

State Employment Relations Board

Board Meeting Minutes

September 10, 2015

The State Employment Relations Board met on September 10, 2015, at 10:00 a.m., at 65 East State Street, 12th 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 AUGUST 13, 2015 BOARD MEETING:

Vice Chair Schmidt moved that the Board approve the minutes for the August 13, 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. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Case 2015-MED-04-0385 Ohio Association of Public School Employees (OAPSE)/AFSCME, Local 4, AFL-CIO and Athens County Board of Developmental Disabilities

On April 6, 2015, Ohio Association of Public School Employees (OAPSE)/AFSCME, Local 4, AFL-CIO, filed a Notice to Negotiate for a new collective bargaining agreement representing employees in the unit of Vehicle Operator 1, Custodial Worker, Facilities Maintenance, et al in the Athens County Board of Developmental Disabilities in Case No. 2015-MED-04-0385.

On August 4, 2015, a Petition for a Representation Election was filed seeking to decertify OAPSE/AFSCME, Local 4 as the exclusive representative for these employees in Case No. 2015-REP-08-0074.

Since then on August 12, 2015, the Athens County Board of Developmental Disabilities has filed a Motion to Stay Negotiations pending the outcome of the above representation petition.

Vice Chair Schmidt moved that the Board grant the Employer's Motion to Stay Negotiations in Case No. 2015-MED-04-0385 pending disposition of Case No. 2015-REP-08-0074. 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-MED-08-0692 Teamsters Local Union No. 637 and Jackson County EMS

On August 7, 2015, Teamsters Local Union No. 637 filed a Notice to Negotiate for a new collective bargaining agreement representing employees in the unit of Full-time and Part-time Paramedics, EMT-B, EMT, EMT-1 in the Jackson County EMS in Case No. 2015-MED-08-0692.

On July 1, 2015, a Petition for a Representation Election was filed seeking to decertify Teamsters Local Union No. 637 as the exclusive representative for these employees in Case No. 2015-REP-07-0064.

Since then on August 13, 2015, the Jackson County EMS has filed a Motion to Stay

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Negotiations pending the outcome of the above representation petition.

Vice Chair Schmidt moved that the Board grant the Employer's Motion to Stay Negotiations in Case No. 2015-MED-08-0692 pending disposition of Case No. 2015-REP-07-0064. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

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

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 2015-REP-06-0063 International Union of Operating Engineers, Local 18, AFL-CIO and Meigs County Emergency Medical Services (Meigs County Board of County Commissioners)
(September 22, 2015 – October 5, 2015)
2. Case 2015-REP-07-0066 Teamsters Local 436 and City of Solon
(September 22, 2015 – October 5, 2015)
3. Case 2015-REP-07-0067 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Northfield Center - Sagamore Hills Fire District
(September 22, 2015 – October 5, 2015)

The parties have entered into a Consent Election Agreements seeking mail-ballot elections for the polling period of September 22, 2015 through October 5, 2015.

Vice Chair Schmidt moved that the Board approve the Consent Election Agreements and direct mail-ballot elections to be conducted in each case during the polling period of September 22, 2015 through October 5, 2015. 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-06-0060 Laborers' Local 860 a/w Laborers' International Union of North America and City of Highland Heights

The parties jointly filed a Petition for Amendment of Certification seeking to amend the certification to reflect the merger between The Union of State, County and Municipal Workers of Ohio and Laborers' Local 860 as the named exclusive representative. 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 _____

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5. Case 2015-REP-08-0078 Fraternal Order of Police and Mahoning County Board of Commissioners

The parties jointly filed a Petition for Amendment of Certification seeking to amend the existing unit to reflect Mahoning County Sheriff as the Employer. 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 _____

6. Case 2015-REP-06-0061 Laborer's Local 860 a/w Laborer's International Union of North America and City of Mayfield Heights

Laborer's Local 860 filed a Petition for Amendment of Certification seeking to amend the certification to reflect the merger of The Union of State, County and Municipal Workers of Ohio into Laborer' Local 860 and change the name of the exclusive representative to Laborer's Local 860 and incorporate the current change in classification titles as follows:

Included:

Mechanic Foreman, Mechanic, Foreman, Service Department Technician, Laborer, Sign Shop Technician, Office Foreman, Custodial/Maintenance and Animal Warden.

Excluded:

All other employees including supervisors, part-time, seasonal and temporary employees.

The Employer does not oppose the petition. No questions of representation are pending. Approving the amendment appears appropriate.

Vice Chair Schmidt moved that the Board approve the petition and amend the certification accordingly. 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-07-0069 Service Employees International Union District 1199 WW/KY/OH and Cleveland State University

The dispute in this case is whether, based upon the job duties, the classification of Assistant Director of Student Services should be appropriately included or excluded from the bargaining unit.

Vice Chair Schmidt moved that the Board order the parties to participate in an Inquiry to determine the actual job duties performed by the Assistant Director of Student Services, to determine the appropriate bargaining unit for the classification and all other related matters. 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

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and the vote.

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

8. Case 2015-REP-05-0049 Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO and Kettering City School District Board of Education

- There were fifty four(54) valid ballots cast
- There were zero(0) void ballots
- There were one(1) challenged ballots
- No Representative received four(4) votes
- Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO received forty nine(49) votes
- Ohio Association of Public School Employees (OAPSE)/AFSCME Local 4, AFL-CIO prevailed in this election

9. Case 2015-REP-05-0054 Ohio Patrolmen's Benevolent Association and City of Wickliffe

- There were eight(8) valid ballots cast
- There were zero(0) void ballots
- There were zero(0) challenged ballots
- No Representative received zero(0) votes
- Ohio Patrolmen's Benevolent Association received eight(8) votes
- Ohio Patrolmen's Benevolent Association prevailed in this election

Elections were held during the polling period of July 21, 2015 and August 3, 2015. A tally of ballots was conducted and there were no objections.

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 _____

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 2015-ULP-04-0083 East Liverpool Education Association, OEA/NEA v. East Liverpool City School District Board of Education

On April 20 2015, the East Liverpool Education Association, OEA/NEA ("Charging Party" or "Union") filed an amended unfair labor practice charge against the East Liverpool City School District Board of Education ("Charged Party" or "School Board" or "Employer"), alleging that Charged Party violated Ohio Revised Code ("O.R.C.") §§ 4117.11(A)(1), (A)(2), (A)(5) and (A)(8) by: (1) unilaterally implementing its "Last Best Offer"; (2) refusing to provide the requested information necessary for negotiations and; (3) unilaterally removing a position from the deemed-certified bargaining unit. The State Employment Relations Board ("SERB" or "the Board") assigned this case to a SERB Investigator to gather information and make a recommendation regarding the allegations contained in the unfair labor practice charge.

Based upon review of the SERB Investigator's report and the documents filed by the parties, including the parties' position statements, SERB determined that no probable cause existed to believe the School Board failed to engage in good faith negotiations with the Union prior to declaring impasse and implementing its "Last Best Offer." However, SERB agreed with the Investigator's recommendation that probable cause did exist to believe the School Board improperly attempted to alter the composition of a deemed-certified bargaining unit by including in its "Last Best Offer" an amendment to the Recognition Clause of the parties' collective bargaining agreement that removed the position of Athletic Director from the bargaining unit. Consequently, SERB issued a directive finding probable cause existed to believe the School Board violated O.R.C. §§ 4117.11(A)(2) and (A)(5) but not (A)(1) or (A)(8) when it attempted to unilaterally alter the composition of the deemed-certified bargaining unit. In its directive, SERB authorized the issuance of a complaint, directed the matter to an expedited hearing, and directed the parties to participate in unfair labor practice mediation, to run concurrently with the processing of the complaint and unfair labor practice charge. SERB dismissed all other aspects of the Union's unfair labor practice charge.

The parties participated in an unfair labor practice mediation session with SERB Mediator Ken Hickey on July 24, 2015, but were unable to resolve their differences at that time. Upon Mr. Hickey's recommendation, the complaint and hearing process in this case was held in abeyance while the parties continued their efforts to resolve their differences and reach a tentative agreement.

On July 27, 2015, the School Board adopted a Resolution to return the Athletic Director position to the bargaining unit. On August 3, 2015, the School Board filed a Motion to Dismiss, with attached documentation showing that the School Board had returned the position of Athletic Director to the bargaining unit. The School Board requests that SERB grant its Motion to Dismiss the instant unfair labor practice charge as moot, since the underlying dispute no longer exists.

On August 11, 2015, the Union filed a Response to the School Board's Motion to Dismiss. The Union argues that the only way the School Board could make this matter moot is if it rescinded its "Last Best Offer" and restarted negotiations until an agreement was reached or the parties reached ultimate impasse.

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On August 13, 2015, the Union filed a Notice of Intent to Strike and Picket.

On or about August 18, 2015, the parties, with the assistance of a federal mediator, reached a tentative agreement.

On August 19, 2015, the Union filed a letter with SERB withdrawing its Notice of Intent to Strike and Picket.

On or about August 20, 2015, the Union members voted to ratify the tentative agreement. On August 24, 2015, the School Board voted to accept the agreement.

Vice Chair Schmidt moved that the Board dismiss as moot the unfair labor practice charge in Case No. 2015-ULP-04-0083. 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 2014-ULP-07-0117 SERB v. Highland County Board of Developmental Disabilities

On July 22, 2014, the Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 121 ("Charging Party") filed an unfair labor practice charge against the Highland County Board of Developmental Disabilities ("Charged Party"), alleging that Charged Party violated Ohio Revised Code §§ 4117.11(A)(1), (A)(2), (A)(3), and (A)(5). On May 1, 2014, the State Employment Relations Board ("SERB" or "Complainant" or "the Board") determined that probable cause existed to believe Charged Party had committed or was committing an unfair labor practice, authorized the issuance of a complaint, and referred the matter to hearing.

On or about July 6, 2015, a Notice of Hearing and Complaint were issued and the matter was set for hearing. On August 14, 2015, the parties filed a settlement agreement that resolved the issues in this unfair labor practice case. Paragraph 6 of the parties' agreement indicates that the agreement, subject to the approval of SERB, constitutes a motion to dismiss this matter.

Vice Chair Schmidt moved that the Board construe the parties' settlement agreement as a motion to dismiss, grant the motion, and dismiss with prejudice the unfair labor practice charge and complaint in Case No. 2014-ULP-07-0117. (The Board retains jurisdiction over this matter for purposes of enforcing the parties' settlement agreement, pursuant to Ohio Administrative Code Rule 4117-7-06.) Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

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

IV. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 2015-ULP-04-0088 Steven A. Mietus v. Cleveland Metropolitan School District and Carol Lockhart

The unfair labor practice charge alleged that the School District and Carol Lockhart violated Ohio Revised Code §4117.11 (A)(3) and (4) by ending the band program at the Cleveland Early College High School and replacing it with an art program causing Steven M. Mietus to lose his position and to be transferred to a different school.

Information gathered during the investigation revealed that the School District provided a persuasive rebuttal to show that replacing the music program with an art program was based on requests made by the student body and was not based on anti-union animus. Based on the totality of the circumstances, the School District's and Ms. Lockhart's actions do not rise to the level of (A)(3) and (4) statutory 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 _____

2. Case 2015-ULP-04-0090 SEIU District 1199 WV/KY/OH v. Wood County Health Department

The unfair labor practice charge alleged that the County violated Ohio Revised Code §4117.11 (A)(1), (2) and (5) by holding a "captive audience meeting" with its members, refusing to allow any union representative to attend thereby directly dealing with its members regarding the terms and conditions of their employment.

Information gathered during the investigation revealed that in support of its allegations, the Union provided a CD-R, which was not transcribed. Listening to the recording, there was no way to determine when the recording was made or who participated in the meeting. Based on these facts, the CD-R was not used in this investigation. In the interim, a Petition for Decertification election was held where the decertification of the union prevailed. Based on the totality of the circumstances, the County's actions do not rise to the level of an (A)(1), (2) and (5) statutory 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 and for being moot. 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-04-0094 Ohio Patrolmen's Benevolent Association v. City of
Miamisburg

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1) and (5) by failing to follow through with an August 13, 2014 settlement agreement regarding the purchase of firearms.

Information gathered during the investigation revealed that the manufacturer, not the City, was responsible for the delay. Furthermore, the City has purchased the firearms and the matter, therefore, appears to be moot. Based on the totality of the circumstances, the City's actions do not rise to the level of (A)(1) and (5) violations of the statute.

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 _____

4. Case 2015-ULP-01-0020 Teamsters Local Union No. 957, General Truck
Drivers, Warehousemen, Helpers and Service, and
Casino v. Greene County Board of Commissioners-
Greene County Services

The unfair labor practice charge alleged that the County violated Ohio Revised Code §4117.11 (A)(1) and (5) by interfering, restraining or coercing employees in the exercise of their guaranteed rights and by refusing to bargain with the exclusive representative.

Information gathered during the investigation revealed that the parties are currently in negotiations for an initial collective bargaining agreement and the wage increase would be best addressed during those negotiations. Based on the totality of the circumstances, the County's actions do not rise to the level of (A)(1) and (5) violations of the statute.

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 _____

5. Case 2015-ULP-03-0066 Wellington Education Association, OEA/NEA and
Wellington Support Staff, OEA/NEA v. Wellington
Exempted Village School District Board of Education

The unfair labor practice charge alleged that the School District violated Ohio Revised Code §4117.11 (A)(1) and (5) by interfering, restraining, coercing and refusing to bargain with the exclusive representative.

Information gathered during the investigation revealed that the parties currently have a dispute regarding concessions proposed by the School District after the contract had been ratified and executed. The School District may have dealt directly with the bargaining-unit

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members regarding financial problems and its proposals to the Union during negotiations. As a result, the School District's actions may rise to an (A)(1) and (5) statutory violation; however, the matter may be best addressed through a 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 District violated Ohio Revised Code 4117.11(A)(1) and (5) by interfering, restraining, coercing and refusing to bargain with the exclusive representative. 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-04-0076 Robin Hager v. City of Warren

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1), (2), (3) and (7) by interfering, restraining, coercing and discriminating against Robin Hager in the exercise of her guaranteed rights by locking her out during a labor dispute.

Information gathered during the investigation revealed that Ms. Hager's appointment was rescinded because the Police Chief did not have the requisite authority to make such an appointment. In addition, another employee was appointed to that position based on her higher seniority. Ms. Hager's grievance was denied and she subsequently resigned from the City. Based on the totality of the circumstances, the City's actions do not rise to the level of (A)(1), (2) and (7) violations of the statute.

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 moot since Ms. Hager is no longer employed by the City. 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-ULP-04-0077 Robin Hager v. Ohio Patrolmen's Benevolent Association

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(1) and (B)(6) by interfering in the exercise of her guaranteed rights by failing to fairly represent Robin Hager.

Information gathered during the investigation revealed that the Association took the basic and required steps in its representation of Ms. Hager during the grievance process regarding her rescinded promotion. The Association made several attempts to assist her, but she did not respond to those attempts. Subsequently, Ms. Hager resigned from her position with the City. Based on the totality of the circumstances, the Association's actions do not rise to the level of (B)(1) and (6) violations of the statute.

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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 and for being moot since Ms. Hager is no longer employed by the City. 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-ULP-05-0096 The Cleveland Police Patrolmen's Association v. City of Cleveland

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally implementing policies and procedures regarding a camera system.

Information gathered during the investigation revealed that the collective bargaining agreement between the parties includes a grievance procedure culminating in final and binding arbitration. A grievance regarding the alleged unilateral change regarding the camera system has been filed and is proceeding through the grievance procedure. Contract interpretation and application appear to lie at the heart of both the unfair labor practice charge and the grievance dispute.

Vice Chair Schmidt moved that the Board defer the matter for resolution through the grievance-arbitration procedure and retain jurisdiction in accordance with *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). The parties have thirty (30) days from the issuance of the arbitration award to file a request with the Board seeking review of the remaining issues, if any. If nothing is filed within the thirty (30) days, this Board will assume all issues were resolved in the grievance-arbitration procedure and dismiss 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 _____

9. Case 2015-ULP-05-0099 Latoya Lewis v. Montgomery County Stillwater Center

The unfair labor practice charge alleged that the County violated Ohio Revised Code §4117.11 (A)(4) and (8) by discriminating against Latoya Lewis and terminating her employment.

Information gathered during the investigation revealed that Ms. Lewis was terminated for fraudulent and unauthorized use of the pay timecard system and not for anti-union animus. Based on the totality of the circumstances, the County's actions do not rise to the level of (A)(4) and (8) violations of the statute.

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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10. Case 2015-ULP-06-0132 Garfield Heights Teachers Association, OEA/ NEA v. Garfield Heights City School District Board of Education

The unfair labor practice charge alleged that the School District violated Ohio Revised Code §4117.11 (A)(1) and (5) by restraining, interfering or coercing employees in the exercise of their guaranteed rights and refusing to bargain with the exclusive representative.

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

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

11. Case 2013-ULP-08-0236 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)(1), (2), (3), (6) and (8) by interfering with the processing of grievances, the administration of the Union, and by repeatedly failing to process grievances.

Pursuant to Lucas County Common Pleas Court Judge's August 5, 2015 decision in Karina Hahn's Writ of Mandamus action, the investigation in the above-referenced matter was re-opened.

A thorough investigation reveals that Ms. Hahn has failed to establish a prima facie case of discrimination. Ms. Hahn failed to show how the School Board took adverse action against her for filing the grievance. Even if Ms. Hahn had established a prima facie case of discrimination, the School Board provided a persuasive rebuttal to show that Ms. Hahn's non-selection was not due to anti-union animus.

Additionally, Ms. Hahn has failed to provide sufficient information or documentation to support how she was interfered with, restrained or coerced by the School Board in either the interview process or the processing of her grievance. Ms. Hahn confirms she was still able to meet with her Union Representatives and have her grievance processed by the School Board. Therefore, based on the totality of the circumstances, the School Board's actions do not rise to the level of (A)(1) and (3) violations of the statute.

Ms. Hahn did not provide sufficient information or documentation to support the (A)(2) and (8) allegations.

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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 _____

12. Case 2015-ULP-05-0112 Marion Local Education Association/OEA/NEA and its member Patrick Minnich v. Marion Local School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1), (3) and (5) by non-renewing Mr. Minnich's teaching contract in retaliation for his exercise of protected/concerted activities.

Information gathered during the investigation revealed that the Association established a prima facie case of discrimination. The timing of the School Board's actions toward Mr. Minnich appear to have occurred after the Association notified it that it would be advancing Mr. Minnich's Notice of Complaint grievance to arbitration. This matter appears to be best addressed through a hearing to determine whether the School Board's actions were based on anti-union animus. The Association did not provide sufficient information or documentation to support the (A)(5) allegation.

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, and refer the matter to a hearing to determine whether the School Board violated Ohio Revised Code 4117.11(A)(1) and (3), but not (5), by non-renewing Patrick Minnich's teaching contract in retaliation for his exercise of protected/concerted activities. 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 2015-ULP-06-0123 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) when the Battalion Chief "demanded" its members submit an email stating they had not been coerced/threatened by his earlier attempt to solicit their support for the Fire Chief.

Information gathered during the investigation revealed that the Union did not provide sufficient information or documentation to show how its members were coerced or threatened into sending an email indicating that they had not been coerced or threatened by the Battalion Chief's previous request to sign a petition supporting the Fire Chief. 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 did not provide sufficient information or documentation to support the (A)(3) and (5) allegations.

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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 _____

14. Case 2015-ULP-06-0125 Northwest State Community College Education Association-School Support Unit, OEA/NEA v. Northwest State Community College

The unfair labor practice charge alleged that the Community College violated Ohio Revised Code §4117.11 (A)(1) and (5) by bargaining in bad faith and placing conditions on the negotiations.

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. 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 2015-ULP-06-0130 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Locals 779 & 780 v. Williams County Board of Developmental Disabilities

The unfair labor practice charge alleged that the County Board violated Ohio Revised Code §4117.11 (A)(1) and (5) by submitting regressive bargaining proposals in an attempt to frustrate negotiations, which constitutes bad faith bargaining.

Information gathered during the investigation revealed that the Association's allegations are not supported by the proposals presented at the April 22nd session and the May 6th session by both parties. Based on the totality of the circumstances, the County Board's actions do not rise to the level of (A)(1) and (5) statutory violations.

Vice Chair Schmidt moved that the Board grant the County Board's Motion to Dismiss and 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-06-0131 Teachers Association of Central Local Schools, OEA/NEA v. Central 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 the combined position of Athletic Director/Dean of Students, which would no longer be in the bargaining unit.

Information recently gathered on September 4, 2015, revealed that the parties have entered into a settlement and are in the process of scheduling a meeting for the purpose of ratifying the settlement agreement.

Vice Chair Schmidt moved that the Board table this matter until the next scheduled board meeting on October 1, 2015 to provide an opportunity for the parties to have the agreement ratified and submit a withdrawal. 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-06-0135 Yellow Springs Education Association, OEA/NEA v. Yellow Springs 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 failing to provide the requested information necessary to properly process a grievance for its member, Iyabo Eguaroje.

Information gathered during the investigation revealed that pursuant to Ohio Revised Code § 149.43(C)(1), the remedy for not receiving the documents requested under that statute is to file a Mandamus Action in either Common Pleas Court, Appeals Court or the Ohio Supreme Court. SERB does not have jurisdiction to address issues of non-compliance regarding requests made under Ohio Revised Code § 149.43 (Public Records Act). Therefore, based on the totality of the circumstances, the District's actions do 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, and for lack of jurisdiction. 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-07-0150 Danielle McDonald v. Amalgamated Transit Union,
Local 268

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(4) and (6) by failing to properly represent Danielle McDonald after she was terminated.

Information gathered during the investigation revealed that based on the totality of the circumstances, the Union's actions in its representation of the Ms. McDonald were not arbitrary, discriminatory or in bad faith. Ms. McDonald confirms that the Union processed her grievance, up to and including arbitration. The Union was under no obligation to appeal the arbitrator's decision because it was bound by the final and binding language contained in the agreement with the Employer. Therefore, the Union's actions do not rise to the level of a (B)(6) statutory violation.

Ms. McDonald did not provide any information or documentation to support the (B)(4) 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 _____

19. Case 2015-ULP-07-0153 Aragon R. Noaks Sr. v. Greater Dayton Regional
Transit Authority

The unfair labor practice charge alleged that the Transit Authority violated Ohio Revised Code §4117.11 (A)(3).

Information gathered during the investigation revealed that Mr. Noaks knew or should have known on January 28, 2015 that he had been terminated by the Employer. Mr. Noaks did not provide any information or documentation to toll the 90-day statutory time frame to file an unfair labor practice charge. Based on the January 28, 2015 date, the charge should have been filed on or before April 28, 2015, but was not filed until July 13, 2015, 166 days later.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for being untimely filed. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote. Chair Zimpher expressed thanks to Judy Knapp for a well written memo.

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

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20. Case 2015-ULP-07-0154 Aragon R. Noaks Sr. v. Ohio Council 8, AFSCME, AFL-CIO

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

Information gathered during the investigation revealed that Mr. Noaks knew or should have known in February of 2015 that the Union did not advance his termination grievance and that he had not had any further contact with the Union. Mr. Noaks did not provide any information or documentation to toll the 90-day statutory time frame to file an unfair labor practice charge. Based on the February 28, 2015 date, the charge should have been filed on or before May 29, 2015, but was not filed until July 13, 2015, 135 days later.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice 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 _____

21. Case 2015-ULP-02-0021 Association of Group Teachers v. Massillon City School District, Board of Education

This matter was before the Board on June 4, 2015 on the allegation that the School Board violated Ohio Revised Code §4117.11 (A)(1) and (3) by interfering, restraining or coercing employees and by retaliating against the exclusive bargaining representative. This Board dismissed the charge on the finding of no probable cause.

The Association timely filed a motion for reconsideration. Information gathered during the reconsideration investigation revealed that the information originally submitted was carefully considered in this case. The Association did not provide any new or additional information meriting reconsideration of the Board's previously considered decision.

Vice Chair Schmidt moved that the Board deny the Association's Motion for Reconsideration 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 _____

22. Case 2015-ULP-03-0052 Massillon Education Association, OEA/NEA and Antoinette Remenaric v. Massillon City School District Board of Education

23. Case 2015-ULP-06-0136 Brunswick Education Association, OEA/ NEA v. Brunswick City School District Board of Education

24. Case 2015-ULP-06-0137 Brunswick Educational Support Professional Association, OEA/ NEA v. Brunswick City School District Board of Education

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| 25. | Case | 2015-ULP-07-0141 | <u>Toledo Federation of Teachers Local 250 v. Toledo Public School District Board of Education</u> |
| 26. | Case | 2015-ULP-07-0149 | <u>United Local Education Association v. United Local School District Board of Education</u> |
| 27. | Case | 2015-ULP-07-0164 | <u>Service Employees International Union, District 1199 v. Stark County District Library</u> |
| 28. | Case | 2015-ULP-07-0172 | <u>Caldwell Teachers Association v. Caldwell Exempted Village School District Board of Education</u> |
| 29. | Case | 2015-ULP-08-0186 | <u>Anderson Township Professional Firefighters IAFF, Local 3111 v. Anderson Township, Hamilton County</u> |

Items 22 through and including 29 were withdrawn pursuant to a request or motion to withdraw.

Vice Chair Schmidt moved that the Board construe the requests to withdraw as motions to withdraw and grant all motions 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 _____

VI. TABLED AND OTHER MATTERS:

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| 1. | Case | 2015-ULP-06-0131 | <u>Teachers Association of Central Local Schools, OEA/ NEA v. Central Local School District Board of Education</u>
Tabled – September 10, 2015 |
|----|------|------------------|---|

VII. ADMINISTRATIVE MATTERS:

SERB REGULAR SCHEDULED MEETING DATES:

- October 01, 2015
- October 29, 2015
- November 19, 2015
- December 17, 2015
- January 07, 2016
- January 28, 2016
- February 18, 2016
- March 10, 2016
- March 31, 2016
- April 21, 2016
- May 12, 2016
- June 02, 2016
- June 23, 2016

SYSTEM UPDATES:

- **Employee Organization Annual Report Filings:** For fiscal year ending 03/31/2015 a total of 14 Employee Organizations were required to report not later than 08/15/2015. To date, all Employee Organizations have filed. Scott Marshall of the Research and Training Section tracks their status and works with the Employee Organizations to encourage compliance before the deadline. At this time, there are no employee organizations 31 days past due.
- **LRS2 position:** Of the 137 applications received, 122 met minimum qualifications. The number of applicants was narrowed down to seven (7) candidates who were scheduled for interviews. The interview team, Dietsch, Conn, Phelps-White, Collins, interviewed the applicants, called four (4) back for a second interview and a finalist was selected. A tentative offer was made, pending finalization of background checks, etc. with a proposed start date of October 5th.
- **EPerformance Training:** In preparation for the next round of employee performance evaluations and the use of the electronic system for completing them, training was set up specifically for SERB Section Administrators. Ray Justice, PHR, HCM Manager, DAS Office of Talent Management, Performance Management & Succession Planning Section, provided the training. The staff worked through the type of pre-work that is needed to be ready to complete the P.E.'s, proper goal setting, establishing competencies and related proficiency levels, P.E. cycle, approvals, ratings and conducting one on one meetings with employees. It was most beneficial.
- **Combined Charitable Campaign (CCC) Kickoff:** Wednesday, September 2, 2015. Once again, thank you to Judy Knapp for graciously accepting the challenge to coordinate the CCC pledge process for all staff and members of the SERB and SPBR Boards. To date, pledges total \$6,256 which is 63% of the goal of \$10,000.
- **Agency-Estimated Cost of Negotiated and Exempt Parity Compensation Increases:** The Office of Budget and Management required all agencies, boards and commission to complete a spread sheet to aid them in planning for additional allocations that may be needed over the biennium for the payroll budget line item. SERB's was submitted on Wednesday, September 02, 2015. Appropriation adjustments are projected to be \$99,774 for FY16 and \$219,956 for FY17.
- **Workforce Planning/Talent Management Strategy for FY 16 & 17:** The writing of the biennial workforce plan has begun. A meeting of the Workforce Planning Team was held on 9/8/15 to solidify the Introduction, Agency Overview (Mission, Goals, Objectives, and identification of Major Initiatives for each Section within SERB). Members of the Workforce Planning Team included the Section Administrators, Erin Conn and Executive Director. The Workforce Plan is due on October 15th.

