

State Employment Relations Board
Board Meeting Minutes
March 20, 2008

The State Employment Relations Board met on March 20, 2008, at 10:03 a.m., at 65 East State Street, 12th Floor, Columbus, Ohio. Present at the meeting were Chairman Craig R. Mayton and Board Member Michael G. Verich.

I. APPROVAL OF MINUTES OF THE PREVIOUS MEETING:

Board Member Verich moved that the Board approve the minutes for the March 6, 2008 Board meeting. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Case 06-MED-09-1049 Butler Township Professional Fire Fighters, IAFF Local 4491 and Butler Township Trustees, Montgomery County

On February 21, 2008, the Employer filed a Reply Memorandum to the Union's Memoranda in Opposition to the Employer's Renewed Motion to Stay and Motion For Declaratory Judgment. The Employer argued that SERB should stay the conciliation proceeding or stay the issuance of a conciliation award when there is a pending Petition for Decertification Election. On March 3, 2008, the Conciliator issued his award. On March 4, 2008, the Conciliator's Award was filed with SERB. At the March 6, 2008 Board Meeting, the Board denied the Motion for Declaratory Judgment for lack of jurisdiction, and the Motion to Stay Report of Conciliator as moot.

On March 6, 2008, the Employer filed a Motion to Stay Conciliation Award. The Employer contends SERB should stay the award until the result of an election with respect to a decertification petition in Case 2008-REP-01-0010 to decide the representation question.

Ohio Revised Code § 4117.14(H) provides in part: "All final offer settlement awards and orders of the conciliator made pursuant to Chapter 4117. of the Ohio Revised Code are subject to review by the court of common pleas having jurisdiction over the public employer as provided in Chapter 2711. of the Ohio Revised Code." Ohio Revised Code § 4117.14(I) further provides: "The issuance of a final offer settlement award constitutes a binding mandate to the public employer and the exclusive representative to take whatever actions are necessary to implement the award." The Employer has not identified a provision in Ohio Revised Code Chapter 4117 that gives SERB the authority to stay a conciliation award after it has been issued. It appears that such jurisdiction lies only with the appropriate court of common pleas mentioned in Ohio Revised Code § 4117.14(H).

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Board Member Verich moved that the Board deny the Employer's Motion to Stay Conciliation Award due to lack of jurisdiction. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 07-REP-12-0185 Bettina Tripp and Teamsters Local Union
No. 957 and City of Trotwood
April 15, 2008

2. Case 08-REP-01-0002 Fraternal Order of Police, Ohio Labor
Council, Inc. and City of Ashland
April 16, 2008

3. Case 08-REP-01-0011 Ohio Patrolmen's Benevolent Association
and Fraternal Order of Police, Ohio Labor
Council, Inc. and City of Loveland
April 22, 2008

4. Case 08-REP-01-0001 Donald Fadenholz and Ohio Association of
Public School Employees (OAPSE)/
AFSCME Local 4, AFL-CIO and Medina
County Commissioners/Medina County
Public Transit
April 29, 2008

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

Board Member Verich moved that the Board approve the Consent Election Agreements and direct elections to be conducted on the dates indicated. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

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5. Case 08-REP-01-0004 Chauffeurs, Teamsters, Warehousemen and Helpers, Local No. 377, IBT and Mahoning County Coroner
6. Case 08-REP-01-0016 Greenfield Township Firefighters, International Association of Fire Fighters, Local 4422 and Greenfield Township, Fairfield County

The Employee Organizations have filed Requests for Recognition seeking to represent certain employees of the Employers. The substantial evidence is sufficient. No objections have been filed. The Employers have complied with the posting requirements.

Board Member Verich moved that the Board certify the Employee Organizations as the exclusive representative of all employees in the relevant bargaining units. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u>Aye</u>	VERICH:	<u>Aye</u>
Affirmed	<u>X</u>	Denied	<u> </u>

7. Case 08-REP-01-0015 General Truck Drivers and Helpers Union, Local No 92 and Scioto County Sanitary Engineering Department

The parties have jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to add the classifications of Maintenance Men and Electricians. The proposed unit appears appropriate.

Board Member Verich moved that the Board approve the jointly filed petition and amend the unit accordingly. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u>Aye</u>	VERICH:	<u>Aye</u>
Affirmed	<u>X</u>	Denied	<u> </u>

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8. Case 07-REP-12-0187 Fraternal Order of Police, Capital City Lodge No. 9 and Ohio Patrolmen's Benevolent Association and Columbus Regional Airport Authority

The Rival Employee Organization has filed a Petition for Representation Election seeking to displace the Incumbent Employee Organization. The parties have executed the Consent Election Agreement seeking an election on April 10, 2008.

Board Member Verich moved that the Board approve the Consent Election Agreement and direct an election to be conducted on April 10, 2008. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u>Aye</u>	VERICH:	<u>Aye</u>
Affirmed	<u>X</u>	Denied	<u> </u>

9. Case 07-REP-11-0154 Council 2, OFT/AFT and Professionals Guild of Ohio and Franklin County Children Services Board

- There were 385 ballots cast
- There were 8 challenged ballots
- No Representative received 1 vote
- Professionals Guild of Ohio received 7 votes
- Council 2, OFT/AFT received 369 votes and prevailed in this election.

10. Case 07-REP-03-0044 North Central State Faculty Association – AAUP and North Central State College

- There were 57 ballots cast
- There were 0 challenged ballots
- No Representative received 22 votes
- North Central State Faculty Association – AAUP received 35 votes and prevailed in this election.

Board Member Verich moved that the Board certify the election results and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining unit. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u>Aye</u>	VERICH:	<u>Aye</u>
Affirmed	<u>X</u>	Denied	<u> </u>

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IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 06-ULP-09-0467 SERB v. Brookfield Local School District Board of Education

Board Member Verich moved that the Board grant the Respondent's request for an oral argument and direct the parties to appear for an oral argument before the Board in its Columbus office at a date and time to be determined by the General Counsel in consultation with the parties' representatives. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

2. Case 07-ULP-06-0248 Kay Snyder v. Oak Hill Union Local Independent Employees

3. Case 07-ULP-06-0250 Ashtabula County Employees Association for the Mentally Handicapped, OEA/NEA v. Ashtabula County Board of Mental Retardation and Developmental Disabilities

Board Member Verich moved that the Board construe the settlement agreements as joint motions to dismiss, grant the motions, and dismiss with prejudice the unfair labor practice charges. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

4. Cases 06-ULP-07-0364 SERB v. City of Cleveland
 07-ULP-02-0083
 07-ULP-03-0112

The Charging Party filed unfair labor practice charges against the Respondent. On November 30, 2006, and May 22, 2007, the Board found probable cause to believe that the Respondent violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5), consolidated the cases, and authorized the issuance of a complaint.

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A hearing was held on September 13, 2007. On January 15, 2008, the Administrative Law Judge issued a Proposed Order, recommending that the Board find that the Respondent violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) when it failed to bargain in good faith with the Charging Party prior to unilaterally implementing the Respondent's last, best offer. The Administrative Law Judge also recommended that the Board issue a cease-and-desist order requiring the Respondent to: (1) rescind the unilaterally implemented last, best offer, return to the status quo ante, and bargain in good faith with the Charging Party toward a successor collective bargaining agreement; (2) post the Notice to Employees furnished by the Board for sixty days in all the usual and normal posting locations where bargaining-unit employees represented by the Charging Party work; and (3) notify the Board in writing within twenty days after the order becomes final of the steps that have been taken to comply with the order.

The parties have not filed any exceptions to the Proposed Order. Ohio Revised Code § 4117.12(B)(2) provides that if no exceptions are filed to a proposed order, then the proposed order becomes the order of the Board.

Board Member Verich moved that the Administrative Law Judge's Proposed Order become the order of the Board, pursuant to Ohio Revised Code § 4117.12(B)(2), since no exceptions were filed by any party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

V. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 07-ULP-11-0588 Leah M. Bolden v. Cuyahoga Metropolitan Housing Authority

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by disciplining Charging Party in retaliation for exercising guaranteed rights. Information gathered during the investigation revealed Charged Party's actions may have interfered with, restrained, or coerced Charging Party in the exercise of guaranteed rights.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by interfering with, restraining, or coercing Charging Party in the exercise of guaranteed rights and by disciplining her in retaliation for exercising guaranteed rights, and direct the parties to ULP mediation. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

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2. Case 07-ULP-11-0621 Service Employees International Union, District 1199 v. Hamilton County Head Start

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(8) by outsourcing bargaining-unit work. Information gathered during the investigation revealed Charging Party failed to provide sufficient information to support the Ohio Revised Code § 4117.11(A)(8) allegation.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

3. Case 07-ULP-11-0622 Ohio State Troopers Association, Inc., IUPA, AFL-CIO v. State of Ohio, Department of Public Safety, Division of Highway Patrol

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to bargain in good faith, and by not complying with the bargained-for language regarding the dispatch premium. Information gathered during the investigation revealed Charging Party filed grievances. The issues raised in the charge were purely contractual, and did not rise to the level of a statutory violation.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

4. Case 07-ULP-12-0634 International Union of Operating Engineers, Local 10 v. City of Cleveland and City Council

The unfair labor practice charge alleged Charged Parties violated Ohio Revised Code § 4117.11(A)(5) by failing to bargain in good faith by arriving late for negotiations, refusing to negotiate, and failing to timely respond to a public-records request. Information gathered during the investigation revealed the negotiations between the parties had been frustrating; however, the information provided was not sufficient to support the failure to bargain allegation. The parties continued to negotiate.

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Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Parties. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

5. Case 07-ULP-12-0654 Warren Secretarial Association v. Warren City School District Board of Education

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally altering the terms and conditions of employment. Information gathered during the investigation revealed the issues raised were purely contractual and did not rise to the level of a statutory violation.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

6. Cases 07-ULP-12-0660 Eugene B. Abel v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 1880, AFL-CIO
08-ULP-01-0002

The unfair labor practice charges alleged Charged Party violated Ohio Revised Code § 4117.11(B)(1) and (6) by interfering with Charging Party's rights, and failing to fairly represent him. Information gathered during the investigation revealed Charging Party failed to provide any information to show how Charged Party's actions were arbitrary, discriminatory, or in bad faith. Case 08-ULP-01-0002 was a duplicate filing of Case 07-ULP-12-0660.

Board Member Verich moved that the Board dismiss Case 07-ULP-12-0660 with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party, and dismiss Case 08-ULP-01-0002 with prejudice as a duplicate filing. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

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7. Case 07-ULP-12-0669 Fraternal Order of Police, Ohio Labor Council, Inc. v. Hamilton County Sheriff

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by bargaining in bad faith and dealing directly with bargaining-unit employees when it circulated a letter regarding Charged Party's financial status. Information gathered during the investigation revealed the letter distributed to the employees did not amount to a violation of the statute.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u>Aye</u>	VERICH:	<u>Aye</u>
Affirmed	<u>X</u>	Denied	<u> </u>

8. Case 07-ULP-12-0671 City of Warren v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 74, AFL-CIO

Board Member Verich moved that the Board table this matter. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u>Aye</u>	VERICH:	<u>Aye</u>
Affirmed	<u>X</u>	Denied	<u> </u>

9. Case 07-ULP-11-0623 Butler Education Association, OEA/NEA v. Butler Technology and Career Development School Board of Education

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to bargain in good faith, and dealing directly with bargaining-unit members. Information gathered during the investigation revealed Charged Party's September 19, 2007 memorandum was addressed to its Administrators and not the bargaining-unit members. A bargaining-unit member confirmed he found the memorandum in the copy room. Charging Party failed to provide any information to support the allegation that Charged Party had sent the memorandum to Charging Party's membership.

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Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

10. Case 07-ULP-11-0624 Carlisle Teachers Association, OEA/NEA v. Carlisle Local School District Board of Education

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1), (5), and (6) by refusing to bargain and “completely ignoring” and refusing to abide by the terms of the grievance procedure. Information gathered during the investigation revealed in the matter of the September 24, 2007 grievance, each party had a different interpretation of the language contained in Article 6.03 of the collective bargaining agreement. Charging Party failed to provide any information to show it tried to advance the grievance after it was denied by Charged Party. The matter appeared to be contractual encompassing no arguable statutory violation.

In the matter of the October 23, 2007 grievance, the investigation revealed Charged Party refused to process the grievance by taking the position the issue was not grievable. By failing to respond, Charged Party appeared to have violated Charging Party’s right to have its grievance processed. Charging Party failed to provide sufficient information to show Charged Party had a pattern or practice of repeatedly failing or refusing to process grievances in the Ohio Revised Code § 4117.11(A)(6) allegation.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5), but not (6), by refusing to process the October 23, 2007 grievance, and direct the parties to ULP mediation. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

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11. Case 07-ULP-11-0626 Springfield Education United Support Staff v. Springfield City School District Board of Education

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by refusing to allow Union President Brenda Collier on school grounds to conduct union business. Information gathered during the investigation revealed Charged Party did not interfere with, restrain, or coerce Ms. Collier in the exercise of her guaranteed rights. By its own admission, Charging Party confirmed Ms. Collier had not been turned away while attempting to perform her duties as President. Ms. Collier's duties had been performed by the remaining officers. Charging Party did not contest the fact Ms. Collier was not on the negotiating teams. Charged Party appeared to have the contractual right to prohibit a terminated employee, who also had been found guilty of disorderly conduct, from having access to school property. Charging Party did not provide sufficient information to support the Ohio Revised Code § 4117.11(A)(5) allegation, and did not allege an Ohio Revised Code § 4117.11(A)(2) or (8) allegation.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

12. Case 07-ULP-12-0633 Deborah Strickland v. Ohio Patrolmen's Benevolent Association

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to file a grievance on Charging Party's behalf. Information gathered during the investigation revealed Charged Party's actions were not arbitrary, discriminatory, or in bad faith when it did not file Charging Party's grievance. Charging Party failed to provide sufficient information to support the allegations made in the charge. Charged Party provided statements from two individuals to support that Charged Party offered to file the grievance under the correct contract provision, but Charging Party refused to change and sign the grievance.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

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13. Case 07-ULP-12-0658 Weaver Workshop and Support Association, OEA/NEA v. Summit County Board of Mental Retardation and Developmental Disabilities

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1), (3), and (5) by unilaterally assigning bargaining-unit work to nonbargaining-unit employees. Information gathered during the investigation revealed even though Charged Party contends no "Records Specialists" have been displaced by nonbargaining-unit employees, Charging Party's allegation was that the Mobility/JET Trainers had been assigned the document-scanning work. Charged Party's November 19, 2007 email, indicating that all bargaining-unit work will remain in the bargaining unit, is inconsistent with its actions of initiating an agreement with Weaver Industries.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5), but not (3), by unilaterally assigning bargaining-unit work to nonbargaining-unit employees, and direct the parties to ULP mediation. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

14. Cases 07-ULP-12-0667 Tanya Serrell v. State of Ohio, Department of Administrative Services
07-ULP-12-0668 Tanya Serrell v. State of Ohio, Department of Youth Services

The unfair labor practice charges alleged Charged Parties violated Ohio Revised Code § 4117.11(A)(1) by failing to pay Charging Party for an annual step increase. Information gathered during the investigation revealed Charging Party failed to provide any information to show Charged Parties interfered with, restrained, or coerced her in the exercise of her guaranteed rights. Charged Parties have been manually adjusting Charging Party's pay until the Ohio State Highway Patrol removes the block on her step increase. Charging Party's grievance, regarding this issue, is currently pending a Step 3 hearing.

Board Member Verich moved that the Board dismiss the charges with prejudice for lack of probable cause to believe that unfair labor practices have been committed by Charged Parties. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

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15. Case 08-ULP-01-0006 Ohio Council 8, American Federation of State, County and Municipal Employees, Local 101, AFL-CIO v. City of Dayton

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) by threatening to “dramatically increase” health-insurance premiums during a re-opener over health-care contributions. Information gathered during the investigation revealed that it may have been Charging Party, and not Charged Party, who caused dissent among Charging Party’s members when they were not informed of a potential cost increase until after Charged Party sent out the October 25, 2007 memorandum. Charging Party confirmed it received verbal notice of the increases on October 19, 2007. It appeared Charging Party may have taken the position that it would initiate a picket on November 7, 2007, which would have been after the November 1, 2007 effective date of the premium increase. The October 25, 2007 memorandum did not appear to contain bargaining proposals, but the contents and costs of various health-insurance plans. It is also noted that Charging Party did not allege an Ohio Revised Code § 4117.11(A)(5) violation.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

16. Cases 08-ULP-01-0019 Gregory Griffin v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 3360, AFL-CIO and President Julie Albert

08-ULP-01-0020 Gregory Griffin v. Ohio Council 8, American Federation of State, County and Municipal Employees, Local 3360, AFL-CIO and Ann Tanner

The unfair labor practice charges alleged Charged Parties violated Ohio Revised Code § 4117.11(B)(6) by failing to take Charging Party’s grievance to arbitration. Information gathered during the investigation revealed Charged Parties’ actions were not arbitrary, discriminatory, or in bad faith when they did not take Charging Party’s grievance to arbitration. The union’s Regional Staff Representatives met to discuss the grievance and made the determination, based on a number of factors, that the grievance lacked merit to be advanced to arbitration. Case 08-ULP-01-0020 is a duplicate filing of Case 08-ULP-01-0019.

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Board Member Verich moved that the Board dismiss Case 08-ULP-01-0019 with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Parties, and dismiss Case 08-ULP-01-0020 with prejudice as a duplicate filing. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

17. Case 07-ULP-09-0505 Lorain Education Association, OEA/NEA v. Lorain City School District Board of Education

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by transferring the bargaining-unit duties of Guidance Counselors out of the bargaining unit. Information gathered during the investigation revealed the use of personnel from Joining Forces and the duties they perform appeared to be distinct enough as to not equate to the duties of the Guidance Counselors. It appeared the duties of both positions were meant to compliment one another, rather than take away the duties of the Guidance Counselors. The Joining Forces Program appeared to have been in place for more than ten years as evidenced by a 1998 grievance settlement.

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

18. Case 07-ULP-09-0506 Lorain Education Association, OEA/NEA v. Lorain City School District Board of Education

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by failing to bargain in good faith over a reduction of the student day by 45 minutes and failing to bargain over the implementation of new technology. Information gathered during the investigation revealed that the collective bargaining agreement between the parties included a grievance procedure culminating in final and binding arbitration. A grievance regarding the alleged unilateral change has been filed and is proceeding through the grievance procedure. While interpreting contract provisions, such as Articles 2 and 3, the arbitrator will determine whether Charged Party committed a contractual violation when it reduced the student day by 45 minutes and by failing to meet its contractual obligations over the implementation of new technology. Contract interpretation and application appear to lie at the heart of both the unfair labor practice charge and grievance dispute.

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Board Member Verich moved that the Board retain jurisdiction and defer the charge for resolution through the grievance-arbitration procedure in accordance with *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

21. Case 07-ULP-10-0549 Fraternal Order of Police, Ohio Labor Council, Inc. v. City of Springboro

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by refusing to give Patrol Officer Todd Pultz the representative of his choice for two investigatory interviews and then terminating his employment for having engaged in protected activities. Information gathered during the investigation revealed Charged Party may have violated Officer Todd Pultz's right to representation at an August 20, 2007 investigatory interview. It appeared the administration of Charging Party may have been interfered with and Officer Pultz was possibly terminated for engaging in protected activities.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to hearing to determine if Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by refusing to allow Patrol Officer Todd Pultz to obtain union representation on or about August 20, 2007 for an investigatory interview, interfering with the administration of Charging Party, and terminating Officer Pultz's employment for having engaged in protected activities, and direct the parties to ULP mediation. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

22. Case 07-ULP-10-0556 International Union of Operating Engineers, Local 95 v. Warren City School District Board of Education

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by subcontracting bargaining-unit work. Information gathered during the investigation revealed that the collective bargaining agreement between the parties includes a grievance procedure culminating in final and binding arbitration. A grievance regarding the alleged unilateral change has been filed and is proceeding through the grievance procedure. While interpreting contract provisions, such as Articles 1, 17, 18 and 20, the arbitrator will determine whether Charged Party committed a contractual violation when it refused overtime to a bargaining-unit employee while utilizing students to perform the work. Contract interpretation and application appear to lie at the heart of both the unfair labor practice charge and grievance dispute.

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Board Member Verich moved that the Board retain jurisdiction and defer the charge for resolution through the grievance-arbitration procedure in accordance with *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

23. Case 07-ULP-11-0572 Huayang S. Cui v. State of Ohio, Department of Rehabilitation and Correction, London Correctional Facility and David Burns

The unfair labor practice charge alleged Charged Parties violated Ohio Revised Code § 4117.11(A)(1), (3), and (4) by terminating Charging Party for engaging in protected activities, and by refusing to give him requested information. Information gathered during the investigation revealed Case 07-ULP-11-0572 is a duplicate filing of Case 07-ULP-09-0439.

Board Member Verich moved that the Board dismiss the charge with prejudice as a duplicate filing. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

24. Case 07-ULP-12-0636 Fraternal Order of Police, Ohio Labor Council, Inc. v. Lorain County Sheriff

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1), (2), and (3) by not allowing Charging Party's staff representative to investigate a safety issue. Information gathered during the investigation revealed, under all of the facts and circumstances, that employees were not interfered with, restrained, or coerced in the exercise of their Ohio Revised Code Chapter 4117 rights. Charging Party failed to show how it was prevented from performing any of its administration duties by Charged Party, or how Charged Party interfered with Charging Party's administration. As to the Ohio Revised Code § 4117.11(A)(3) allegation, a prima facie case of discrimination was not established since it appeared no harm occurred .

Board Member Verich moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by Charged Party. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

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25. Case 07-ULP-12-0647 Nancy Lopez, et al. v. Ohio Council 8,
American Federation of State, County and
Municipal Employees, Local 2001, AFL-CIO

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11. Information gathered during the investigation revealed information was requested in writing from Charging Parties on January 8, 2008, and February 12, 2008, and Charging Parties failed to respond to the written requests for information.

Board Member Verich moved that the Board dismiss the charge with prejudice for failure of Charging Parties to pursue the matter. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u>Aye</u>	VERICH:	<u>Aye</u>
Affirmed	<u>X</u>	Denied	<u> </u>

26. Case 07-ULP-12-0653 United Steelworkers of America v. City of
Reynoldsburg

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing health-care benefits while the parties were in negotiations. Information gathered during the investigation revealed Charged Party may have committed a violation when it unilaterally changed health-care benefits while the parties were in negotiations.

Board Member Verich moved that the Board find probable cause to believe an unfair labor practice has been committed, authorize the issuance of a complaint, refer the matter to an expedited hearing to determine if Charged Party violated Ohio Revised Code § 4117.11(A)(1) and (5) by unilaterally changing health-care benefits while the parties were in negotiations, and direct the parties to ULP mediation. Chairman Mayton seconded the motion, and called for discussion during which he verified through Labor Relations Administrator Dory McClendon that the unilateral change of health-care benefits is at the heart of the charge. Chairman Mayton then called for the vote.

Vote: MAYTON:	<u>Aye</u>	VERICH:	<u>Aye</u>
Affirmed	<u>X</u>	Denied	<u> </u>

27. Case 08-ULP-01-0012 Kevin J. McKinnon v. International
Brotherhood of Teamsters, Local 1199

The unfair labor practice charge alleged Charged Party violated Ohio Revised Code § 4117.11. Information gathered during the investigation revealed Charging Party is employed by the Coca Cola Company, a private-sector employer, and the charge is not within the Board's jurisdiction.

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Board Member Verich moved that the Board dismiss the charge with prejudice for lack of jurisdiction. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

28. Case 07-ULP-08-0395 Tim Davis v. Municipal Foremen and Laborers Union, Local 1099

On November 29, 2007, the Board dismissed the referenced unfair labor practice charge for lack of probable cause. Charging Party alleged that Charged Party violated Ohio Revised Code § 4117.11(B)(6) by failing to fairly represent him. On February 1, 2008, Charging Party filed a request for reconsideration of the Board's decision. A review of the original investigation revealed Charging Party had failed to raise issues warranting reversal of the dismissal

Board Member Verich moved that the Board construe Charging Party's request for reconsideration as a motion for reconsideration, and deny the motion with prejudice. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

29. Case 07-ULP-12-0642 Municipal Foremen and Laborers Union Local 1099 v. City of Cleveland

30. Case 08-ULP-01-0024 Ohio Patrolmen's Benevolent Association v. Columbus Regional Airport Authority

31. Case 08-ULP-01-0026 Municipal Foremen and Laborers Union Local 1099 v. City of Cleveland

Board Member Verich moved that the Board grant with prejudice all motions to withdraw. Chairman Mayton seconded the motion, and called for discussion and the vote.

Vote: MAYTON:	<u> Aye </u>	VERICH:	<u> Aye </u>
Affirmed	<u> X </u>	Denied	<u> </u>

