

State Employment Relations Board

Board Meeting Minutes

March 13, 2014

The State Employment Relations Board met on March 13, 2014, at 10:00 a.m., at 65 East State Street, 12th Floor, Columbus, Ohio. Present at the meeting were Chair W. Craig Zimpher, Vice Chair Aaron A. Schmidt, and Board Member N. Eugene Brundige.

I. APPROVAL OF MINUTES FOR THE FEBRUARY 20, 2014 BOARD MEETING:

Board Member Brundige moved that the Board approve the minutes for the February 20, 2014 Board meeting. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Case 2014-MED-01-0027 Municipal Foremen and Laborers' Union, Local 1099 and the City of Mentor

The City of Mentor requests the Board to allow it to withdraw its January 23rd Motion to Stay Negotiations. Previously, on January 10, 2014, the incumbent union had filed a Notice to Negotiate for a successor contract. Prior to that on December 18, 2013, a rival union, the Teamsters Local 507, filed a Petition for a Representation Election, seeking to oust the incumbent. On January 23, 2013, the City requested a stay of negotiations pending the outcome of the representation election. Since then, on February 10, 2013, Teamsters Local 507 requested to withdraw its election petition. That request is currently before the Board for this March 13 meeting on the representation agenda. As the Teamsters have requested withdrawal of their petition, there is no longer any controversy before the Board.

Vice Chair Schmidt moved that the Board grant the employer's Motion to withdraw the January 23, 2014 Motion to Stay Negotiations. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 2014-REP-01-0012 Ohio Patrolmen's Benevolent Association and Southwest Summit Council of Governments

The Employee Organization filed a Request for Recognition. The substantial evidence is sufficient and no objections have been filed. The Employer has complied with the posting requirements.

Board Member Brundige moved that the Board certify the Employee Organization as the exclusive representative of all employees in the relevant bargaining unit. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 2013-REP-06-0056 The Communications Workers of America, Local 4546 and Summit County Children Services

The Communications Workers of America, Local 4546 ("Employee Organization") is the Board-certified exclusive representative of certain employees of the Summit County Children Services ("Employer"). On June 6, 2013, the Employee Organization filed a Petition for Amendment of Certification, seeking to amend the existing bargaining unit to include the following job classifications: Social Service Manager I - Placement Coordinator; Social Service Manager I - Resources Manager; Quality Improvement Manager; and Quality Improvement Manager - SAR Reviewer. The Employer filed a position statement opposing the Petition for Amendment of Certification, maintaining that the positions in question are managerial positions.

On September 12, 2013, the State Employment Relations Board ("the Board") directed this matter to a hearing to determine if the employees in question are "public employees" pursuant to Ohio Revised Code Chapter 4117.

On February 10, 2014, the parties filed a settlement agreement in this case. The settlement agreement indicates that the parties have entered into a "Supplemental Agreement" to file a Joint Petition for Amendment of Certification of the existing bargaining unit and to have the Employee Organization withdraw the Petition for Amendment of Certification in Case No. 2013-REP-06-0056.

Board Member Brundige moved that the Board construe the parties' settlement agreement as a motion to withdraw, grant the motion to withdraw, and dismiss the Petition for Amendment of Certification in Case No. 2013-REP-06-0056. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

IV. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 2013-ULP-09-0285 Perrysburg Exempted Village School District Board of Education v. Perrysburg Education Association, OEA/NEA
2. Case 2013-ULP-10-0303 Perrysburg Education Association, OEA/NEA v. Perrysburg Exempted Village School District Board of Education
3. Case 2013-ULP-10-0304 Perrysburg Education Association, OEA/NEA v. Perrysburg Exempted Village School District Board of Education
4. Case 2013-ULP-10-0305 Perrysburg Education Association, OEA/NEA v. Perrysburg Exempted Village School District Board of Education

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Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the Bureau. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Abstain SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

9. Case 2013-ULP-12-0359 Hubbard Education Association, OEA/NEA v. Hubbard Exempted Village School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally assigning bargaining-unit work to nonbargaining-unit employees.

Information gathered during the investigation revealed that the issues involving the (A)(5) allegation appears to be best addressed through a hearing to determine whether the speech therapist duties were exclusively bargaining-unit work and if so, did the School Board have the managerial right to unilaterally assign the work to a third party subcontractor. The Association did not provide sufficient information or documentation to support the (A)(1) allegation.

Board Member Brundige moved that the Board probable cause to believe an unfair labor practice has been committed, order the parties immediately to ULP mediation for a period not to exceed 45 days, authorize the assigned mediator, after consultation with the parties, to issue and e-mail a mediator's procedural order, including date, time, and location of mediation within the time period designated. If the mediation is unsuccessful, authorize the issuance of a complaint and refer the matter to hearing to determine whether the School Board violated Ohio Revised Code 4117.11(A)(5), but not (1) to determine whether the speech therapist duties were exclusively bargaining-unit work and if so, did the School Board have the managerial right to unilaterally assign the work to a third party subcontractor. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

10. Case 2013-ULP-12-0362 Karina M. Hahn v. Oregon City School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(3) by rating Karina Hahn as "developing" on her evaluation in retaliation for her filing previous unfair labor practice charges.

Information gathered during the investigation revealed that Ms. Hahn has failed to show how she was adversely harmed by receiving a "developing" rating on her observation and has failed to show a nexus between the rating she received and the filing of her previous unfair labor practice charges. Ms. Hahn failed to provide sufficient information/documentation to support an (A)(3) violation.

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Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed by the School Board. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

11. Case 2014-ULP-01-0012 Hugh P. Gaughan v. Laborers International Union of North America, Local 860

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(1) and (7) by failing to take Hugh Gaughan's termination grievance to arbitration due to filing previous unfair labor practice charges against the Union.

Information gathered during the investigation revealed the Union's actions were not arbitrary, discriminatory or in bad faith when it did not advance Mr. Gaughan's termination grievance to arbitration. Mr. Gaughan did not provide sufficient information or documentation to support the (B)(1) and (7) allegations.

Board Member Brundige 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 the Union. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

12. Case 2013-ULP-09-0291 Richmond Heights Education Association, OEA/NEA v. Richmond Heights Local School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally creating a Code of Conduct, which if not followed, could result in its members being disciplined.

Information gathered during the investigation revealed that on January 9, 2014, this Board dismissed the charge for lack of probable cause. The Association timely filed a motion for reconsideration, but did not provide any new or additional information meriting reconsideration.

Vice Chair Schmidt moved that the Board deny the motion for reconsideration with prejudice. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

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Vice Chair Schmidt moved that the Board deny the motion for reconsideration with prejudice. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Abstain SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

16. Case 2013-ULP-11-0329 James Rease, Jr. v. Laborers International Union of North America, Local 860

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(6) by failing to take James Rease, Jr.'s grievance to arbitration.

Information gathered during the investigation revealed that on January 9, 2014, this Board dismissed the charge for lack of probable cause. Mr. Rease timely filed a motion for reconsideration, but did not provide any new or additional information meriting reconsideration.

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

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

17. Case 2013-ULP-04-0094 New Philadelphia Education Association, OEA/NEA v. New Philadelphia City School District Board of Education
18. Case 2013-ULP-09-0294 Huntington Local Education Association, OEA/NEA v. Huntington Local School District Board of Education
19. Case 2012-ULP-12-0334 Association of Cuyahoga County Employees for Special Students v. Cuyahoga County Board of Developmental Disabilities
20. Case 2014-ULP-01-0016 Danielle Lazaro v. State of Ohio-Department of Developmental Disabilities
21. Case 2014-ULP-01-0004 Harrison Firefighters, IAFF Local 3204 v. City of Harrison and Fire Chief Rob Hursong

Items 17 through and including 21 were withdrawn pursuant to a request or a motion to withdraw.

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

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

VI. TABLED AND OTHER MATTERS:

There are no tabled matters.

VII. ADMINISTRATIVE MATTERS:

SERB REGULAR SCHEDULED MEETING DATES:

- April 03, 2014
- May 01, 2014
- May 15, 2014
- June 05, 2014
- June 26, 2014
- July 24, 2014
- August 14, 2014

SYSTEM UPDATES:

- **Employee Organization Annual Report Filings:** All Employee Organizations are in compliance at this time.
- **Cost of Health Insurance in the Public Sector Survey update:** 1,327 surveys were sent out to Public Sector Employers on January 13. 1029 employers have completed the survey to date for a 77.5% completion rate thus far. First round of extensions expires 3/14. End of the March is when Research & Training will no longer accept submissions. Justin will follow up with those outstanding after the 14th.
- **2013 Financial Disclosure Filing Cycle Information:** Reminder for all public officials and employees of SERB that currently serve or served at any time during calendar year 2013 or 2014 who fall into the required category to be sure to file the 2013 financial disclosure statement on or before April 15, 2014. SERB pays the filing fee on behalf of its filers. Any questions regarding the Ohio Ethics Law may be directed to 1-614-466-7090. Please let me know when you have filed.
- **Office Cloud 365:** In preparation for the upcoming migration to the Office Cloud 365, staff have been notified that the maximum size limit on email messages has been reduced from 50MB to 25MB. The migration will take place around July. Justin Brown is following this transition and will work with all staff and Board members to keep us informed and on top of the changes as they develop. A plan is in place and has been transmitted via SERB current as to how staff should approach this situation should they have a message or attachment 25 MB or larger in their mailbox.
- **SERB Academy:** Spring academy being planned for 3/31/14 & 4/01/14 to coincide with the 30th Anniversary of SERB. Crowne Plaza location. Expected attendance is 100.
- **SPBR Academy:** Spring academy being planned for 6/13/14. Crowne Plaza location.
- **Fact Finders Conference:** Scheduled for August 21, 2014 to be held at the Crowne Plaza location. OSU President Alutto will be the featured speaker.

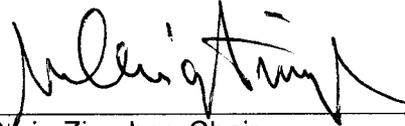
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IX. ADJOURNMENT:

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

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

The Board meeting adjourned at 10:22 a.m.

/s/ 

W. Craig Zimpher, Chair