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Vice Chair Schmidt moved that the Board direct a run-off mail-ballot election in which only Teamsters Local Union No. 284 and Teamsters Local Union 413 shall appear on the ballot, to be conducted during the polling period of October 13, 2015 and October 27, 2015. 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-REP-08-0075 Teamsters Local 100, Affiliate of the International Brotherhood of Teamsters and Goshen Township

The parties entered into a consent election agreement.

Vice Chair Schmidt moved that the Board approve the Consent Election Agreement and direct a mail-ballot election to be conducted during the polling period of October 13, 2015 through October 27, 2015. 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 2015-REP-08-0079 United Automobile, Aerospace and Agricultural Implement Workers of America, Local 1834 and Laketran

The parties jointly filed a petition for amendment of certification seeking to amend the existing unit to include maintenance clerk. The proposed amendment seems 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-04-0041 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Mahoning County Engineer

The ballot count was conducted on August 11, 2015. The Professionals cast 4 votes-three for AFSCME and 1 for no representative. The Non-Professionals cast 16 votes-8 for AFSCME and 8 for No representative. There was no majority, Non-Professionals remain unrepresented. As a result, employees of the Professional unit filed objections that since the Non-Professionals did not choose representation, they no longer wanted to be represented. Thereafter, AFSCME filed a Disclaimer of Interest in representing the Professional Unit.

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Vice Chair Schmidt moved that the Board not certify the election results, and grant the Employee Organization's Disclaimer of Interest. 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-07-0070 John Howell, and Ohio Council 8, American Federation of State, County, and Municipal Employees, AFL-CIO and Lima Allen County Regional Transit Authority

There are three related unfair labor practice cases pending. The parties agree that this matter should be stayed pending resolution of the three pending cases.

Vice Chair Schmidt moved that the Board stay the decertification election pending resolution of the pending unfair labor practice cases or until the Board determines that conducting the decertification election is appropriate. 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-07-0071 Ohio Patrolmen's Benevolent Association and Wayne County Sheriff

A request for recognition was filed seeking to represent certain employees of the Wayne County Sheriff's Office. The request was unopposed.

Vice Chair Schmidt moved that the Board certify the 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 \_\_\_\_\_

7. Case 2015-REP-06-0057 Teamsters Local Union No. 100 and Hamilton County Engineer

- There were 42 valid ballots cast
- There were 0 void ballots
- There was 1 challenged ballot
- No Representative received 11 votes
- Teamsters Local Union No. 100 received 30 votes and prevailed in this election.

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8. Case 2015-REP-06-0059 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Jackson County Health Department

Non-Professional Question 1

- There was 1 valid ballot cast
- There were 0 void ballots
- There were 0 challenged ballots
- NO (non-inclusion with professional employees) received 0 votes
- YES (inclusion with the professional employees) received 1 vote and prevailed in this election

Non-Professional Question 2

- There was 1 valid ballot cast
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 0 votes
- Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 1 vote and prevailed in this election.

Professional Question 1

- There were 7 valid ballots cast
- There were 0 void ballots
- There were 0 challenged ballots
- NO (non-inclusion with non-professional employees) received 3 votes
- YES (inclusion with the non-professional employees) received 4 votes and prevailed in this election.

Professional Question 2

- There were 7 valid ballots cast
- There were 0 void ballots
- There were 0 challenged ballots
- No Representative received 3 votes
- Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO received 4 votes and prevailed in this election.

Mail ballots elections were held and the ballots were counted.

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 2014-REP-10-0129 Fraternal Order of Police, Ohio Labor Council, Inc. and Hamilton County Sheriff's Office

On October 31, 2014, the Fraternal Order of Police, Ohio Labor Council, Inc. filed a Request for Recognition seeking to represent the Enforcement Captain and the Court Services Captain employed by the Hamilton County Sheriff's Office. On November 13, 2014, the Hamilton County Sheriff's Office filed objections and a Petition for Representation Election, asserting that the two employees in question are "confidential employees," "management-level employees," "fiduciary employees," and "supervisory employees" and, therefore, they are excluded from the definition of "public employee" pursuant Ohio Revised Code ("O.R.C.") §§ 4117.01(C)(6), (C)(7), (C)(9), and (C)(10).

On March 12, 2015, the State Employment Relations Board ("SERB" or "Board") directed this matter to SERB's Office of General Counsel to conduct an inquiry to determine whether the two employees in question are "public employees" under O.R.C. Chapter 4117, and for all other relevant issues. On March 12, 2015, this case was assigned to SERB's staff attorney to conduct the inquiry.

On May 29, 2015, an inquiry was held in this matter, at which time, testimonial and documentary evidence was presented. On June 22, 2015, the parties filed post-inquiry briefs and, on July 20, 2015, the parties filed reply briefs.

On August 14, 2015, SERB's staff attorney submitted a Report and Recommendation to the Board recommending that the Board grant the Union's Petition for Representation Election based upon the inquiry findings that the Enforcement Captain and Court Services Captain do not perform duties that qualify them as "confidential employees," "management-level employees," or "fiduciary employees."

Vice Chair Schmidt moved that the Board:

- (1) Adopt** the Findings of Fact, Conclusions of Law, and Recommendations in the Report and Recommendation, finding that the Enforcement Captain and Court Services Captain are not "confidential employees," "management level employees," or "fiduciary employees" and are, therefore, "public employees" subject to the provisions of O.R.C. Chapter 4117;
- (2) grant** the Union's Petition for Representation Election; and
- (3) direct** SERB's Representation Section to conduct a representation election in accordance with O.R.C. § 4117.07 and the rules set forth in Ohio Administrative Code Chapter 4117-5 in the bargaining unit described below:

INCLUDED: All full-time Enforcement Captains and Court Services Captains.

EXCLUDED: Sheriff, Chief Deputy, Majors, Support Services Captains, Lieutenants, Sergeants, Deputies and all other employees.

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





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

6. Case 2015-ULP-05-0101 Service Employees International Union, District 1199 v. Ohio Department of Rehabilitation and Correction-Lebanon Correctional Institute

The unfair labor practice charge alleged that Department violated Ohio Revised Code §4117.11 (A)(1) by failing to allow Jan Vurginac, an elected Union representative, from changing her late night schedule in order for her to participate in a pre-scheduled grievance mediation session.

Information gathered during the investigation revealed that providing a different schedule to attend the mediation session to ensure that Ms. Vurginac receives compensation is not the Department's obligation.

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-ULP-05-0113 Anthony Walton v. City of Cleveland-Department of Public Works, Division of Park Maintenance and Properties

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(6) by repeatedly failing to timely process grievances.

Information gathered during the investigation revealed that the Department and the Union agreed to address the outstanding grievance matters alleged in the instant charge. Furthermore, the circumstances set forth in this unfair labor practice charge are purely contractual. Mr. Walton did not provide sufficient information to support the (A)(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 \_\_\_\_\_

8. Case 2015-ULP-06-0127 Trumbull County Board Classified Staff Association v. Trumbull County Educational Service Center

Case 2015-ULP-06-0128 Susan Hartman v. Trumbull County Educational Service Center

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The unfair labor practice charges alleged that the County violated Ohio Revised Code §4117.11 (A)(1), (2), (3) and (8) by retaliating against Union President, Susan Hartman, for engaging in protected/concerted activities.

Information gathered during the investigation revealed that the Employer provided sufficient information to demonstrate that Ms. Hartman's transfers/reassignments were done with no loss of pay, benefits, hours of work or professional responsibilities and were not based on anti-union animus. The investigation also reveals that Ms. Hartman was still able to file grievances and have them heard. Based on the totality of the circumstances, the County's actions do not rise to the level of (A)(1) and (3) statutory violations. The Union did not provide sufficient information or documentation to support the (A)(2) and (8) allegations.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that unfair labor practices have 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         \_\_\_\_\_

9.     Case   2015-ULP-07-0142   Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and Its Local 417 v. Williamsburg 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 (2) when the Superintendent made comments to the Union President, Candy Bainum, that interfered with, restrained and coerced her in the exercise of protected/concerted activity.

Information gathered during the investigation revealed that the Union did not provide any information to show how Ms. Bainum's "perception" of the Superintendent's comments interfered with, restrained or coerced her in her duties as Union President or as a member of the Union's negotiating team. Furthermore, the comments were not made in the context of bargaining. Based on the totality of the circumstances, the Superintendent's comments do not rise to the level of an (A)(1) statutory violation.

The Union did not provide sufficient information to support the (A)(2) 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         \_\_\_\_\_

10.    Case   2015-ULP-07-0143   George Johnson v. City of Akron and Councilwoman Tara Mosley-Samples

The unfair labor practice charge alleged that Councilwoman Mosley-Samples violated Ohio Revised Code §4117.11 (A)(3) when she attempted to interfere in Union matters by "calling out" Union President, George Johnson, for comments he allegedly made at a Union meeting.

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Information gathered during the investigation revealed that Mr. Johnson is a public employee, engaged in the protected activity of being the Union President, but Mr. Johnson did not provide any information or documentation to show how he or the Union was harmed by Ms. Mosley-Samples actions. Mr. Johnson has failed to establish a prima facie case of discrimination. Furthermore, the City provided a persuasive rebuttal to show that Ms. Mosely-Samples made her contact with the Union(s) using her own personal email account and the attached document was not on official City Council letterhead. Based on the totality of the circumstances, Ms. Mosley-Samples' actions do not rise to the level of an (A)(3) 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 \_\_\_\_\_

11. Case 2015-ULP-07-0144 City of Niles v. Ohio Patrolmen's Benevolent Association

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(3) by refusing to continue negotiations for a successor agreement.

Information gathered during the investigation revealed that based on the totality of the circumstances, it does not appear that the Union has bargained in bad faith. The parties are currently working with the assistance of a Fact-Finder. The Union's actions do not rise to the level of a (B)(3) 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 \_\_\_\_\_

12. Case 2015-ULP-07-0145 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 unilaterally modifying the working conditions of its members, which ultimately increased their workload.

Information gathered during the investigation revealed that there was no mandatory movement of the members nor did it affect wages or terms and conditions of employment. Based on the totality of the circumstances, the City's actions do not amount to an (A)(5) statutory violation.

The Union did not provide sufficient information or documentation to support the (A)(1) and (3) allegations.



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15. Case 2015-ULP-07-0155 Fraternal Order of Police, Ohio Labor Council, Inc. v. Highland County Sheriff

The unfair labor practice charge alleged that the County violated Ohio Revised Code §4117.11 (A)(1) and (3) by taking away the Deputies "take-home cars", retaliating against Deputy Clint Sharp and Deputy John Adams for their exercise of guaranteed rights and by unilaterally changing the Road Deputies shifts.

Information gathered during the investigation revealed that 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 \_\_\_\_\_

16. Case 2015-ULP-07-0156 Ayersville Education Association, OEA/NEA v. Ayersville 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 assigning the bargaining-unit duties of Athletic Director to a nonbargaining-unit employee in the form of a new Athletic Director/Dean of Students position.

Information gathered during the investigation revealed that the District bargained with the Union on multiple occasions, but both parties agree that no resolution/settlement was reached. Even though the Union has filed a grievance regarding the District assigning bargaining-unit work to a nonbargaining-unit employee, an arbitrator would not have the authority to address the potential statutory violation of the District's unilateral implementation of the newly created position. The matter would 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, 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 (5). 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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19. Case 2015-ULP-07-0161 Ohio Patrolmen's Benevolent Association (Niles Lts. and Captains) v. City of Niles

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(5) and (8) by engaging in bad faith and regressive bargaining and by attempting to cause it to renege on previously agreed to Tentative Agreements it had made with the Mayor.

Information gathered during the investigation revealed that the Union's allegations that the City was engaging in regressive and surface bargaining are not supported by the proposals presented by the Union. The parties are currently meeting with the Fact-Finder. Based on the totality of the circumstances, the City's actions do not rise the level of (A)(5) statutory violation.

The Union did not provide sufficient information or documentation to support the (A)(8) 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 \_\_\_\_\_

20. Case 2015-ULP-08-0184 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), (2) and (5) by soliciting, aiding and obtaining signatures from its members to support a Petition for Decertification Election, by unlawfully rejecting the parties' final Tentative Agreement (TA) and by unilaterally implementing a three (3) percent wage increase after it rejected the TA.

The matter would be best addressed through an expedited hearing to determine whether or not the Employer unlawfully rejected the TA based on anti-union animus, which may constitute bargaining in bad faith and if it unilaterally implemented the three (3%) wage increase after rejecting the TA.

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 the Transit Authority violated Ohio Revised Code 4117.11(A)(1), (2) and (5) by unlawfully rejecting the TA based on anti-union animus, which may constitute bargaining in bad faith and if it unilaterally implemented the three (3) percent increase after rejecting the TA, 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 \_\_\_\_\_

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21. Case 2015-ULP-07-0146 Fraternal Order of Police, Ohio Labor Council, Inc. v. Owens Community College
22. Case 2015-ULP-07-0165 International Brotherhood of Teamsters Local Union 637 v. Jackson County Emergency Medical Services
23. Case 2015-ULP-08-0178 The Cleveland Police Patrolmen's Association v. City of Cleveland
24. Case 2015-ULP-06-0119 Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO and Local 1792, AFSCME, AFL-CIO v. Brown County Department of Job and Family Services and the Brown County Board of County Commissioners

Items 21 through and including 24 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:**

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

**VII. ADMINISTRATIVE MATTERS:**

**SERB REGULAR SCHEDULED MEETING DATES:**

- 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 04/31/2015 a total of 6 Employee Organizations were required to report not later than 09/15/2015. 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.
- **Combined Charitable Campaign (CCC):** The Kickoff was Wednesday, September 2, 2015. Thanks to the continued support and generosity of those who gave, the goal of \$10,000 was exceeded again this year by \$625! The actual amount collected was \$10,625. 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.
- **Welcome Ms. Shawanda D. Boss-McIntosh new LRS2:** Ms. Shawanda D. Boss-McIntosh has accepted our offer to join SERB as a Labor Relations Specialist 2 in the Representation Section. Shawanda brings a wide range of experience, knowledge, constituent/customer service, and presentation capabilities to the position. She has more than 10 years of experience in processing appealed claims of injured workers at the Industrial Commission of Ohio. Most recently she was charged with examining and preparing complex claims involving legal issues for third level appeals and requests for reconsideration that were scheduled to come before the Commissioners. She provided technical support to customers and staff. She also served as a certified union steward for over 10 years which has provided her with a diverse background in labor and management relations. In July 2014 she was awarded Employee of the Month at the Industrial Commission.

She attended Youngstown State University, Williamson College of Business Administration – AACSB Accredited, with a major in Human Resources.

We are delighted that Shawanda will share these experiences and skills with us. Her first day will be Monday, October 5<sup>th</sup>.

- **Customer Service Assistance 1 Position:** With the recent retirement of Arletta Love, Customer Service Assistant 1 (CSA1), the position was posted for 10 days and will come down on October 2, 2015. To date there are approximately 600 applications, of those, approximately 552 meet minimum qualifications.
- **2015 Workforce Plan:** A draft of the 2015 Workforce Plan is being reviewed by the Board. It is due to CSA the week of October 5<sup>th</sup> and to DAS by October 15<sup>th</sup>.

#### TRAINING:

- **Intermediate Negotiations Training:** Scheduled for October 08, 2015 at the State Library. Eleven out of the original 23 participants from the June 16<sup>th</sup> class are registered for the October 8<sup>th</sup> Intermediate Negotiations Training. This phase of the training will focus on mock negotiations, evaluation of the mock negotiations, opening, closing, and specific situations that can be encountered during

