

State Employment Relations Board

Board Meeting Minutes

March 31, 2016

The State Employment Relations Board met on March 31, 2016, 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. The third SERB member position is vacant.

**I. APPROVAL OF MINUTES FOR THE MARCH 10, 2016 BOARD MEETING:**

Vice Chair Schmidt moved that the Board approve the minutes for the March 10, 2016 meeting. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

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

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

There were no Mediation or Fact-Finding matters.

**III. REPRESENTATION MATTERS AT ISSUE:**

1. Case 2016-REP-01-0008 Fraternal Order of Police/Ohio Labor Council and Washington County Sheriff
2. Case 2016-REP-01-0009 Teamsters Local 957 and Butler Township
3. Case 2016-REP-02-0015 Fraternal Order of Police, Ohio Labor Council and Franklin County Coroner's Office

In each case, the Employee Organizations filed a request for recognition seeking to represent certain employees. The Employers did not object. The proposed amendments appear appropriate.

Vice Chair Schmidt moved that the Board certify the Employee Organizations as the exclusive representatives of all employees in the relevant bargaining units. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

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

4. Case 2016-REP-01-0010 Laborers Local International Union of North America Local 860 and Cleveland Public Library

The Employee Organization filed a Petition for Amendment of Certification seeking to amend the existing unit to change the Employee Organization's name and update the appropriate classification titles for both the inclusion and exclusion language. The Employer does not object to the amendment. The proposed amendment appears appropriate.

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

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

State Employment Relations Board  
Board Meeting Minutes  
March 31, 2016  
Page 2 of 11

5. Case 2016-REP-02-0017 Mahoning Education Association of Developmental Disabilities and Mahoning County Board of Developmental Disabilities
6. Case 2016-REP-02-0019 Fraternal Order of Police, Ohio Labor Council and Allen County Sheriff
7. Case 2016-REP-02-0020 Fraternal Order of Police, Ohio Labor Council and Allen County Sheriff
8. Case 2016-REP-02-0022 Teamsters Local Union No. 637 and Licking County Sheriff's Office

The parties jointly filed Petitions for Amendment of Certification in each case. The proposed amendments appear appropriate.

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

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

9. Case 2015-REP-03-0036 Medina City Schools Psychologists Association, OEA/NEA and Medina City School District Board of Education

- There were six (6) valid ballots cast
- There were zero (0) void ballots
- There were zero (0) challenged ballots
- No Representative received zero (0) votes
- Medina City Schools Psychologists Association, OEA/NEA received six (6) votes and prevailed in this election

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

- There were two (2) 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 two (2) votes and prevailed in this election

State Employment Relations Board  
Board Meeting Minutes  
March 31, 2016  
Page 3 of 11

11. Case 2015-REP-09-0091 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Lodge 15 and City of Berea

- There were six (6) valid ballots cast
- There were zero (0) void ballots
- There were zero (0) challenged ballots
- No Representative received zero (0) votes
- received zero (0) votes
- Fraternal Order of Police, Lodge 15 received zero (0) votes
- Ohio Patrolmen's Benevolent Association received six (6) votes and prevailed in this election

12. Case 2015-REP-10-0102 Ohio Association of Public School Employees (OAPSE)/ AFSCME Local 4, AFL-CIO and Shaker Heights City School District Board of Education

- There were sixty-six (66) valid ballots cast
- There was one (1) void ballot
- There were zero (0) challenged ballots
- No Representative received four (4) votes
- Ohio Association of Public Employees/ AFSCME Local 4, AFL-CIO received sixty-two (62) votes and prevailed in this election

13. Case 2015-REP-11-0105 Fraternal Order of Police, Ohio Labor Council, Inc. and Northeast Ohio Medical University

- There were five (5) valid ballots cast
- There were zero (0) void ballots
- There were zero (0) challenged ballots
- No Representative received zero (0) votes
- Fraternal Order of Police, Ohio Labor Council, Inc. received five (5) votes and prevailed in this election

Mail Ballot Elections were held in each case.

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

Vote: SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied

State Employment Relations Board  
Board Meeting Minutes  
March 31, 2016  
Page 4 of 11

14. Case 2015-REP-09-0084 Shannon C. Boyce and Glass Molders Pottery  
Plastics & Allied Workers and Columbiana County  
Clerk of Courts

- There were seventeen (17) valid ballots cast
- There were zero (0) void ballots
- There were two (2) challenged ballots
- Glass Molders Pottery Plastics & Allied Workers received six (6) votes
- No Representative received nine (9) votes and prevailed in this election

A mail ballot election was held in this case.

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: SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied           

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

There were no Administrative Law Judge matters.

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

1. Case 2015-ULP-11-0236 Andrew Shella v. Terra Community College

The unfair labor practice charge alleged that the Community College violated Ohio Revised Code §4117.11 (A)(1) and (2) by interfering, restraining, intimidating or coercing Andrew Shella in the exercise of his guaranteed rights by refusing to promote him because of his concerted union activity.

Information gathered during the investigation revealed Mr. Shella applied for a promotion in 2015, but due to deficiencies in his application his promotion was denied. Mr. Shella failed to demonstrate that he was denied the promotions due to his recent involvement in ULP matter 2015-ULP-05-0103.

Mr. Shella did not provide sufficient information to support the (A)(1) and (2) 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: SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied

State Employment Relations Board  
Board Meeting Minutes  
March 31, 2016  
Page 5 of 11

2. Case 2016-ULP-02-0025 International Brotherhood of Teamsters Local Union No. 52 v. Brunswick Hills Township, Medina County

The unfair labor practice charge alleged that the Township violated Ohio Revised Code §4117.11 (A)(1) and (5) by failing to provide its designated bargaining representative with the authority to finalize an agreement and by engaging in regressive bargaining.

Information gathered during the investigation revealed that the Union did not provide any information to support the allegation that Mr. Karris lacked the authority to enter into a TA with the Union.

The investigation further reveals that neither party provided any documentation to show that the parties had entered into any TAs from which the Township was now retracting its agreement. Based on the totality of the circumstances, the Township's actions do not rise to the level of an (A)(5) statutory violation.

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

Vote:	SCHMIDT:	<u>Yes</u>	ZIMPHER:	<u>Yes</u>
	Affirmed	<u>X</u>	Denied	<u>          </u>

3. Case 2015-ULP-10-0208 Laborers' Union Local No. 1099 v. City of Cleveland

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1) and (5) by failing to respond to a request for information made by the Union for a grievance and arbitration hearing regarding a discharged bargaining unit employee.

Information gathered during the investigation revealed that the information request issue was resolved in a mandamus action. The issues in the instant case seem to be the same or similar to the issues raised in the mandamus action. Since it is undisputed that the issues were resolved in the mandamus action resulting in the parties subsequently proceeding with the arbitration this matter is moot.

Based on the documentation provided, the Union did not provide sufficient information to support the (A)(1) and (5) charges.

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:	SCHMIDT:	<u>Yes</u>	ZIMPHER:	<u>Yes</u>
	Affirmed	<u>X</u>	Denied	<u>          </u>

State Employment Relations Board  
Board Meeting Minutes  
March 31, 2016  
Page 6 of 11

4. Case 2015-ULP-11-0243 Mark Egbert v. University of Cincinnati

The unfair labor practice charge alleged that the University violated Ohio Revised Code §4117.11 (A)(1) by creating a hostile work environment.

Information gathered during the investigation revealed that based on the totality of the circumstances, the Employer's actions do not rise to the level of an (A)(1) 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: SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

5. Case 2015-ULP-11-0250 Library Public Safety Association v. Cleveland Public Library

The unfair labor practice charge alleged that the Library violated Ohio Revised Code §4117.11 (A)(2) by investigating Louis Slesinger, the founding member of the union, for fraud, placing him on unpaid leave because of discrepancies with his FMLA paperwork, and for attempting to break the union and cause internal dissention.

Information gathered during the investigation revealed that the Union failed to provide sufficient information and documentation to establish a nexus between Mr. Slesinger's need to provide medical documentation for his FMLA leave and his union activities. The issues Mr. Slesinger is having with his medical records and FMLA are separate and distinct from his work with the Union.

In addition, the Union failed to specifically set forth any conduct by the City that could be viewed as an attempt to break the Union or cause dissention. Based on the totality of the circumstances, the Employer's actions do not rise to the level of an (A)(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: SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

6. Case 2015-ULP-10-0216 Frank L. Hocker, Jr. v. Ohio Patrolmen's Benevolent Association

The unfair labor practice charge alleged that the Association violated Ohio Revised Code §4117.11 (B)(1), (2), (3) and (6).

Information gathered during the investigation revealed that pursuant to Ohio Revised Code §4117.12, the Board conducted an investigation. Mr. Hocker was sent a written request, on October 13, 2015 and January 11, 2016, to submit a position statement and documentation

State Employment Relations Board  
Board Meeting Minutes  
March 31, 2016  
Page 7 of 11

to support the allegations set forth in the ULP charge. Mr. Hocker failed to respond.

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

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

7. Case 2015-ULP-10-0228 Medina County District Library v. Service Employees International Union, District 1199

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(1) and (3) by refusing to follow the mutually agreed upon dispute resolution procedure (MAD) found in Article XXV of the parties' CBA and instead insisting on going straight to the fact-finding process when the contract provides that the parties must wait forty-five (45) days.

Information gathered during the investigation revealed that the issues raised in the instant case are the same issues, which were raised in SERB Case No. 2015-MED-07-0648 and is now pending on appeal before the Franklin Court of Common Pleas. The issues will be resolved in the pending administrative appeal.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice due to the fact that a case is pending in the Franklin County Court of Common Pleas that will render a decision regarding the issues raised in this charge. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

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

8. Case 2015-ULP-11-0232 Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO v. State of Ohio-Department of Developmental Disabilities

The unfair labor practice charge alleged that the Department violated Ohio Revised Code §4117.11 (A)(1) and (8) by failing to follow an arbitration award given to employee, Debbie McCarment, in 2001 that resulted in her loss of one year of Ohio Public Employee Retirement System (OPERS) service credit.

Information gathered during the investigation revealed that there is no arguable statutory violation.

In addition, this matter is untimely filed. In this case, Ms. McCarment had constructive knowledge that she lacked the requisite service credit on November 7, 2013, when she received a letter from the Ohio Public Employees Retirement System (OPERS). However, she did not file the instant charge until November 2, 2015, almost two (2) years later.

State Employment Relations Board  
Board Meeting Minutes  
March 31, 2016  
Page 8 of 11

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: SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied \_\_\_\_\_

9. Case 2016-ULP-01-0016 Fraternal Order of Police, George Murray Lodge No. 67 v. City of Bedford Heights

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally changing the "long standing and established practice regarding scheduling."

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

The Union did not provide sufficient information or documentation to demonstrate any anti-union nexus between Officer O'Farrell's grievance and the scheduling change. The matter would be best addressed through the parties' final and binding grievance-arbitration procedure. Based on the totality of the circumstances, the City's actions do not rise to the level of (A)(1) 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. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

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

10. Case 2016-ULP-01-0019 General Truck Drivers, Chauffeurs, Warehousemen and Helpers, Teamsters Local Union No. 957 v. Montgomery County Engineer's Office

The unfair labor practice charge alleged that the County violated Ohio Revised Code §4117.11 (A)(1) and (5) by unilaterally changing the boot/clothing allowance, by refusing to permit the members to use their personal leave, and therefore, failing to maintain the status quo during negotiations.

Chair Zimpher moved an alternative recommendation that the Board refer this matter to the Office of General Counsel for a more complete review of relevant SERB and common law precedent. After such review, the General Counsel shall provide, at the next available Board meeting, a report and recommendation for disposition of the matter. Vice Chair Schmidt seconded the motion.

Chair Zimpher called for discussion.

Chair Zimpher read the following: "My rationale is that while the Investigator's Report presents the issues of the case fairly and accurately, the pertinent case law and its

State Employment Relations Board  
Board Meeting Minutes  
March 31, 2016  
Page 9 of 11

application to this case needs to be more fully and robustly developed.”

Chair Zimpher called for the vote.

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

11. Case 2016-ULP-01-0006 Greg King v. City of Rocky River
12. Case 2016-ULP-01-0009 Wayne County Joint Vocational School District Education Association v. Wayne County Schools Career Center Board of Education
13. Case 2016-ULP-01-0010 Wooster Education Association, OEA/NEA v. Wooster City School District Board of Education
14. Case 2015-ULP-11-0247 Paulding Education Association, OEA/NEA v. Paulding Exempted Village School District Board of Education
15. Case 2016-ULP-01-0015 International Brotherhood of Teamsters Local 436 v. City of Solon

Motions to withdraw were filed in each of these cases.

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

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

**VI. TABLED AND OTHER MATTERS:**

There are no tabled matters.

**VII. ADMINISTRATIVE MATTERS:**

**SERB REGULAR SCHEDULED MEETING DATES:**

- April 21, 2016
- May 12, 2016
- June 02, 2016
- June 23, 2016
- August 04, 2016
- August 25, 2016
- September 15, 2016
- October 06, 2016
- October 27, 2016
- November 17, 2016
- December 15, 2016

#### SYSTEM UPDATES:

- **Employee Organization Annual Report Filings:** For fiscal year ending 11/30/2015, 0 Employee Organizations are required to report not later than 4/15/2016. To date, 0 Employee Organizations have filed. Licia Sapp 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.
- **Microfiche Conversion Project Completed:** The project to capture, convert to PDF, and preserve old microfiche of original collective bargaining agreements (contracts) on file since SERB opened its doors in 1984 has been completed. Integrated Services and Solutions converted 921,699 images (pages of documents) to PDF's from the microfiche. The cost was \$48,000; this was a project Research and Training initiated to preserve historical documents related to the Clearinghouse Data Base.
- **Boards and Commissions IT Assessment (BCITA-963):** Kickoff meeting was held at the Riffe Tower on Monday, 3/14/16 with the IT Assessment Team lead by Matt Held. Christine Dietsch and Justin Brown attended on behalf of SERB. The objective of the four phase review spanning several weeks is to perform an assessment of the business operations, information technology, and support needed for each Board and/or Commission and develop an individualized plan, approach, and roadmap for optimization. The first two meetings have been held and all is moving forward in a positive manner. The goal of this project is to encourage standardization across the State of Ohio, and to improve endpoint security. The Findings and Recommendations Presentation is scheduled for Monday, April 11<sup>th</sup>.
- **Annual Affirmative Action Progress Report:** The Affirmative Action Progress Report was filed with the Department of Administrative Services, Equal Opportunity Division on 3/23/16. The progress plan evaluates the good-faith recruitment efforts for positions identified in the prior year as marked areas of opportunities for improvement, as well as attempting to identify recruitment best practices. Over the past year, for the 13 positions hired, 31% were minorities and 69% were white. At the conclusion of the review by DAS/EOD, we will receive feedback no later than Friday, July 1, 2016.
- **XLN Progress on SMDS Update:** The administrator and staff of the Clerk's Office meet weekly with XLN to review the latest revisions of the SMDS application related to Clerks Office functions. Everything is coming along quite well and on time.

#### TRAINING:

- **Spring SPBR Academy:** Held on March 10, 2016 at the Crowne Plaza Hotel in Worthington. Agenda, topics and speakers have been arranged. CLE's were approved by the Ohio Supreme Court on January 14, 2016. 130 attended the academy; this number did not include staff.
- **Advanced Negotiations Seminar:** Scheduled for April 11, 2016. We currently have 75 registrations; this is the 3<sup>rd</sup> training from the Negotiations trainings that started in June of 2015. Registrations were cut off at 75; this is the maximum that can be accommodated.
- **Spring SERB Academy:** Scheduled for May 19 and 20, 2016. CLE's have been approved and there are currently 14 registrations.

State Employment Relations Board  
Board Meeting Minutes  
March 31, 2016  
Page 11 of 11

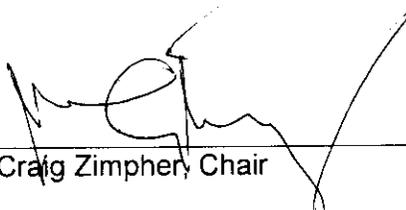
- **Fact-Finding Conference:** Scheduled for August 19, 2016. On Monday, January 04, 2016, save the date reminders were sent to all the Neutrals on SERB's roster. General Counsel is working with Research and Training on the agenda and related presenters. No registrations have been received as of this date; it is still a bit early.

**IX. ADJOURNMENT:**

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

Vote: SCHMIDT: Yes ZIMPHER: Yes  
Affirmed X Denied       

The Board meeting adjourned at 10:18 a.m.

  
/s/  
W. Craig Zimpher, Chair