State Employment Relations Board

Board Meeting Minutes
May 15, 2014

The State Employment Relations Board met on May 15, 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 MAY 1, 2014 BOARD MEETING:

Board Member Brundige moved that the Board approve the minutes for the May 1, 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 2013-MED-03-0223 Indian Hill Education Association and Indian Hill Exempted Village School

On March 6, 2014, the Indian Hill Education Association representing approximately 137 Certificated Teaching Staff includes Teachers, Counselors, Nurses, et al filed a Notice to Negotiate for a new collective bargaining agreement with Indian Hill Exempted Village School.

On March 14, 2014, a Petition for Representation Election was filed seeking to decertify the Indian Hill Education Association as the exclusive representative for this bargaining unit in Case No(s). 2014-REP-03-0038.

On March 20, 2014, the Indian Hill Exempted Village School filed a Motion to Stay Negotiations and Fact Finding pending the outcome of the above mentioned representation petition.

Vice Chair Schmidt moved that the Board grant the Employer's Motion To Stay Negotiations in Case No. 2013-MED-03-0223 pending disposition of the representation matter in Case No. 2014-REP-03-0038. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

2. Case 2014-MED-04-0661 Ashtabula County Joint Vocational School Secretaries Association and Ashtabula County Technical & Career Center

On April 23, 2014, the Ashtabula County Joint Vocational School Secretaries Association filed a Notice to Negotiate for a new collective bargaining agreement with Ashtabula County Technical & Career Center. Case No. 2014-MED-04-0661.

On September 12, 2013, the State Employment Relations Board approved the Certification of Election results on 2013-REP-02-0011. The majority of employees chose no representative.

The union has now requested to withdraw the Notice to Negotiate as it was filed in error.

Board Member Brundige moved that the Board Dismiss the Notice To Negotiate on Case No. 2014-MED-04-0661. Vice Chair Schmidt 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-03-0045 Teamsters Local 284 affiliated with the International Brotherhood of Teamsters and Franklin County Sheriff's Office

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.

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

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

2. Case 2014-REP-03-0033 Ohio Council 8, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO and City of Xenia
(May 30, 2014 - June 12, 2014)

3. Case 2014-REP-03-0043 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and Highland County Board of Developmental Disabilities
(May 30, 2014 - June 12, 2014)

4. Case 2014-REP-03-0044 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Lima/Allen County Regional Transit Authority
(May 30, 2014 - June 12, 2014)

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

Board Member Brundige moved that the Board approve the Consent Election Agreements and direct mail-ballot elections to be conducted during the polling periods indicated. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

5. Case 2014-REP-04-0048 Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and Local 312 and Groveport Madison Local School District Board of Education

The parties jointly filed a Petition for Amendment of Certification seeking to reflect a merger of Local 787 into Local 312. Appropriate internal union procedures have been followed and substantial continuity exists. No questions of representation are pending. Approving the amendment appears appropriate.

Vice Chair Schmidt moved that the Board approve the jointly filed petition and amend the certification accordingly. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

6. Case 2014-REP-02-0027 Brunswick Hills Firefighters Association 1941 and Teamsters Union Local No. 416 and Brunswick Hills Township, Medina County

The Employee Organization filed a Petition for Representation Election. The Employer responded by filing objections and a Petition for Representation Election. Teamsters Union Local No. 416 filed a timely Motion to Intervene. A conference call was conducted. The Employee Organization has now requested to withdraw the petition.

Board Member Brundige moved that the Board construe the Employee Organization's e-mail as a motion to withdraw, grant the motion, dismiss without prejudice the Petition for Representation Election, and dismiss the Employer's Petition for Representation Election and the Teamsters' Motion to Intervene both as moot. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

7. Case 2014-REP-03-0038 Indian Hill Educators Professional Organization and Indian Hill Education Association, OEA/NEA and Indian Hill Exempted Village School District

The Rival Employee Organization filed a Petition for Representation Election. The Incumbent Employee Organization has requested a hearing. All parties filed position statements which are summarized in the memorandum previously presented to the Board. The objections are thoroughly vetted in the discussion section of the memorandum, as is the rationale for the recommendation.

Vice Chair Schmidt moved that the Board determine that Indian Hill Educators Professional Organization is an employee organization, deny the Incumbent Employee Organization's request for a hearing, and direct that a mail-ballot election be conducted during a polling period to be established by the Representation Section, in this appropriate unit:

Included: All full-time and regularly scheduled part-time certificated teachers of the Indian Hill Exempted Village School District, including nurses, media specialists, counselors, teachers with special education certificates, teachers with vocational education certificates, certified teaching assistant, certified tutors, coordinating teachers, psychologists, certificated auxiliary service employees and department coordinators, chairmen, or heads.

Excluded: The Superintendent, assistant superintendent, treasurer, assistant treasurer, directors, principals, assistant principals, athletic director, administrative and teaching interns, summer school director, business managers, all persons for whom certification in supervision or administration is required, substitute teachers, student teachers, paraprofessionals, aides, all non-certified teaching assistants or non-certified assistants, auxiliary service employees (with the exception of certified auxiliary service employees on continuing contracts), summer school, adult education and community school teachers, or instructors who are not employed as regular day-school teachers during the school year, confidential employees, and all management level persons, and supervisors as defined in the Act, and all other employees of the school district.

As required by Ohio Administrative Code Rule 4117-5-07(A), no later than May 25, 2014, the Employer shall serve on the parties and shall file with SERB, a numbered, alphabetized election-eligibility list containing the names and home addresses of all employees eligible to vote as of the last pay period just prior to May 15, 2014. The Employer shall also provide the election-eligibility list to SERB in label format.

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

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

8. Case 2014-REP-01-0003 Ohio Patrolmen's Benevolent Association and International Union, UAW and Trumbull County Sheriff

- There were 44 valid ballots cast
- There was 1 void ballot
- There were 0 challenged ballots
- No Representative received 0 votes
- International Union, UAW received 17 votes
- Ohio Patrolmen's Benevolent Association received 27 votes and prevailed in this election.

9. Case 2014-REP-01-0013 Youngstown Waste Water Employees Local #725 and United Steelworkers International Union and its Local 2163-6 and City of Youngstown

- There were 56 valid ballots cast
- There were 0 void ballots
- There were 4 challenged ballots
- No Representative received 2 votes
- United Steelworkers International Union and its Local 2163-6 received 12 votes
- Youngstown Waste Water Employees Local # 725 received 42 votes and prevailed in this election.

10. Case 2013-REP-12-0119 Sugarcreek Township Police Association and Fraternal Order of Police, Ohio Labor Council, Inc. and Sugarcreek Township, Greene County

- There were 9 valid ballots cast
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 0 votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received 0 votes
- Sugarcreek Township Police Association received 9 votes and prevailed in this election.

11. Case 2013-REP-12-0125 Fraternal Order of Police, Ohio Labor Council, Inc. and Ohio Patrolmen's Benevolent Association and Lake County Sheriff's Office

- There were 21 valid ballots cast
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 1 vote
- Ohio Patrolmen's Benevolent Asssociation received 5 votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received 15 votes and prevailed in this election.

Board Member Brundige 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 units. 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-ULP-05-0124 SERB v. City of Springdale

On May 3, 2013, the Fraternal Order of Police, Ohio Labor Council, Inc. ("Union") filed an unfair labor practice charge against the City of Springdale ("City"), alleging that the City violated Ohio Revised Code ("O.R.C.") §§ 4117.11(A)(1) and (A)(5). On October 24, 2013, the State Employment Relations Board ("Board" or "Complainant") determined that probable cause existed to believe that the City committed or was committing unfair labor practices, authorized the issuance of a complaint, and directed the matter to hearing. A complaint and notice of hearing were issued on November 14, 2013.

On December 23, 2013, the parties submitted joint stipulations of fact and exhibits in lieu of a hearing. Subsequently, the parties filed briefs setting forth their legal arguments. On March 27, 2014, Administrative Law Judge Jeannette Gunn issued a Proposed Order, recommending that the Board find that the City did not violate O.R.C. §§ 4117.11(A)(1) or (A)(5) when it unilaterally implemented a Wellness Program. On April 15, 2014, Counsel for Complainant and the Union filed separate exceptions to the Proposed Order. On April 25, 2014, the City filed its response to the exceptions to the Proposed Order.

Vice Chair Schmidt moved that the Board adopt the Findings of Fact and Conclusions of Law in the Proposed Order, finding that the Employer did not violate O.R.C. §§ 4117.11(A)(1) or (A)(5) when it unilaterally implemented a Wellness Program. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

2. Case 2013-ULP-09-0267 SERB v. Service Employees International Union, District 1199

On September 10, 2013, the Cleveland Metropolitan School District Board of Education ("Employer") filed an unfair labor practice charge against the Service Employees International Union, District 1199 ("Union"), alleging that the Union violated Ohio Revised Code ("O.R.C.") §§ 4117.11(B)(1) and (B)(3). On November 14, 2013, the State Employment Relations Board ("the Board" or "Complainant") determined that probable cause existed to believe that the Union committed an unfair labor practice, authorized the issuance of a complaint, and directed the matter to hearing.

A complaint and notice of hearing were issued in this matter on December 12, 2013. On December 19, 2013, the Employer filed a motion to intervene, which was granted. A hearing was held on February 10, 2014. Subsequently, the parties filed post-hearing briefs. On March 5, 2014, Administrative Law Judge James Sprague issued a Proposed Order, recommending that the Board find that the Union violated O.R.C. §§ 4117.11(B)(1) but not (B)(3) when four of the Union's bargaining team members spoke publicly and derogatorily of the performance of the Employer's Lead Negotiator during the course of ongoing negotiations. On March 21, 2014, the Employer filed exceptions to the Proposed Order. On March 28, 2014, Counsel for Complainant and Intervenor filed separate responses to the exceptions to the Proposed Order.

Vice Chair Schmidt moved that the Board adopt the Findings of Fact and Conclusions of Law in the Proposed Order, finding that the Union violated O.R.C. § 4117.11(B)(1) by restraining the Employer in the selection of its bargaining representative when, during a public meeting of the Board of Education of the Cleveland Metropolitan School District, four of the Union's bargaining team members spoke publicly and derogatorily of the performance of the Employer's Lead Negotiator during the course of ongoing negotiations; and order the Employer to take the following action:

Respondent, Service Employees International Union, District 1199, is hereby ordered to take the following action:

A. CEASE AND DESIST FROM:

(1) Restraining employees in the exercise of their rights guaranteed in R. C. 4117. through the Union's offering denigrating comments regarding the performance of the Board of Education's Lead Negotiator and Spokesperson during ongoing collective bargaining negotiations, when such comments are made in the course of directly addressing the Board of Education at its public meeting, and from otherwise violating R.C. 4117.11(B) (1).

B. TAKE THE FOLLOWING AFFIRMATIVE ACTION:

(1) Post for sixty days in all the usual and normal posting locations, where bargaining unit employees represented by the Service Employees International Union, District 1199 work, the Notice to Employees furnished by the State Employment Relations Board stating that the Service Employees International Union, District 1199 shall cease and desist from actions set forth in paragraph (A) and shall take the affirmative action set forth in paragraph (B); and

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

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

Vote: BRUNDIGE:	No	SCHMIDT:	Yes	ZIMPHER:	Yes
Affirmed	X		Denied		

3. Case 2013-ULP-11-0323 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 233 v. Ashland City School District Board of Education

On November 1, 2013, the Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 233 ("Charging Party") filed an unfair labor practice charge against the Ashland City School District Board of Education ("Charged Party"), alleging that Charged Party violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(2).

On February 20, 2014, the State Employment Relations Board ("Board") determined that probable cause existed to believe Charged Party had committed an unfair labor practice and directed the parties to participate in unfair labor practice mediation. In the event mediation failed to resolve this matter, the Board also authorized the issuance of a complaint and directed this case to hearing. The parties participated in an unfair labor practice mediation session. On May 2, 2014, the parties filed a copy of their settlement agreement in this case. Paragraph 5 of the settlement agreement provides that the Board should consider this agreement as a motion to withdraw the unfair labor practice charge.

Board Member Brundige moved that the Board construe the parties' settlement agreement as a motion to withdraw, grant the motion, and dismiss the unfair labor practice charge in Case No. 2013-ULP-11-0323 with prejudice. (The Board retains jurisdiction over this matter for purposes of enforcing the parties' settlement agreement, pursuant to Ohio Administrative Code Rule 4117-7-06.) Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

4. Case 2010-ULP-09-0383 Antoine Peck, et al. and Cuyahoga Metropolitan Housing Authority

Antoine Peck has filed a Motion to Enforce a Settlement Agreement that was entered into June 2, 2011. In essence, the Settlement Agreement resolved an Unfair Labor Practice Charge in Case No. 2010-ULP-09-0383 wherein the employer agreed not to interfere with employees filing grievances or interfere with any of the charging employees from filing class action grievances.

On March 11, 2014 Antoine Peck, one of the charging parties in the aforementioned case and signatory to the above settlement agreement, filed a handwritten letter asking the Board to enforce the settlement agreement. He alleges the employer was violating the terms of the agreement. In support of his claim he attached a number of documents alleging someone from CMHA is threatening him, putting their hands in his face, forging his signature, coming to residents' houses and getting confrontational, getting aggressive because he called HR, throwing paper at him, writing him up for doing someone else's work, violating the contract, sending him to houses with black mold which threatens his health and safety and other similar complaints. These documents include undated grievances and other letters claiming to record these and other similar problems. The main complaints relate to a Mr. Penta who apparently is Peck's supervisor. These complaints span a period from March 2013 to August of 2013. There doesn't appear to be any allegations that a grievance can't be filed or that anyone is interfering with the ability to file or pursue a class action grievance, items that are the subject of the Settlement Agreement.

The employer's response is these complaints have nothing to do with the settlement agreement and the supervisor that was subject of the Settlement Agreement has long since retired. The employer notes that Peck's claims do not allege that he is being intimidated with regard the filing of grievances or that adverse action is being taken because of the filing of any class or group grievance, prohibitions outlined in the settlement agreement. The employer concludes that since the settlement agreement, there is all new management in Mr. Peck's area.

Here the claims of Peck do not allege any interference with filing a grievance or that anyone is interfering with the ability to file a class action or group grievance. The primary issues of Peck seem to focus on the interactions he is having with Mr. Penta.

Vice Chair Schmidt moved that the Board dismiss the Motion to Enforce the Settlement Agreement. The moving party has not alleged or provided any information that would support that he or anyone else is being prohibited by management from filing an individual or group grievance. Board Member Brundige 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-12-0349 Euclid Classified Association, OEA/NEA v. Euclid City 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 failing to bargain the effects of its decision to privatize its transportation department.

Information gathered during the investigation revealed that the action to subcontract the transportation services has already occurred. As a result, the employees have been terminated and the Association is no longer the designated bargaining representative. Therefore, the School Board's actions do not rise to a violation of the statute.

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 School Board. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

2. Case 2014-ULP-01-0001 International Association of Fire Fighters, Local 2972 v. City of Hillsboro

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1), (5) and (7) by laying off bargaining-unit members and by entering into a contract for another entity to provide fire and EMS services to the community.

Information gathered during the investigation revealed that the matter is purely contractual encompassing no arguable statutory violation.

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

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

3. Case 2014-ULP-01-0010 Paula Harnist v. Cincinnati State Technical and Community College

The unfair labor practice charge alleged Cincinnati State Technical and Community College violated Ohio Revised Code §4117.11 (A)(1), (3), (4), (6) and (8) by terminating Paula Harnist as a result of engaging in protected activity.

Information gathered during the investigation revealed that the termination issue is currently proceeding through the grievance/arbitration process. Based on the foregoing, statutory interpretation and application lie at the center of the dispute in this matter.

Board Member Brundige moved that the Board, *sua sponte*, defer the matter for resolution through the grievance-arbitration procedure and retain jurisdiction in accordance with In re Upper Arlington. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

4. Case 2014-ULP-01-0011 Marianne Sullinger v. North Ridgeville Education Association, OEA/NEA

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(3), (5) and (6) by failing to fairly represent all employees in the bargaining unit and by making threats to interfere with Marianne Sullinger's guaranteed rights.

Information gathered during the investigation revealed that after a review of the totality of the conduct and circumstances, Ms. Sullinger's termination was a result of progressive discipline as set forth by the agreement. Ms. Sullinger failed to provide information to support the (B)(3), (5), or (6) allegations.

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

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

5. Case 2014-ULP-03-0045 Michael Rider v. Ohio Civil Service Employee Association, AFSCME Local 11 and Kevin Birchfield

The unfair labor practice charge alleged that the Association and Kevin Birchfield violated Ohio Revised Code §4117.11 (B)(6) by failing to represent Michael Rider by not permitting him to be present at his Step 3 hearing.

Information gathered during the investigation revealed that Mr. Rider failed to demonstrate that Mr. Birchfield's and the Association's actions were arbitrary, discriminatory or in bad faith. Upon a thorough review of the circumstances in this case, there is no documentation to support a violation of the statute.

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 Association. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

6. Case 2014-ULP-02-0021 Parma Education Association, OEA/NEA v. Parma City 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 directly dealing with its members regarding an outstanding grievance as part of an attempt to "divide and conquer" the members.

Information gathered during the investigation revealed that the Superintendent's mandate that Building Administrators meet with the bargaining-unit members regarding the Arbitration Contingency Plan and its potential effect on their jobs/positions could have a chilling effect on the members and their relationship with the exclusive bargaining representative; thereby, interfering, coercing or restraining employees in the exercise of their guaranteed right to have a grievance heard at an arbitration hearing.

Vice Chair Schmidt moved that the Board find 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)(1) but not (5) by meeting with the Association's members regarding an ongoing grievance and the consequences to the members if the School Board did not prevail in the grievance, as part of an attempt to "divide and conquer" the members. Board Member Brundige seconded the motion. Chair

Zimpher called for discussion and the vote.

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

7. Case 2014-ULP-03-0041 Roger Martin v. Fraternal Order of Police, Lodge 86

The unfair labor practice charge alleged that the FOP violated Ohio Revised Code §4117.11 (B)(6) by "conspiring with management to effectuate Roger Martin's termination."

Information gathered during the investigation revealed that Mr. Martin had ample opportunity to present his case after his termination, but chose not to assist the FOP in its review of his termination grievance. The FOP took the basic and required steps in its representation of Mr. Martin and its actions were not arbitrary, discriminatory or in bad faith.

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 FOP. Vice Chair Schmidt seconded the motion. Chair Zimpher called for discussion and the vote.

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

8. Case 2014-ULP-01-0015 Lucas Teachers Association, OEA/NEA v. Lucas 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 implementing a teacher evaluation procedure.

Information gathered during the investigation revealed that after a review of R.C. Chapter 4117 in conjunction with R.C. 3319.111, the District's actions of implementing the new teacher evaluations, does not rise to the level of an (A)(5) statutory violation.

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

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed 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		

9. Case 2014-ULP-02-0027 Derrick L. Abney v. City of Painesville

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(4) and (6) by discriminating against Derrick L. Abney because of past unfair labor practice filings and testimony and by failing to process his grievances.

Information gathered during the investigation revealed that Mr. Abney was involved in a workplace accident in October of 2013. Pursuant to City policy, Mr. Abney was tested for

drugs and tested positive. In addition, Mr. Abney knew or should have known of the alleged unfair labor practice on or before October 14, 2013, when he filed a grievance. The instant charge was not filed until February 18, 2014, approximately 127 days later. Mr. Abney did not provide any documentation to toll the 90-day statute of limitations.

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 and for being untimely filed. 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 2014-ULP-02-0028 Derrick L. Abney v. International Union of Operating Engineers, Local 18

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(6) by failing to fairly represent Derrick Abney.

Information gathered during the investigation revealed that the Union filed a grievance regarding Mr. Abney's October of 2013 accident; but, after evaluating the facts and documentation, the Union decided not to proceed to arbitration because the case lacked merit. Not only were the actions of the Union not arbitrary, discriminatory or in bad faith, but Mr. Abney filed the instant charge approximately 127 days after he knew or should have known of the violation. Mr. Abney did not provide any documentation to toll the 90-day statute of limitations.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed and for being untimely filed. Board Member 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-03-0042 Robbie Barrett v. Ohio Patrolmen's Benevolent Association

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(6) by failing to represent Robbie Barrett.

Information gathered during the investigation revealed that the actions of the Association were not arbitrary, discriminatory or in bad faith. Mr. Barrett did not provide sufficient information to support the (B)(6) allegation.

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 Association. 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 2014-ULP-03-0047 Utility Workers Union of America, AFL-CIO, Local 436-A, v. Eastern Ohio Regional Wastewater Authority and Valerie Moore

The unfair labor practice charge alleged that Eastern Ohio Regional Wastewater Authority and Valerie Moore violated Ohio Revised Code §4117.11 (A)(5) by refusing to fairly bargain with the exclusive representative regarding health care premiums for its bargaining-unit members.

The Investigator will hold the discussion in abeyance pending the outcome of the recommendation.

Vice Chair Schmidt moved that the Board, without rendering any judgment on the merits, order the parties to pre-determination mediation for a period not to exceed 30 days with instructions to the mediator to report back to the Board at the conclusion of the mediation or the mediation period, whichever comes first, 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. Board Member Brundige seconded the motion. Chair Zimpher called for discussion and the vote.

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

13. Case 2013-ULP-08-0239 Euclid Classified Association, OEA/NEA v. Euclid City 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 failing to bargain over the decision to privatize the transportation department during negotiations for a successor agreement.

Information gathered during the investigation revealed that on October 24, 2014, the Board dismissed the above charge for lack of probable cause. On November 14, 2013, the Association timely filed a Motion for Reconsideration. However, the Association did not provide any new or additional information meriting reconsideration.

Board Member Brundige moved that the Board deny the Association's Motion for Reconsideration 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		

14. Case 2013-ULP-11-0335 Cleveland Teachers Union, AFT Local 279, AFL-CIO v. Cleveland Metropolitan Schools Board of Education and Elizabeth Fennell

The unfair labor practice charge alleged that the School Board and Elizabeth Fennell violated Ohio Revised Code §4117.11 (A)(1) and (8) by denying bargaining-unit employees' requests for representation.

Information gathered during the investigation revealed that on February 20, 2014, the

Board dismissed the above charge for lack of probable cause. On March 17, 2014, the Union timely filed a Motion for Reconsideration. However, the Union did not provide any new or additional information meriting reconsideration.

Vice Chair Schmidt moved that the Board deny the Union's 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		

15. Case 2014-ULP-03-0050 Service Employees International Union, District 1199 v. Cincinnati State Technical & Community College

This matter was withdrawn pursuant to a settlement agreement.

Board Member Brundige moved that the Board construe the settlement agreement as a motion to withdraw, and grant 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		

V. TABLED AND OTHER MATTERS:

1. Case 2013-ULP-10-0310 City of Cleveland v. Communications Workers of America, Local 4340, AFL-CIO
Hold In Abeyance – April 3, 2014

2. Case 2013-ULP-11-0334 Service Employees International Union, District 1199 v. Butler County Head Start
Tabled – April 3, 2014

VI. ADMINISTRATIVE MATTERS:

SERB REGULAR SCHEDULED MEETING DATES:

- **June 05, 2014**
- **June 26, 2014**
- **July 24, 2014**
- **August 14, 2014**

SYSTEM UPDATES:

- **Employee Organization Annual Report Filings:** For fiscal year ending 12/31/13 a total of 745 Employee Organizations are required to report not later than today, May 15, 2014. To date, 105 Employee Organizations have not yet filed. Sheila began contacting those Organizations to ensure all contact information is accurate and to remind them to of the requirement to file before the 31 day notice of "non compliance" is processed. All other Employee Organizations have filed and are in compliance.

- **Cost of Health Insurance in the Public Sector Survey update:**

	2014	2013
➢ Total Responses	1,232	1,226
➢ Did not Respond / Incomplete Survey	95	99
➢ Total Surveys Sent	1,327	1,325
➢ Response Rate	92.84%	92.52%

Of the 1,232 responses received, 583 surveys have been scrubbed, 649 surveys remain and will be completed by June 6.

Report initial Rough Draft will be ready by July 1, 2014

Report Release Date August 1, 2014

- **2013 Financial Disclosure Filing Cycle Information:** Filing has been timely completed for all public officials and employees of SERB and SPBR who currently serve or served at any time during calendar year 2013 or 2014 and who were required to file the 2013 financial disclosure statement on or before May 15, 2014.

- **Office Cloud 365:** In preparation for the upcoming migration to the Office Cloud 365, all PC's have been updated from Micro Soft 2010 to 2013. The migration will take place in three phases. Phase one will begin June 01 and conclude by the end of September. The remaining phases will follow. Justin Brown is working with OIT to assist in coordinating this transition and will work with all staff and Board members to keep us informed and on top of the changes as they develop. OIT has indicated this transition will have a minimal cost impact, it is not known at this time how much more we will required to pay.

  In addition, Office of Information Security & Privacy will be moving from three (3) different Anti- Virus providers to an exclusive contract with McAfee. This will provide a more secure environment for the State of Ohio computer users. It will have no budget impact.

- **All SERB Opinions since 1984 are now searchable on the SERB Website**. Previously only opinions from 1999 were available. An announcement to all SERB customers will be forthcoming.

- **SPBR Academy:** Scheduled for 6/13/14. Crowne Plaza - Dublin location. To date there are 66 registrations.

- **Fact Finders Conference:** Scheduled for August 21, 2014 to be held at the Crowne Plaza - North location. OSU President Alutto will be the featured speaker.

VII. 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 10:35 a.m.

/s/
W. Craig Zimpher, Chair