

State Employment Relations Board

Board Meeting Minutes  
August 13, 2015

The State Employment Relations Board met on August 13, 2015, at 10:00 a.m., at 65 East State Street, 12<sup>th</sup> Floor, Columbus, Ohio. Present at the meeting were Chair W. Craig Zimpher and Vice Chair Aaron A. Schmidt. Board Member N. Eugene Brundige was absent from the meeting.

**I. APPROVAL OF MINUTES FOR THE JULY 9, 2015 BOARD MEETING:**

Vice Chair Schmidt moved that the Board approve the minutes for the July 9, 2015 Board meeting. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

**II. RESOLUTION TO ADOPT ADMINISTRATIVE RULE AMENDMENTS:**

Vice Chair Schmidt moved that the Board approve the resolution and adopt the administrative rule amendments. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

**III. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:**

There were no mediation or fact-finding matters.

**IV. REPRESENTATION MATTERS AT ISSUE:**

1. Case 2015-REP-06-0057 Teamsters Local Union No. 100 and Hamilton County Engineer  
(August 26, 2015 - September 8, 2015)
2. Case 2015-REP-06-0059 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Jackson County Health Department  
(August 26, 2015 - September 8, 2015)

In both cases Petitions for Representation Election were filed. The parties have entered into Consent Election Agreements seeking mail-ballot elections for the polling period of August 26, 2015 through September 8, 2015.

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

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

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3. Case 2015-REP-06-0062 Communications Workers of America, AFL-CIO and Jefferson County Engineer

The parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to accurately reflect negotiated, revised bargaining unit positions, including Mechanic Driver (1) and Tag Trailer Operator (1). The proposed amendment appears appropriate.

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

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

4. Case 2015-REP-05-0051 Service Employees International Union District 1199 WV/KY/OH and Cleveland State University

On May 7, 2015, the Cleveland State University filed a Petition for Unit Clarification seeking to determine the bargaining status of the Head of Library Teaching & Learning Services classification.

The University asserts that pursuant to the duties performed, the Head of Library Teaching & Learning Services position is a supervisory position and in accordance with Ohio Revised Code 4117.01(C) (10), should be excluded from the bargaining unit as not meeting the definition of a "public employer." SEIU asserts that the classification should remain in the bargaining unit because the employee in the classification does not perform supervisory functions.

Vice Chair Schmidt moved that the Board order the parties to participate in an Inquiry to determine whether the employees in question are "public employees" pursuant to Ohio Revised Code Chapter 4117 and if they are found to be, to determine an appropriate bargaining unit and for all other relevant issues. The date and time of the Inquiry and the Inquiry procedures will be addressed in a procedural order issued by the Office of the General Counsel of the State Employment Relations Board. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

5. Case 2015-REP-05-0056 Ohio Patrolmen's Benevolent Association and South-East Emergency Communications Center

Vice Chair Schmidt moved that the Board lift the matter from the table. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

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The OPBA filed a Petition for Representation Election seeking to represent approximately four (4) full-time Dispatcher Supervisors of the South-East Emergency Communications Center. The Employer timely filed objections and a position statement. The Employer contends that the Dispatcher Supervisors are supervisory employees and not "public employees" as defined in Ohio Revised Code § 4117.01(C)(10). OPBA maintains the actual job duties performed will confirm that they are Lead Workers, not supervisors.

Vice Chair Schmidt moved that the Board direct this matter to an Inquiry to determine whether the employees in question are "public employees" pursuant to Ohio Revised Code Chapter 4117 and if they are found to be, to determine an appropriate bargaining unit and for all other relevant issues. The date and time of the Inquiry and the Inquiry procedures will be addressed in a procedural order issued by the Office of the General Counsel of the State Employment Relations Board. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent    SCHMIDT: Yes    ZIMPHER: Yes  
Affirmed        X                      Denied        \_\_\_\_\_

6.     Case    2013-REP-08-0072    Fraternal Order of Police, Ohio Labor Council, Inc. and Delaware County Sheriff

On June 25, 2015, the FOP filed a Motion to Revoke Certification. The County Sheriff has abolished the position of Food Service Worker; therefore, there are no longer any employees in the bargaining unit. The parties confirm no contract exists. The motion was unopposed.

Vice Chair Schmidt moved that the Board grant the motion and revoke the Employee Organization's certification. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent    SCHMIDT: Yes    ZIMPHER: Yes  
Affirmed        X                      Denied        \_\_\_\_\_

7.     Case    2015-REP-04-0042    Ohio Patrolmen's Benevolent Association and Portage-Geauga County Juvenile Detention Center, Board of Trustees

- There were thirteen(13 ) valid ballots cast
- There was one(1) void ballot
- There was one(1) challenged ballot
- No Representative received zero(0) votes
- Ohio Patrolmen's Benevolent Association received thirteen(13) votes
- Ohio Patrolmen's Benevolent Association prevailed in this election



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- There were 3 valid ballots cast
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 0 votes
- International Brotherhood of Teamsters Local 436 received 3 votes and prevailed in this election.

11. Case 2015-REP-03-0039 Ohio Patrolmen's Benevolent Association and Laborers' International Union of North America, Local No. 860 and Northeast Ohio Regional Sewer District

- There were 25 valid ballots cast
- There was 1 void ballot
- There were 2 challenged ballots
- No Representative received 0 votes
- Laborers' International Union of North America, Local No. 860 received 4 votes
- Ohio Patrolmen's Benevolent Association received 21 votes and prevailed in this election.

In cases 8 through and including 11, elections were properly held and the ballots were tallied.

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

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

12. Case 2015-REP-03-0033 Michael T. Ollom and Service Employees International Union (SEIU), District 1199, WV/KY/OH The Health Care and Social Services Union, Change to Win, CLC and Wood County General Health District

- There were thirty three (33) valid ballots cast
- There was one(1) void ballots
- There were three(3) challenged ballots
- No Representative received twenty seven(27) votes
- Service Employees International Union (SEIU), District 1199, WV/KY/OH The Health Care and Social Services Union, Change to Win, CLC received six(6) votes
- No Representative prevailed in this election

In this case a Petition for Decertification was filed. The election was held and the ballots were tallied.

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Vice Chair Schmidt moved that the Board certify the election results and certify that the employees in the unit have chosen to have no exclusive representative for the purposes of collective bargaining. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

**V. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:**

1. Case 2014-ULP-08-0134 Greater Dayton Regional Transit Authority and the Amalgamated Transit Union, Local 1385

Pursuant to the Board's Directive at the January 15, 2015 meeting, this case was sent to Mediation. The case was mediated through our office. A result of that Mediation was a Joint Labor Management Communication Training that took place earlier this year. Despite several attempts at resolution, the parties have not resolved this, or the companion cases of 2014-ULP-10-0216, concerning a management communication sent to employees and 2014-ULP-10-0196, regarding a union communication sent to the GDRTA Board Members by the union.

In case No. 2014-ULP-08-0134, the charge alleges the union made an improper appearance at a Transit Authority meeting to argue an appeal of a grievance. Glenn Salyer, the Union President, is alleged to have advocated on behalf of the grievant, by attempting to justify the action, taken by the grievant, that resulted in her discipline. The grievance is being processed. The parties have selected an Arbitrator who has presumably heard the grievance(s) and rendered a decision. The expired Collective Bargaining Agreement contains a grievance procedure that results in Arbitration.

Before the Board is whether there was an attempt to circumvent the bargaining representative by contacting the Transit Authority to seek a favorable outcome in a labor dispute or whether this was lobbying on a matter of public concern. "Where the parties are working to resolve a labor dispute through their previously agreed-upon grievance/arbitration mechanism, a direct appeal to the employer to resolve the dispute is an illicit bypass of the designated representative." *In Re Ohio Patrolman's Benevolent Assn.*, SERB 99-011 (6-24-99)

The original investigation in this matter recommended a finding of probable cause to believe the union violated Ohio Rev. Code 4117.11(B)(3). Now that several attempts at mediation have not been successful, this matter is ripe for further action.

Vice Chair Schmidt moved that the Board find probable cause to believe that an unfair labor practice has been committed, authorize the issuance of a complaint and refer this matter to a hearing to determine whether the charged party violated Ohio Revised Code § 4117.11(B)(3) by bypassing the employer's designated representative. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

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2. Case 2015-REP-03-0031 Ohio Patrolmen's Benevolent Association and Central Ohio Youth Center

On March 16, 2015, the Ohio Patrolmen's Benevolent Association ("OPBA") filed a Petition for Representation, seeking to represent approximately six Supervisors and Assistant Supervisors of the Central Ohio Youth Center. On March 25, 2015, the Central Ohio Youth Center timely filed Objections to the Petition for Representation Election, asserting that the employees in question are not public employees under O.R.C. Chapter 4117.

On May 7, 2015, the State Employment Relations Board ("the Board" or "SERB") directed this matter to SERB's Office of General Counsel to conduct an inquiry to determine whether the employees in question are "public employees" under O.R.C. Chapter 4117.

On May 12, 2015, SERB's Office of General Counsel issued a procedural order scheduling the inquiry for July 20, 2015.

On July 15, 2015, OPBA filed a Motion to Withdraw Petition for Representation Election.

On July 16, 2015, SERB's Office of General Counsel issued a procedural order vacating the inquiry date.

Vice Chair Schmidt moved that the Board grant OPBA's Motion to Withdraw Petition for Representation Election in Case No. 2015-REP-03-0031 and dismiss this petition without prejudice. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

3. Case 2013-MED-02-0080 Communication Workers of America, Local 4340 (EMS Captains) and the City of Cleveland

On February 9, 2015, the employer, the City of Cleveland requested SERB to revoke its order directing the parties to resolve their labor contract impasse before a Conciliator. The City believes it is not obligated to participate in Conciliation as the EMS Supervisors are not eligible for Conciliation under Ohio Rev. Code 4117.14. The Board directed this matter to an Inquiry at the March 12, 2015 meeting.

The Inquiry was held on May 21, 2015 wherein the parties presented testimony and documents as evidence in support of their positions. The General Counsel has issued a Report and Recommendation, which is now before the Board, recommending revocation of SERB's order to the parties to engage in Conciliation.



**IV. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:**

1. Case 2015-ULP-04-0080 Communications Workers of America Local 4546 v. Summit County Children's Services

The unfair labor practice charge alleged that Children Services violated Ohio Revised Code §4117.11 (A)(1), (2), (5), (6) and (8) by failing to follow the contractual grievance procedure in regards to two employees that were removed from employment while on probation.

Information gathered during the investigation revealed that the allegations contained in the instant charge are strictly contractual encompassing no arguable statutory violation. The parties have differing interpretations of the contract articles at issue. These different interpretations do not rise to the level of a statutory violation. The Union did not provide sufficient information or documentation to support the (A)(1), (2), (5), (6) and (8) 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

2. Case 2015-ULP-04-0095 Shannon Litton v. International Brotherhood of Teamsters Local Union No. 244

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(6).

Information gathered during the investigation revealed that information was requested, in writing, from Shannon Litton on May 7, 2015. Ms. Litton did not respond to the written requests for information.

A follow-up letter was sent to her on June 2, 2015, again requesting information to support the allegation which was due June 9, 2015. Ms. Litton did not respond to the second written request for information.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for failure to pursue the matter. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

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3. Case 2015-ULP-03-0056 Ohio Council 8, AFSCME, AFL-CIO v. Lima/Allen County Regional Transit Authority

The unfair labor practice charge alleged that the Transit Authority violated Ohio Revised Code §4117.11 (A)(1) and (5) by refusing to bargain in good faith, by directly dealing with its members regarding bargaining and by leaving copies of bargaining proposals in a training room in view of the public and its members.

Information gathered during the investigation revealed that based on the totality of the circumstances in this matter, Ms. Schmitt's actions of speaking directly to the bargaining-unit members regarding negotiations and leaving copies of the signed TAs in view of the public and the bargaining-unit members may rise to the level of an (A)(1) and (5) statutory violation.

Ms. Schmitt's actions of directly dealing with employees, when she responded that "many employees" had expressed concern or frustration to her that they did not know what was going on in negotiations and she "felt she should inform them", thereby circumventing their exclusive representative, may breach the rules and terms of the relationship and also may undercut the status of the exclusive representative, potentially impairing the [union's] relationship and effectiveness with the employees it represents.

The Transit Authority did not provide a persuasive rebuttal of her actions. The matter would be best addressed through an expedited hearing.

Vice Chair Schmidt 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 whether or not the Transit Authority violated Ohio Revised Code 4117.11(A)(1) and (5), and direct the parties to expedited mediation not to exceed thirty days to run concurrently with the expedited processing of the charge and complaint. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

4. Cases 2015-ULP-03-0060 The City of New Philadelphia v. James Miller, Michael Bertoni, Terry Brick, Chris Fountain, Brian Polka, Stacy Hunter, and James Hobart

2015-ULP-03-0061 The City of New Philadelphia v. Ohio Council 8, AFSCME, AFL-CIO and Its Local 1958

The unfair labor practice charges alleged that James Miller, et al. and the Union violated Ohio Revised Code §4117.11 (B)(2) and (3) by attempting to change existing contract language through the grievance-arbitration procedure.

Information gathered during the investigation revealed that the City's allegation is not supported by the evidence presented in this matter. The City did not provide any specific information to show what language the Union was attempting to modify when it filed the grievances. The matter appears to be contractual with no evident, arguable statutory violation. Based on the totality of the circumstances, the Union's actions do not rise to the level of a (B)(3) statutory violation.

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The City also did not provide sufficient information or documentation to support the (B)(2) allegations.

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

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

5. Case 2015-ULP-05-0104 Mattie Margo Wakefield v. Ohio Reformatory for Women

The unfair labor practice charge alleged that the Reformatory violated Ohio Revised Code §4117.11 (A)(1), (5), (6) and (8) by unfairly issuing Mattie Margo Wakefield a 2-day working suspension.

Information gathered during the investigation revealed that based on information provided by Ms. Wakefield, the charge is untimely filed. The documentation provided by Ms. Wakefield to support her allegations ranged from 2012 through August of 2014, which was the date of her Pre-Disciplinary hearing. Ms. Wakefield did not provide any information to support her allegations regarding the March 24, 2015 arbitration hearing. Based on Ms. Wakefield's November 2, 2014 discipline, the charge should have been filed on or before January 31, 2015, but was not filed until May 11, 2015, 191 days later.

Ms. Wakefield did not provide sufficient information or documentation to support the (A)(1), (5), (6) and (8) 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 and for being untimely filed. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

6. Case 2015-ULP-05-0105 Mattie Margo Wakefield v. Ohio Civil Service Employees Association-Ohio Reformatory for Women Chapter 8010

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(3) and (6) by failing to properly represent her during her arbitration hearing.

Information gathered during the investigation revealed that Ms. Wakefield has failed to provide any information or documentation to show how the Union's actions were arbitrary, discriminatory or in bad faith while representing her at the arbitration hearing on March 25, 2015. Ms. Wakefield confirms that she had Union representation at every step of the process. Therefore, based on the totality of the circumstances, the Union's actions do not rise to the level of a (B)(6) statutory violation.

Ms. Wakefield also did not provide any information or documentation to support the (B)(3) allegation.

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

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

7. Case 2015-UPL-05-0108 Yellow Springs Exempted Village School District Board of Education v. Yellow Springs Education Association, OEA/NEA

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(2) by "repeatedly" making threats of discrimination, harassment and intimidation against High School Principal Timothy Krier.

Information gathered during the investigation revealed that the District has failed to provide sufficient information or documentation to show how the Union's alleged actions caused or attempted to cause the District to violate Section A of Ohio Revised Code Chapter 4117. The grievance and the complaints referenced in the instant charge are being properly addressed through the parties' final and binding grievance-arbitration procedure and through the District's formal complaint process. Based on the totality of the circumstances, the Union's actions do not rise to the level of a (B)(2) 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

8. Case 2015-UPL-05-0115 Fraternal Order of Police, Ohio Labor Council, Inc. v. Owens Community College

The unfair labor practice charge alleged that the Community College violated Ohio Revised Code §4117.11 (A)(1), (2), (3), (5), (6) and (8) by failing to maintain the status quo during negotiations for an initial collective bargaining agreement when it refused to comply with its request to arbitrate Tara Pope's grievance.

On August 12, 2015, the investigator received a Motion to Withdraw the unfair labor practice charge on the basis that the parties have resolved the matter.

Vice Chair Schmidt moved that the Board grant the motion to withdraw with prejudice. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

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9. Case 2015-ULP-06-0118 Amalgamated Transit Union, Local No. 627 v. METRO/Southwest Ohio Regional Transit Authority

The unfair labor practice charge alleged that the Transit Authority violated Ohio Revised Code §4117.11 (A)(1), (3) and (5) by unilaterally changing the vacation provision of the parties' negotiated agreement, thus denying its members their right to use their earned vacation hours.

Information gathered during the investigation revealed that the Union did not provide any information to show how the Transit Authority was unilaterally changing the language in the vacation provision of the agreement or how it would affect the members' wages, hours or terms and conditions of employment. The matter appears to be contractual with no evident, arguable statutory violation. Based on the totality of the circumstances, the Transit Authority's actions do not rise to the level of an (A)(5) statutory violation.

The Union also did not provide sufficient information or documentation to support the (A)(1) and (3) 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

10. Case 2015-ULP-06-0121 Toledo Firefighters Local 92, IAFF, AFL-CIO-CLC v. City of Toledo

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1), (3) and (5) by intimidating and coercing its members to sign a petition supporting Director/Fire Chief Luis Santiago.

Information gathered during the investigation revealed that the Union did not provide sufficient information or documentation to show how its members were intimidated or coerced into signing the petition in support of Director Santiago. Based on the totality of the circumstances, the City's actions do not rise to the level of an (A)(1) statutory violation.

The Union also did not provide sufficient information or documentation to support the (A)(3) and (5) 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

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11. Case 2015-ULP-06-0134 Albert Boddie Jr. v. Five Rivers Metro Parks

The unfair labor practice charge alleged that Charged Party violated Ohio Revised Code §4117.11 (B)(6).

Information gathered during the investigation revealed that pursuant to Ohio Administrative Code 4117-7-01, two letters were issued to Albert Boddie, Jr. requesting that he correct the deficiencies contained in his charge. Because Mr. Boddie has failed to correct the deficiencies outlined in the June 16 and 24, 2015 letters, SERB is unable to conduct a proper and thorough investigation in this matter.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice because Mr. Boddie, Jr. failed to pursue the matter. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

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

The unfair labor practice charge alleged that the Community Charge violated Ohio Revised Code §4117.11 (A)(1), (3), (4), (6) and (8) by terminating her as a result of engaging in protected activity.

Information gathered during the investigation revealed that on December 18, 2014, SERB deferred the unfair labor practice charge to the parties' grievance-arbitration procedure. On June 5, 2015, an arbitration award was issued.

Neither party filed a Motion for Review of the arbitration award within the 30-day time frame.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice as having been resolved between the parties pursuant to the grievance-arbitration procedure. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

13. Case 2014-ULP-10-0196 Greater Dayton Regional Transit Authority v. Amalgamated Transit Union, Local 1385

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(3) by failing to bargain collectively with its exclusive representative.

Information gathered during the investigation revealed that President Glenn Saylor's actions in sending a letter to the Transit Authority's Board instead of to its designated representative and by appearing before the Board regarding three pending grievance, could constitute a (B)(3) violation. The matter is best addressed in a hearing.

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Vice Chair Schmidt moved that the Board find probable cause to believe an unfair labor practice has been committed, coordinate with Case No. 2014-ULP-08-0134, authorize the issuance of a complaint, and refer the matter to a hearing to determine whether the Union violated Ohio Revised Code § 4117.11(B)(3). Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

14. Case 2014-ULP-10-0216 Amalgamated Transit Union, Local 1385 v. Greater Dayton Regional Transit Authority

The unfair labor practice charge alleged that Transit Authority violated Ohio Revised Code §4117.11 (A)(1), (5) and (8) by directly dealing with the employees and by causing or attempting to cause it to commit an unfair labor practice.

Information gathered during the investigation revealed that the memorandum disseminated by the Transit Authority's CEO, Mark Donahy, contained topics that were discussed during negotiations and information that constitutes major subjects of bargaining. It also reveals the Transit Authority's disagreement with President Salyer's stance with the Transit Authority.

Mr. Donahy's public posting of the memorandum may rise to a statutory violation because it was posted in a conspicuous place for Union's bargaining-unit members to view.

Vice Chair Schmidt moved that the Board find probable cause to believe an unfair labor practice has been committed, coordinate with Case Nos. 2014-ULP-08-0134 and 2014-ULP-10-0196, authorize the issuance of a complaint, and refer the matter to a hearing to determine whether the Transit Authority violated Ohio Revised Code § 4117.11(A)(1), (5) and (8). Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

15. Case 2014-ULP-11-0224 Helen Pagan v. Lorain City School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1) by interfering, restraining or coercing Helen Pagan in the exercise of her guaranteed rights.

Information gathered during the investigation revealed that the School Board's actions do not interfere with Ms. Pagan's guaranteed rights. Ms. Pagan did not provide sufficient information to support the (A)(1) 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

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16. Case 2015-ULP-03-0044 Communication Workers of America, Local 4322 v. City of Beavercreek

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1), (3) and (4) by interfering, restraining and coercing its employees in the exercise of their guaranteed rights.

Information gathered during the investigation revealed that the City's decision not to select Mr. Kirschbaum for the permanent position was not discriminatory or retaliatory nor was it due to his union affiliation. Therefore, the City's actions do not rise to a statutory violation. The Union did not provide sufficient information to support the (A) (1), (3) and (4) allegations.

Furthermore, the charge was untimely filed. Mr. Kirschbaum knew or should have known that he was not the selected candidate on October 29, 2015 or at the very latest on November 3, 2015, when he filed his grievance. Accordingly, the charge should have been filed by January 27, 2015 or on February 1, 2015 at the latest; but the instant charge was not filed until March 9, 2014. Therefore, the instant charge was filed outside of the ninety (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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

17. Case 2015-ULP-03-0051 Darlene L. Aquino v. American Federation of State, County, and Municipal Employees, Local 100

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

Information gathered during the investigation revealed that a grievance was filed by AFSCME on behalf of Ms. Aquino and is proceeding through the grievance-arbitration process. AFSCME took the basic and necessary steps to represent Ms. Aquino. AFSCME's actions were not discriminatory or arbitrary and do not rise to a statutory violation. Ms. Aquino did not provide sufficient information to support the (B)(6) 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

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18. Case 2015-ULP-03-0057 Ohio Patrolmen's Benevolent Association v. Madison Township

The unfair labor practice charge alleged that the Township violated Ohio Revised Code §4117.11 (A)(5) by failing to bargain with the exclusive representative.

The Investigator will hold the discussion in abeyance pending the outcome of the following 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

19. Case 2015-ULP-03-0063 Kevin I. Martin v. City of Forest Park

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1) and (3) by interfering, restraining and coercing against Kevin I. Martin in the exercise of his guaranteed rights.

Information gathered during the investigation revealed that the matter involving the August 14, 2015 accident and the charges against Mr. Martin have not been resolved. As a result, discipline has not been imposed and there has been no adverse action against Mr. Martin. Mr. Martin has not filed a grievance regarding this matter.

Mr. Martin has not provided sufficient information to support the (A)(1) and (3) 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

20. Case 2015-ULP-03-0064 Lorain Education Association, OEA/NEA v. Lorain 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 (3) by interfering, restraining and coercing its members in the exercise of their guaranteed rights.

Information gathered during the investigation revealed that Ms. Boone is a public employee and she has engaged in concerted protected activity when she filed grievances regarding discipline that was imposed and subsequently rescinded by Principal Keefer. Adverse action was taken against Ms. Boone when Principal Keefer gave Ms. Boone a rating of



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22. Case 2014-ULP-10-0221 International Union of Operating Engineers, Local 20 v. City of Hamilton

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1) and (8) by interfering, restraining or coercing employees in the exercise of their guaranteed rights and by causing or attempting to cause an unfair labor practice.

A Motion for Reconsideration was timely filed by the Union. Information gathered during the investigation revealed that this case involves whether there has been a violation of a policy for failing to take a polygraph examination. A thorough review of the information reveals that there is no arguable statutory violation.

The investigation also reveals that the matter was heard by an arbitrator and the parties are currently waiting for an arbitrator's report. This matter is properly proceeding through the parties' grievance-arbitration process. The Union failed to provide sufficient information to support the (A)(1) and (8) violations.

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

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

23. Case 2014-ULP-12-0259 Terry McGrady v. Greater Cleveland Regional Transit Authority

The unfair labor practice charge alleged that the Transit Authority violated Ohio Revised Code §4117.11 (A)(1) and (2) by interfering, restraining or coercing employees in the exercise of their guaranteed rights and by interfering with the support of the exclusive bargaining representative.

A Motion for Reconsideration was timely filed by Terry McGrady. Information gathered during the investigation revealed that Mr. Lee's cell phone usage violates the Transit Authority's zero (0) cell phone usage policy. Although Mr. McGrady was not pulled from his bus route to represent Mr. Lee, Mr. Lee was represented by a union official in compliance with his *Weingarten* rights were not violated.

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

Vote: BRUNDIGE: Absent SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

24. Case 2015-ULP-05-0109 Communications Workers of America, Local 4501, AFL-CIO v. The Ohio State University

25. Case 2015-ULP-03-0049 New Lebanon Federation of Teachers and Tracy Click v. New Lebanon Local School District Board of Education



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Public Sector was emailed to all of the Stakeholders who participated with our thanks.

- **Welcome to the new Researcher 3 in Research and Training:** Licia Sapp was one of two staff who interviewed for the vacant position and was the successful candidate. Licia began in the position effective Monday, July 26, 2015. She brings a wealth of experience to the position from her many years with SERB in the Representation Section and in doing research projects in other positions she has held; she will be an excellent complement to the team! Congratulations to Licia as she begins on a new venture as a Researcher 3 in the Research and Training Section.
- **Posting for LRS2 position:** As a result of the vacancy created by the transfer of Licia Sapp to the Research and Training Section, on 7/22/15 a posting for the vacant LRS2 position went live on the system and was up until 8/4/15. 137 applications were received, of those, 122 met minimum qualifications. The interview team, Dietsch, Conn, Phelps-White, Collins, reviewed all 122 applications. Those were narrowed to 8 who are being contacted to schedule interviews and an assessment (designed by Conn) the week of 8/24/15.
- **Employee Orientation evolves to Onboarding:** At the most recent All Hands Meeting, a new Onboarding process was rolled out to staff with expectations for input. The purpose of the revised Employee Orientation is an evolution in new concepts bringing staff on board and showing them how we work together with all staff members, that we value them and care about their growth and development. Included in the Onboarding process is the development of an Agency Culture Statement and many other very positive aspects that will follow a new employee for more than 90 days. Scott Marshall of the Research and Training Section, researched, worked on the design and then presented it to the Administrative staff and then all staff. Great job!
- **FY 16 GRF Disbursement document submitted to OBM:** The FY16 GRF disbursement estimate document, which includes the FY16 appropriation and the FY15 encumbrances for the year, were submitted to OBM on Monday, 8/10/15.

**TRAINING:**

- **Negotiations Training:** A second presentation of the one day basic training program in practical negotiations for persons new to collective bargaining and for those seeking a new perspective on conducting and participating in negotiations will be presented on August 24, 2015. SERB Mediators Ken Hickey and Brian Eastman, supported by Don Collins, General Counsel and Mary Laurent, Administrative Professional 2 of the Bureau of Mediation will be the presenters. The training will concentrate on bargaining alternatives, requirements under the ORC, strategies, essentials and mock negotiation sessions. Registration for the training is at capacity; 23 participants have registered. It will be held at the State Library.

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- **Fact-finding Conference:** Scheduled for October 23, 2015 at the Crowne Plaza Hotel in Worthington, CLE's have been approved. To date there are 36 registrations.
- **Fall SERB Academy:** Tentatively scheduled for November 12 and 13, 2015 at the Crowne Plaza Hotel in Worthington; CLE application to the Ohio Supreme Court has been submitted; we are awaiting approval before posting the Academy on the website and other venues.

**IX. ADJOURNMENT:**

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

Vote: BRUNDIGE: Absent    SCHMIDT: Yes    ZIMPHER: Yes  
      Affirmed        X                    Denied \_\_\_\_\_

The Board meeting adjourned at 10:50 a.m.

  
/s/ \_\_\_\_\_  
W. Craig Zimpher, Chair