Lottery Commission, Mr. Schmidt practiced law in two Cleveland private law firms and managed litigation in a corporate legal department. His practice has encompassed a wide range of experience in employment matters and alternative dispute resolution.

Mr. Schmidt earned his bachelor's degree from The Ohio State University, he earned his law degree from Cleveland-Marshall College of Law, and he completed the Intensive Mediation program at Capital University Law School's Center for Dispute Resolution. Mr. Schmidt is admitted to the practice of law in Ohio. He is a member of the Ohio State Bar Association and the Cleveland Metropolitan Bar Association.

## N. Eugene Brundige, Member

Governor Ted Strickland appointed N. Eugene Brundige to the State Employment Relations Board effective May 12, 2008. At the time of his appointment, Mr. Brundige was an arbitrator, mediator and labor relations consultant, serving on the following arbitration rosters: American Arbitration Association (Labor Panel), Federal Mediation and Conciliation Services, Arbitration Mediation Service, and SERB's Roster of Neutrals. In addition to 15 years as a mediator, Mr. Brundige served previously as Vice Chair of the Board. Upon Governor John R. Kasich's appointment of W. Craig Zimpher as Board Chair in January 2011, Mr. Brundige assumed the position of Board Member.

Mr. Brundige served as Chief Negotiator for the City of Columbus, Director of Classified Personnel for Columbus Public Schools, Chief Negotiator for the State of Ohio, and HR Chief for the Ohio Bureau of Workers' Compensation. He also served in a number of capacities within a statewide union, including President of the Ohio Education Association and Director of Uniserv, supervising 70 staff representatives. He worked on assignment for the National Education Association in Florida.

Mr. Brundige is a graduate of Ohio University, where he received his Bachelors Degree in History and Government and also earned a Masters Degree in Education Administration. He has also served as adjunct faculty at Columbus State Community College and The Ohio State University in various labor-management programs.

## SERB Fiscal Year 2014 Expenditures Summary

	Payroll	Purchased Personal Services	Training	Supplies / Maintenance	Equipment	Totals
						as of 07/01/14
General Revenue	\$2,819,357**	\$81,138	\$0	\$399,908	\$5,377	\$3,305,780
Special Accounts	\$0	\$4,564	\$24,456	\$0	\$0	\$29,020
<b>TOTAL</b>	<b>\$2,819,357**</b>	<b>\$85,702</b>	<b>\$24,456</b>	<b>\$399,908</b>	<b>\$5,377</b>	<b>\$3,334,800</b>

## SERB Personnel FY 2008- 2014

Includes Full-Time Permanent, Part-Time Permanent and Interns.

	2008	2009	2010	2011	2012	2013	2014
Staff	33	30	29	28	33	30	29*

\*\* Payroll expenditures for FY 2014 include 29 personnel who serve/support 3 SERB Board members and 3 SPBR Board members.

# Organization

## Executive Director

The Executive Director is the chief administrative officer of the agency and reports directly to the Board. Charged with its daily operations, the Executive Director oversees the administration of agency funds and personnel. The Executive Director is responsible for implementing Board policy, and manages, directs, and supervises activities of all employees of the Board.

## Office of the General Counsel

The Office of the General Counsel serves as in-house counsel, providing legal support for the Board and its sections, assisting in the preparation of Board opinions, drafting unfair labor practice complaints, and working with SERB's litigation counsel (the Ohio Attorney General) in the preparation of SERB-related cases pending before Ohio courts. Additionally, the General Counsel is the Chief Ethics Officer for the agency and provides or arranges annual ethics training for SERB personnel under Executive Order 2011-03K.

## Representation Section

The Representation Section oversees the review of all representation filings; as well as Requests for Recognition and Petitions for Representation Election to determine sufficiency, coordination of efforts to achieve consent-election agreements, and the subsequent scheduling of 60-70 representation mail-ballot elections annually. Additionally, the section is responsible for the substantive development and presentation of recommendations to the Board on representation issues, and for review and recommendations of rebate cases for fair-share-fee payers.

## Investigations Section

The Investigations Section is charged with the initial review, investigation, recommendation to the Board, and maintenance of statistics involving all unfair labor practice charges before SERB. The section is responsible for the investigation and recommendation to the Board of employee organization reporting complaints and jurisdictional work disputes. The agency's Labor Relations Specialists investigate an average of more than 700 of these charges each year. Additionally, the Labor Relations Specialists are involved in the mediation of unfair labor practice disputes before the Board's initial determination of whether probable cause exists.

## Bureau of Mediation

The Bureau of Mediation oversees implementation of the collective bargaining impasse-resolution procedures established by Section 4117.14 of the Ohio Revised Code. These procedures provide for strict timelines and for the appointment of mediators, fact finders, or conciliators (interest arbitrators) based upon the circumstances of each case. The bureau reviews Notices to Negotiate to determine whether to apply the statutory impasse resolution process or an alternate process designed by the parties. If the statutory process applies, the bureau establishes timelines for negotiations. If an alternate impasse-resolution process applies, the bureau monitors these negotiations and assists the parties when requested. The bureau reviews strike notices and the progress of negotiations, and intervenes when necessary to avoid or end a strike. The bureau develops and coordinates

labor-management-cooperation training and facilitation for interest-based bargaining and labor-management committee effectiveness.

## Hearings Section

The Hearing Section conducts administrative hearings to resolve factual disputes or help decide significant issues of law in cases involving representation, impasse resolution, unfair labor practice matters, and other substantive responsibilities imposed by the Ohio Public Employees' Collective Bargaining Act. In addition, the Hearing Section supports the State Personnel Board of Review (SPBR) to hear cases pertaining to exempt employees in the classified service, to non-exempt employees in the classified service who have not been organized, and to non-exempt employees whose collective bargaining agreement allows an appeal to SPBR. This includes employees of state agencies, county agencies, state universities, and general health districts. In whistleblower and OSHA-type appeals, SPBR may hear appeals from employees in the classified and unclassified service; a request for an investigation may be filed either by a civil service employee or a concerned citizen. All cases for SERB and SPBR are heard before an administrative law judge who submits recommended findings of fact and conclusions of law to the SERB and Report and Recommendation to the SPBR. Administrative law judges may subpoena witnesses and documents, administer oaths, and receive or exclude evidence for cause. Administrative law judges may also mediate representation matters.

## Clerk's Office

The Clerk's Office docket and maintains custody of case-related documents, processing an average of more than 2,000 new case filings annually. This section receives and distributes all case filings and other incoming documents, and is responsible for providing assistance to SERB customers. SERB's intake and record-keeping arm is vital to the agency's operation and is enhanced by a computerized and web-based docketing/imaging system.

## Business/Records Office

The Business/Records Office is responsible for fiscal and budget functions and records retention and certification of the record in administrative hearings to court for SERB and State Personnel Board of Review cases. It is also responsible for SERB's fleet-management and facilities-management functions.

## Research and Training Section

The Research and Training Section fulfills SERB's statutory commitment to act as a clearinghouse of information relating to wages, fringe benefits, and employment practices applicable to the various political subdivisions of the state. Also by statute, the section is responsible for training representatives of employee organizations and public employers in the rules and techniques of collective bargaining. The section's primary tool is its computerized Clearinghouse, a system providing customized collective bargaining agreement information for all jurisdictions in the state. The section is also responsible for writing, editing, and producing SERB's Annual Report and SERB's Annual Report on the Cost of Health Insurance in Ohio's Public Sector.

## Glossary of Terms

SERB's current case-typing system uses these designations:

ERC	Employee Organization Reporting Complaint
JWD	Jurisdictional Work Dispute
MED	Mediation
RBT	Fair Share Fee Rebate Determination
REP	Representation
STK	Employer's Request for Determination of Unauthorized Strike <i>and</i> Request for Determination of Clear and Present Danger
ULP	Unfair Labor Practice

The following case designations were in use before January 1, 1987:

AC	Amended Certification
CE	Conscientious Exemption
CPS	Request for Determination of Clear and Present Danger (Strike case)
FR	Fair Share Rebate Determination
GR	Grandfather (Notification of historical status)
MF	Mediation/Fact-finding/Conciliation
OR	Organization Report
RC	Representation Certification by Election
RD	Petition for Decertification Election
RE	Representation Certification by Election
REPF	Fair Share Fee Rebate Determination
SD	Representation Certification for Self-Determination Election
UC	Unit Clarification
UE	Unfair Labor Practice Charge Filed Against an Employee
UR	Unfair Labor Practice Charge Filed Against an Employer
US	Notice of Strike/Request for Determination of Unauthorized Strike
UU	Unfair Labor Practice Charge Filed Against an Employee Organization
VR	Request for Voluntary Recognition by an Employee Organization

The following abbreviations are in common administrative use:

ALJPO	Administrative Law Judges' Proposed Order (Administrative Law Judges' recommendation in a ULP complaint case)
ALJRD	Administrative Law Judges' Recommended Determination (Administrative Law Judges' recommendation in a non-ULP case)
MAD	Mutually Agreed-Upon Dispute Settlement Procedure (negotiations procedure adopted by the parties that supersedes the statutory procedure)

## Year-End Case Status Summary

<b>Cases Filed</b>	<b>FY 2013</b>	<b>FY 2014</b>
Total Cases	2,108	2,163
Mediation (MED)	1,611	1,728
Strike determinations (STK)	1	2
Representation (REP) <sup>1</sup>	139	144
Rebate Determination(RBT)	0	0
Unfair Labor Practices (ULP)	356	289
Employee Organization Reporting Complaints (ERC)	1	0
Jurisdictional Work Disputes (JWD)	0	0

<b>Agency Activities</b>	<b>FY 2013</b>	<b>FY 2014</b>
State mediator appointed for contract negotiations	73	882
Federal mediator appointed	270	237
Fact Finder appointed	295	345
Conciliator appointed	54	52
Strikes	2	1
Elections held <sup>2</sup>	52	59
Complaints Issued	15	13
Hearings held <sup>3</sup>	8	11
Board meetings <sup>4</sup>	16	16
Board opinions issued	2	4

<b>Mediations Conducted<sup>5</sup> (Non Contract Mediations)</b>	<b>FY 2013</b>	<b>FY 2014</b>
ULPs Pre-Determination	7	13
ULPs Post-Probable Cause	16	23
Representation Matters Pre-Direction to Hearing	0	0
Representation Matters Post-Direction to Hearing	1	2
Total Non-Contract Mediations	24	38

<b>Final Dispositions</b>	<b>FY 2013</b>	<b>FY 2014</b>
Total Dispositions	1,792	2,394
Mediation Cases Closed	1,323	1,940
Election results certified	53	54
Voluntary recognition requests certified	9	12
Recognition requests/election petitions dismissed	25	33
Miscellaneous representation activities	64	56
RBT petitions settled or withdrawn	0	0
ULP charges dismissed	203	170
ULP charges settled or withdrawn	99	107
ULP charges deferred/jurisdiction retained	5	12
ULP complaints settled and continued	11	10

<sup>1</sup> This figure reflects the consolidation into one case of voluntary recognition requests with responsive petitions and multiple petitions of the same unit. It also includes petitions for amendment of certification and for clarification of bargaining unit.

<sup>2</sup>Includes professional/non-professional unit determination elections.

<sup>3</sup>Includes Board-conducted strike authorization hearings.

<sup>4</sup>Includes only regular board meetings.

<sup>5</sup>The statistical report on mediations conducted has been expanded and moved here from the Hearings Section Summaries.

## Collective Bargaining Agreements by Employer Type

As Of June 30, 2014

Employers	Employers with Contracts	Employer Type	Number of Contracts On File	Employees Covered By Contracts
<b>Local Government</b>				
251	249	City	1006	47,225
87	5	County Auditor	8	128
26	13	County Children Services	16	1,729
88	10	County Clerk of Courts	10	426
88	43	County Commissioners	83	2,283
88	3	County Coroner	3	33
88	47	County Engineer	52	1,288
32	17	County Health Care	19	971
14	2	County Hospital	4	2,186
88	52	County Job and Family Services	59	6,192
48	1	County Mental Health	1	28
88	46	County Board of Developmental Disabilities	76	5,800
1	1	County Narcotics Agency	1	7
2	2	County Prosecutor	2	22
86	7	County Recorder	7	55
88	84	County Sheriff	206	8,626
19	13	County Support Enforcement Agency	14	908
88	9	County Treasurer	9	240
14	11	Emergency Medical District	12	297
21	15	Fire District	17	301
83	8	Health District	8	272
51	12	Park District	21	737
5	5	Sanitary District	6	96
18	2	Conservancy District	2	10
20	10	Water/Sewer District	12	413
251	29	Library	32	2,552
40	19	Metropolitan Housing Authority	36	1,626
5	3	Port Authority	6	218
1	1	Regional Turnpike Commission	2	658
14	11	Regional Transit Authority	18	4,578
14	13	State University	47	18,823
14	9	Community College	19	1,943
9	4	Technical College	10	696
154	93	Township	219	3,168
32	18	Miscellaneous	25	640
2,016	867	Total	2,068	115,175
<b>State Government</b>				
1	1	Attorney General	3	717
1	1	Auditor of State	1	17
1	1	Office of the Governor	5	35,410
1	1	Secretary of State	1	63
1	1	Treasurer of State	1	46
5	5	Total	11	36,253
<b>Boards of Education</b>				
721	640	Boards of Education	1,170	171,601

### Summary

Total of all employers .....	2,742
Total number of employers with contracts .....	1,512
Total contracts filed with SERB.....	3,249
Total employees covered .....	323,029

**Collective Bargaining Agreements by County  
As Of June 30, 2014**

<b>County</b>	<b>Boards of Education</b>	<b>Others</b>	<b>Total</b>
Adams	3	4	7
Allen	18	22	40
Ashland	9	8	17
Ashtabula	16	30	46
Athens	13	28	41
Auglaize	9	13	22
Belmont	12	15	27
Brown	10	4	14
Butler	21	62	83
Carroll	4	1	5
Champaign	10	9	19
Clark	13	20	33
Clermont	15	22	37
Clinton	6	5	11
Columbiana	22	24	46
Coshocton	6	7	13
Crawford	11	8	19
Cuyahoga	86	291	377
Darke	10	9	19
Defiance	7	7	14
Delaware	13	27	40
Erie	14	23	37
Fairfield	11	16	27
Fayette	3	4	7
Franklin	37	98	135
Fulton	12	8	20
Gallia	6	5	11
Geauga	14	17	31
Greene	17	34	51
Guernsey	5	9	14
Hamilton	38	110	148
Hancock	14	14	28
Hardin	11	7	18
Harrison	4	3	7
Henry	8	8	16
Highland	7	5	12
Hocking	2	8	10
Holmes	3	2	5
Huron	13	12	25
Jackson	6	16	22
Jefferson	10	22	32
Knox	7	11	18
Lake	20	69	89
Lawrence	16	17	33

<b>County</b>	<b>Boards of Education</b>	<b>Others</b>	<b>Total</b>
Licking	16	18	34
Logan	6	5	11
Lorain	27	65	92
Lucas	21	64	85
Madison	8	9	17
Mahoning	30	82	112
Marion	9	11	20
Medina	13	33	46
Meigs	5	5	10
Mercer	7	6	13
Miami	12	19	31
Monroe	2	4	6
Montgomery	31	76	107
Morgan	2	6	8
Morrow	7	2	9
Muskingum	8	15	23
Noble	4	3	7
Ottawa	9	9	18
Paulding	4	3	7
Perry	6	3	9
Pickaway	4	9	13
Pike	7	3	10
Portage	26	47	73
Preble	9	3	12
Putnam	14	4	18
Richland	18	25	43
Ross	13	6	19
Sandusky	11	15	26
Scioto	14	14	28
Seneca	10	12	22
Shelby	11	6	17
Stark	33	62	95
Summit	37	101	138
Trumbull	41	59	100
Tuscarawas	15	21	36
Union	3	6	9
Van Wert	5	7	12
Vinton	2	1	3
Warren	16	27	43
Washington	13	10	23
Wayne	17	14	31
Williams	8	12	20
Wood	20	40	60
Wyandot	4	3	7

**Summary**

Boards of Education.....	1,170
Other Employers .....	2,079
Total 2014 Contracts.....	3,249

## Bureau of Mediation Summary of Activity

Filings and Appointments	FY 2013	FY 2014	
<i>Matters filed</i>			
Notices to Negotiate	1,611	1,728	
Notices of Intent to Strike	2	16	
<i>Neutrals appointed</i>			
Mediator Appointments	1,004	1,119	
Fact-Finder Appointments	295	345	
Conciliator Appointments	54	52	
<b>FY 2014 Notices to Negotiate</b>	<b>Statutory</b>	<b>MADs</b>	<b>Total</b>
Initial	34	0	34
Reopener	230	48	278
Successor	902	514	1,417
<i>Total</i>	<i>1,166</i>	<i>562</i>	<i>1,728</i>

FY 2014 Fact-Finding Statistical Summary	
<i>Cases with reports accepted</i>	54
Accepted by both parties	13
Deemed accepted . . .	41
by employee organization only	8
by employer only	19
by both parties	14
<i>Cases with reports rejected</i>	46
by employee organization only	28
by employer only	14
by both parties	4
<b>Total FY 2014 reports</b>	<b>100</b>

Results of Fact-Finding		
	FY 2013	FY 2014
Acceptances	53	54
Rejections	51	46

Fact-Finding Cases by Employer Type		
	FY 2013	FY 2014
Cities	52	49
Counties	31	36
School Districts	2	1
Townships	7	9
Universities	1	1
State Government	1	0
Other	10	4

Fact-Finding Cases by Employee Type		
	FY 2013	FY 2014
Police	56	56
Fire	14	20
Teaching	2	0
Nursing	2	1
Other	30	23

### Public Sector Strikes, April 1, 1984—June 30, 2014

Type	04/01/84—06/30/13	FY 2012	FY 2013	FY 2014	Total
Education	147*	1	1	0	149
City	10	0	0	0	10
County	44	0	0	1	45
Township	2	0	0	0	2
Other	8*	0	1	0	9
<i>Total</i>	<i>211</i>	<i>1</i>	<i>2</i>	<i>1</i>	<i>215</i>

\* FY 2013 strike total adjusted from 2012 Annual Report

### Public Sector Strikes Before and After the Collective Bargaining Act

1978	67	1984 <sup>1</sup>	4	1990	13	1996	4	2002	6	2008	3	2014	1
1979	56	1985	9	1991	17	1997	3	2003	7	2009	2		
1980	60	1986	14	1992	11	1998	14	2004	4*	2010	0		
1981	na	1987	19	1993 <sup>2</sup>	3	1999	6	2005	1	2011	0		
1982	na	1988	14	1994 <sup>3</sup>	13	2000	2	2006	6	2012	1		
1983	na	1989	17	1995	7	2001	8	2007	4	2013	2		

<sup>1</sup> 04/01/84 – 12/31/84

<sup>2</sup> 01/01/93 – 06/30/93

<sup>3</sup> Beginning with July 1, 1993, all data are reported by fiscal year, July 1 through June 30.

<sup>4</sup> FY 2004 strike total adjusted from 2004 annual report.

## Representation Summary of Activity

	04/01/84-06/30/11	FY 2012	FY 2013	FY 2014	Total
Elections held	3,252	52	52	59	3,415
Unit Determination elections held (Professional/Nonprofessional)	211	1	0	2	214
Choices for representation	2,479	40 <sup>2</sup>	46	48	2,613
Approximate number of eligible voters	191,726	1,833	1,407	2,414	197,380
Voter turnout	160,905 84%	1,219 67%	1,167 83%	1,843 76%	165,134 84%
Certification via Voluntary Request for Recognition	1,292	9	9	12	1,322

<sup>2</sup> number adjusted from 2012 Annual Report

## Unfair Labor Practice Summary of Activity

Cases	04/01/84-06/30/11	FY 2012	FY 2013	FY 2014	Total
ULP Charges Filed	18,362	312	356	289	19,319
ULP Charges Dismissed	10,203	173	203	170	10,749
ULP Charges Withdrawn	4,640	70	99	107	4,916
Probable Cause Findings	3,412 <sup>1</sup>	30	29	33	3,504
Deferrals to Arbitration (with retention of jurisdiction)	236 <sup>3</sup>	6	5	12	259
Complaints Settled	2,745 <sup>2</sup>	30	11	10	2,796
Complaints Adjudicated	528 <sup>2</sup>	4	5	7	544

<sup>1</sup> Adjusted figures in 1990 used in total.

<sup>2</sup> Does not include 1984-85, when these statistics were not kept.

<sup>3</sup> Does not include 1984-87, when these statistics were not kept.

### FY 2014 Unfair Labor Practice Allegations

Total Allegations of RC 4117.11 violations.....	289
Section 4117.11(A) alleged employer violations.....	216
Section 4117.11(B) alleged employee/employee organization violations.....	73

### Board Decisions Finding Statutory Violations

04/01/84-06/30/11	FY 2012	FY 2013	FY 2014	Total
390	3	4	5	402

## Hearings Section Summary of Activity

Action	04/01/84-06/30/11	FY 2012	FY 2013	FY 2014	Total
ALJPOs/ALJRJs	952	9	6	13	980
Pretrials held	1,074 <sup>1</sup>	24	14	15	1,127
Hearings held	938	11	8	11	968
Settlements	1,503 <sup>1</sup>	30	22	13	1,568

NOTE: The statistical report on mediations conducted has been expanded and moved to the Year-End Case Status Summary.

<sup>1</sup> Statistic maintained beginning December 1994.

## **Board Opinions Issued in Fiscal Year 2014**

### **In re Toledo Area Regional Transit Authority, SERB 2013-001 (12-13-2013)**

In this unfair labor practice matter, Amalgamated Transit Union, Local 697 (“ATU”) alleged Toledo Area Regional Transit Authority (“TARTA”) violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(2). The issues in this matter were: (1) did TARTA commit a violation when it requested that the ATU Business Agent, Cynthia Betz, make “advance arrangements” or “obtain permission” to visit the Toledo Area Regional Paratransit Service” (TARPS); (2) did TARTA commit a violation when it restricted ATU’s use of mail slots in the lockers at the TARPS facility; (3) did TARTA commit a violation when it posted Ms. Betz’s wages on the facilities employee bulletin board.

The State Employment Relations Board (“SERB” or “the Board”) found there was probable cause to believe that TARTA had committed or was committing unfair labor practices and referred the matter to mediation. After a failed mediation session, the case went to an evidentiary hearing in front of an Administrative Law Judge (“ALJ”). The Board adopted the reasoning in the ALJ’s Proposed Order and incorporated by reference the ALJ’s Findings of Fact, Analysis and Discussion, and Conclusions of Law.

To determine whether an employer has violated 4117.11(A)(1), the Board uses an objective standard. Board precedent states, “[e]stablishing that a violation of O.R.C. § 4117.11(A)(1) does not depend on whether the interference, restraint, or coercion succeeded or failed. Interference, restraint, or coercion can be established solely by demonstrating that the employer’s action reasonably tends to interfere with, restrain, or coerce employees in the exercise of their protected activity.” *In re Harrison Hills School Dist. Bd. Of Ed.*, SERB 2010-011 (8-12-10)(“*Harrison Hills*”). In this case, the Board held that all three issues were in violation of O.R.C. § 4117.11(A)(1).

Board precedent explains “[t]o establish an [O.R.C. § 4117.11] (A)(2) violation requires a demonstration of substantial evidence of material harm to the union in the administration or performance of its duties. The actions of the employer must prevent the union from performing administrative duties or interfere with its administration.” *Harrison Hills*. The Board determined “[w]hether a violation of [O.] R. C. 4117.11(A)(2) has occurred is determined objectively, without regard to the employer’s subjective intent.” *In re Clark Cty. Bd. of Dev. Disabilities*, SERB 2010-014 (8-19-10). In this case, the Board held that restricting the use of the mail slots and posting Ms. Betz’s wages were a violation of O.R.C. § 4117.11(A)(2). Additionally, the Board issued a cease and desist order and order to publish Notice to Employees.

### **In re Teamsters Local 436, City of Cleveland, SERB 2013-002 (12-13-2013)**

In this representation case, the Teamsters Local 436 (“the Union”) filed a Request for Recognition under Ohio Revised Code § 4117.05 seeking to represent Assistant Directors of Law (ADLs) for the Civil Division of the City of Cleveland (“the Employer” or “City”). The Employer filed objections to the request.

The matter was directed to a hearing by the State Employment Relations Board to determine an appropriate bargaining unit and for all other relevant matters. The sole issue in this case was whether the ADLs were “public employees” under O.R.C. § 4117.01(C); specifically whether they fall under the

exemptions under O.R.C. § 4117.01(C)(9). The burden of establishing an exclusion from a bargaining unit rests upon the party seeking it.

The Board found that in order to fall within the exception outlined in O.R.C. § 4117.01(C)(9), the City must prove that the ADLs meet three criteria. The ADLs must (1) be appointed pursuant to Section 124.11 of the Revised Code; (2) be employees of a public official; and (3) act in a fiduciary capacity.

First, the Board found that Section 124.11(A)(11) of the Revised Code provides an enumerated list of positions exempt from the classified civil service, including "... assistants to city directors of law." Finding that the state statute and the Charter were not in conflict, the Board concluded that the ADLs were appointed pursuant to Section 124.11 of the Revised Code, and that home rule amendment analysis was unnecessary.

The Board also held that Directors of Law are public officials despite the fact that they are not elected. Citing case law that established City Law Directors to be public officials, the Board found that the ADLs, as employees of Directors of Law, are employees of a public official.

Third, the Board found that ADLs act in a fiduciary capacity. While O.R.C. § 4117.01(C) does not define "fiduciary capacity", the Board adopted the Ohio Supreme Court's holding that when determining if an employee acts in a fiduciary capacity, the analysis must focus on whether the employee's job duties require a high degree of trust, confidence, reliance, integrity, and fidelity above and beyond whatever technical competence the position may require. Finding that these qualities are essential to the ADL position, the Board found that the ADLs act in a fiduciary capacity.

The board adopted the Findings of Fact, Analysis and Discussion, Conclusions of Law and Recommendations in the Administrative Law Judge's Recommended Determination, finding that the ADLs are employees of a public official who act in a fiduciary capacity, appointed pursuant to O.R.C. § 4117.01(C)(9). Thus, the ADLs are exempt from the definition of "public employee". As a result, the Union's request for recognition was dismissed with prejudice.

### **In re City of Green, SERB 2014-001 (02-20-2014)**

In this unfair labor practice case, the State Employment Relations Board ("the Board") found that the City of Green ("the City") violated O.R.C. §§4117.11(A)(1) and (A)(5) when it unilaterally reassigned bargaining-unit work performed exclusively by full-time firefighters to part-time non-bargaining unit firefighters.

The City and the Union negotiated a successor Collective Bargaining Agreement ("CBA") in 2010-2011. The City presented the Union with proposals to delete the full-time firefighter minimum staff level and to add language that would allow the City to establish part-time firefighter positions. The City handed the Union a "Notice of Intent" announcing its intention to unilaterally establish and utilize part-time firefighter/medics.

At mediation, the parties signed a tentative agreement that allows the City to reduce full-time staffing level in certain circumstances, but there was no language in the parties' CBA that allows the City to use part-time personnel. In July of 2012, the City issued a memorandum announcing that it "...will begin using part-time fire medics to supplement our response shift staffing the very near future..." The Union immediately requested to bargain the issue which the City refused and in October of 2012, the City hired part-time firefighters to perform emergency response work.

The City argued that the reassignment of bargaining unit work to non-bargaining unit employees was within its management rights under O.R.C. §4117.08(C). The Board followed legal precedent that the public employer must bargain with its employees regarding a management decision and that the

subject is a mandatory subject for collective bargaining. Additionally, the Board held that the City did not bargain with the Union because the City indicated that the "Notice of Intent" was not a bargaining proposal.

The City contended that Green City Ordinance 242.01 authorizes the use of part-time employees and takes precedence over the collective bargaining laws contained in O.R.C. §§4117. The Board opined that the City cannot use city ordinance to circumvent its duty to bargain under O.R.C. § 4117.10(A) which expressly states that "this chapter prevails over any and all other conflicting laws, resolutions, provisions..."

Through this decision, the Board reaffirms legal precedent that O.R.C. §§4117 requires all public employers and employee organizations to bargain in good faith regarding mandatory subjects of bargaining. The duty to bargain in good faith does not require that the parties reach an agreement; rather requires parties to engage in meaningful discussions regarding clearly defined proposals.

### **In re Cleveland Metropolitan School District Board of Education, SERB 2014-002 (02-20-2014)**

The State Employment Relations Board ("the Board") directed this matter to an inquiry based upon the allegations contained in Cleveland Metropolitan School District Board of Education's ("CMSD") Motion regarding the Service Employees International Union, District 1199, AFL-CIO ("SEIU District 1199"). Specifically, the inquiry was based on whether SEIU District 1199 conducted a proper vote in November of 2013 when attempting to reject a fact finder report.

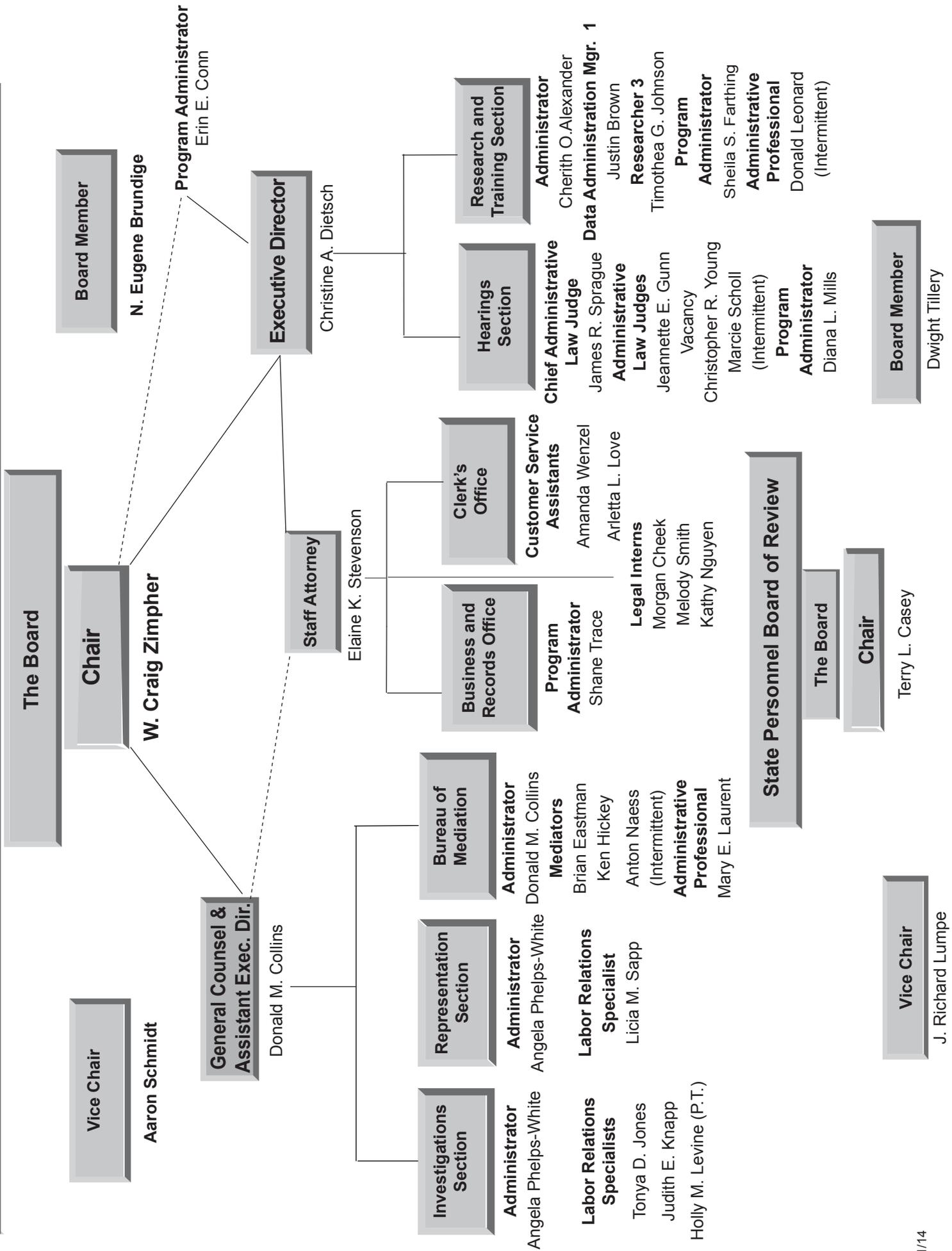
The Board adopted the Inquiry Report and Recommendation which answered two questions that resolved the issue of whether SEIU District 1199 properly rejected the October 2013 Fact Finding Report.

As to the first question, the Board found that the parties did not have an alternative dispute settlement procedure ("MAD") and therefore, were required to follow the statutory dispute settlement procedures established in O.R.C. § 4117.14 and O.A.C. 4117-9-03 and 4117-9-05. The Union argued that SERB lacked subject matter jurisdiction because the parties deviated from SERB's statutory fact finding procedure and created a MAD by operation of law. The Board did not find their argument persuasive because the parties admitted it was not in writing, a requirement of the Rules. Thus, the November 2013 fact finding is governed by statutory procedures and the motion regarding the Union's fact-finding election procedures is within SERB's jurisdiction.

For the second question, the Board then had to review the election procedures established by SEIU District 1199 for the November 2013 fact-finding vote and determined that they did not comply with the statutory dispute settlement procedures. Based on the evidence, the Board found that the Union manipulated the vote by combining electronic and in-person voting to obtain vote tallies prior to the close of the voting period violating O.A.C. Rule 4117-9-05. The Union also violated the statutory provision by providing for multiple election notices with different dates, times, and locations, thus manipulating the vote.

The Board granted CMSD's motion and found the November 2013 Fact-Finding vote rejecting the October 2013 Fact-Finding Report invalid. The Board noted that it seeks to ensure that it has the responsibility to assure the integrity of elections on fact-finding reports and protect them from manipulation. *In re Miami University*, SERB 86-030 (8-7-86).

# State Employment Relations Board



## **2014 SERB Personnel**

### ***SERB Office (614) 644-8573***

65 East State Street, Suite 1200  
Columbus, Ohio 43215-4213

#### ***SERB Members' Offices (614) 466-3206***

W. Craig Zimpher • Chair  
Aaron Schmidt • Vice Chair  
N. Eugene Brundige • Board Member

#### ***SPBR Members' Offices (614) 466-7046***

Terry Casey • Chairman  
Richard Lumpe • Vice Chairman  
Dwight Tillery • Board Member

#### ***Executive Director's Office (614) 466-3013***

Christine A. Dietsch • Executive Director  
Erin E. Conn • Program Administrator  
Elaine K. Stevenson • Staff Attorney/Supervisor

#### ***Legal Interns***

Morgan Cheek • Legal Intern  
Melody Smith • Legal Intern  
Kathy Nguyen • Legal Intern

#### ***General Counsel's Office (614) 466-3014***

Donald M. Collins • General Counsel and Assistant Executive Director

#### ***Bureau of Mediation (614) 644-8716***

Brian J. Eastman • Mediator  
Kenneth F. Hickey • Mediator  
Anton J. Naess • Mediator (Intermittent)  
Mary E. Laurent • Administrative Professional

#### ***Clerk's Office (614) 644-7137***

Elaine K. Stevenson • Staff Attorney/Supervisor  
Amanda Wenzel • Customer Service Assistant 3, Lead Worker  
Arletta L. Love • Customer Service Assistant

#### ***Business/Records Office (614) 466-3858***

Elaine K. Stevenson • Staff Attorney/Supervisor  
Shane G. Trace • Program Administrator

#### ***Hearings Section (614) 644-8688***

James R. Sprague • Chief Administrative Law Judge  
Christopher R. Young • Administrative Law Judge  
Jeannette E. Gunn • Administrative Law Judge  
Marcie M. Scholl • Administrative Law Judge (Intermittent)  
Diana J. Mills • Program Administrator

#### ***Investigations Section (614) 466-2296***

Angela Phelps-White • Administrator  
Tonya D. Jones • Labor Relations Specialist  
Judith E. Knapp • Labor Relations Specialist  
Holly M. Levine • Labor Relations Specialist (Part-time)

#### ***Representation Section (614) 644-6278***

Angela Phelps-White • Administrator  
Licia M. Sapp • Labor Relations Specialist

#### ***Research and Training Section (614) 466-1126***

Cherith O. Alexander • Administrator  
Justin I. Brown • Data Administration Manager 1  
Timothea G. Johnson • Researcher 3  
Sheila S. Farthing • Administrative Professional  
Donald L. Leonard • Training Officer (Intermittent)

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#### ***SERB is an Equal Opportunity Employer.***

*EEO Officer: Marcie M. Scholl, Administrative Law Judge, Hearings Section (Intermittent)*