

State Employment Relations Board

“promoting orderly and constructive relationships
between all public employers and their employees”



Annual Report 2012

Governor of the State of Ohio
John R. Kasich

SERB Chair
W. Craig Zimpher

SERB Vice Chair
Robert F. Spada

SERB Member
N. Eugene Brundige

SERB

"Promoting Orderly and Constructive
Labor Relations Since 1984"

State
Employment
Relations
Board



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W. Craig Zimpher, Chair
Robert F. Spada, Vice Chair
N. Eugene Brundige, Board Member

John R. Kasich, Governor

Christine A. Dietsch, Executive Director

August 1, 2012

The Honorable John R. Kasich
Office of the Governor
Riffe Center, 30th Floor
77 South High Street
Columbus, Ohio 43215-6117

Dear Governor Kasich,

Section 4117.02(0) requires the issuance of an Annual Report by the State Employment Relations Board (SERB); accordingly, we are pleased to provide the Fiscal Year 2012 SERB Annual Report to you, members of the General Assembly, and the citizens of Ohio, who are shareholders in Ohio's system of public sector employer/employee collective bargaining.

SERB undertook and executed several initiatives during FY 2012. Most importantly, the agency has continued its objective of adapting and implementing advanced and state of the art data and communication systems, thereby assuring compliance and adherence to its statutory obligations, in a timely, effective, and efficient manner. With these enhancements and staff development we are making every attempt to meet our mission to "promote orderly and constructive relations between employers and their employees".

With the submittal of this Annual Report, I again confirm our commitment to the fair, impartial, and objective adjudication of matters over which SERB exercises its authority. We will continue the agency's obligation and responsibilities to the citizens of the Great State of Ohio.

Thanks to you, the General Assembly, and all other interested parties for your continued support.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Craig Zimpher".

W. Craig Zimpher
Chair

A handwritten signature in black ink, appearing to read "Robert F. Spada".

Robert F. Spada
Vice Chair

A handwritten signature in black ink, appearing to read "N. Eugene Brundige".

N. Eugene Brundige
Board Member

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Report from the Board

During Fiscal Year 2012 the State Employment Relations Board (SERB) has continued to achieve efficiencies in its operations and in obtaining its mission of promoting orderly and constructive labor relations.

The consolidation, or assimilation, of the State Personnel Board of Review (SPBR) within the SERB organizational structure has now been successfully completed from an operational, budgetary, and logistical perspective. Cohesion of staff responsibilities has been maintained seamlessly and without interruption. SERB has continued to facilitate, in every possible manner, collaborative and constructive collective bargaining processes throughout Ohio's public employment sector. The adjudication of charges of unfair labor practices, appointment of mediators, fact finders, and conduct and resolution of labor representation or election issues have been accomplished within timely and responsible timeframes. SERB's extensive website continues to provide thorough, up to date, and user friendly data and reference materials relative to the collective bargaining process in Ohio. The hundreds of collective bargaining agreements in effect at the local or state level for public jurisdictions are maintained and housed on our system, and serve as a consistent and accurate point of reference and benchmark for the various public sector labor relations practitioners.

As reported in last year's Annual Report, extensive efforts were undertaken to overhaul SERB's legacy computer systems. The SERB Management and Docketing System (SMDS) which was implemented last year has proven to be a very effective enhancement to productivity; this system has effectively created a single SQL database that has replaced the silos of information that had accumulated over 27 plus years of SERB history. Additionally, a four channel digital "state of the art" recording system, similar to that used in courts throughout Ohio, was installed in all hearing rooms. Also, due to the numerous customers of SERB and SPBR who

attend hearings, mediations, or board meetings, the need for wireless, or Wi-Fi, capability became an important issue. Laptops used by said customers attending meetings, in addition to such use by our staff made use of Wi-Fi necessary and the capability was installed.

During the fiscal year an important lapse in regulatory monitoring was brought to our attention. Pursuant to Ohio's Collective Bargaining law, employee organizations (unions) are required to file an Annual Report with SERB. The report must contain specific information, including the union's financial report, as provided for statutorily. Lack of compliance with this requirement was brought to light via media reporting related to certain criminal activities committed by a now former union official. A thorough review of the agency's responsibilities, and lack of oversight related there to, has resulted in the adoption of a reporting regime, and the monitoring thereof, by all unions representing public sector employees. SERB will continue to assure compliance with this important responsibility. For the twentieth year, SERB will again publish its Annual Report on the Cost of Health Insurance in Ohio's Public Sector. The report is produced by the agency's Research and Training Section, and helps fulfill our mission of promoting orderly and constructive relationships between Ohio's public employers and employees. This year's report reflects a record high frequency of responses from the employers surveyed across Ohio, from townships, cities, counties, and the state. The target survey population included city, county, and township governments, school districts, joint vocational schools and career centers, educational service centers, community, technical and four year universities, port and transit authorities and regional fire districts. The Report will be posted on SERB's website for the convenience of our various customers and the public. This response rate only adds to the report's statistical accuracy; we are deeply appreciative to all who participated for their attention and cooperation.

Continuing again this year was our relationship with The Ohio State University's Moritz College of Law with the placement of summer Legal Interns. Two additional law students from Capital University College of Law externed this summer at SERB.

In furtherance of our mission and legal obligation pursuant to Section 4117.02(K)(4) of the Ohio Revised Code to train and inform employer and employee groups about labor relations and the collective bargaining process, SERB planned and hosted four professional conferences during the year. These included a conference for fact finders, which trained practitioners in the art of preparing for a fact finding hearing, in addition to reviewing SERB rules and policies, and case reviews pertaining to fact finding and conciliation. A second conference, Developing Labor Law Seminar, updated practitioners on SERB opinions, court cases, hearings, and rule changes, and other topical issues relative to labor/management relations, ethics in the public sector, and dealing with substance abuse. The third seminar, entitled "SERB Academy", provided training for both employer and employee representatives in the administration of collective bargaining, dispute resolution, unfair labor practices, and hearing practices. And finally, we hosted the 2012 Arbitrator and Advocate Symposium with the Federal Mediation and Conciliation Service. This symposium provided training in "high tech" evidence and discovery in labor and employment law, observations about the arbitration process, trends on administrative and judicial labor opinions, and maneuvering successfully in the social media field.

Other accomplishments have included the development, as noted in last year's report, of a first time comprehensive, annual employee performance evaluation system; complete revision and publishing of an Employee Handbook; and the finalization and distribution of a Policy and Procedure Manual. This project was done with the cooperation and assistance of many SERB staff, and represents a ready reference for employees, and especially future ones, on all procedures

and practices involved throughout the agency. SERB's Executive Director has focused considerable efforts toward training, preparation, and informed staff development and engagements in all facets of the agency's operations.

SERB has again cooperated with the Ohio Auditor of State's Office on another biennial fiscal/operations audit. Although the final audit report has not been received, we are confident that it will not identify matters that must be included in a statewide report as required by the Government Auditing Standards.

In addition to the three SERB Members, a staff of twenty-eight full time or intermittent, highly trained, educated, and experienced associates provides the ongoing, day-to-day support for the agency's operations. This includes investigating and adjudicating over five hundred unfair labor practice charges, determining the size and appropriateness of bargaining units, conducting union representation elections, mediations, hearings, and research and training. SERB continues to place a great deal of credibility and faith in mediation, believing that solutions to labor/management reached mutually by the parties are far preferable than the alternative reached through contentious litigation, etc. This Annual Report is an appropriate opportunity for the Board's Members to express our deepest appreciation and respect for our associates' commitment, dedication, and professionalism in the conduct of their duties and responsibilities.

Through innovation and increased efficiency, SERB has again met its challenges during the preceding fiscal year. We will continue to seek and implement methods to improve service to our customers, while maintaining the prudent and responsible management of the public's tax dollars that support us. As stated last year, our commitment to you is that we will do our best to faithfully serve Ohio's citizens, its public employers, and the employee organizations with whom they interact.

Respectfully submitted,
The State Employment Relations Board

SERB Statutory Functions

The following are the major statutory duties SERB performs pursuant to the Ohio Public Employees' Collective Bargaining Act of 1983, Chapter 4117 of the Ohio Revised Code:

- Investigation or mediation of alleged unfair labor practices. [Section 4117.12]
- Issuance and prosecution of unfair labor practice complaints when probable cause is found after investigation of charges. [Section 4117.12]
- Adjudication of alleged unfair labor practices based upon formal evidence and legal arguments presented by the parties at hearing. Such cases are heard by SERB administrative law judges, the SERB Board, or individual Board members, who make recommendations that are submitted to the Board for ultimate determination. [Section 4117.12]
- Enforcement of unfair labor practice remedial orders. [Section 4117.13]
- Review of employee challenges to fair share fees paid by them to unions. [Section 4117.09]
- Establishment of standards for and review of employee organization trusteeships. [Section 4117.19]
- Establishment and communication of timetables for all negotiation cases to which the statutory impasse resolution procedure applies. [Section 4117.14]
- Analysis and resolution of legal issues raised by negotiation cases in which the parties dispute the proper procedure. [Section 4117.14]
- Assignment of mediators to resolve impasses in negotiations and to prevent or shorten the duration of public-sector strikes. [Section 4117.14]
- Compilation and submission to parties of lists from which fact finders and conciliators are chosen. [Section 4117.14]
- Subsequent appointment of fact finder and conciliator with proper notification to parties and the appointed neutral and revision of assignments as necessary after ascertaining availability. [Section 4117.14]
- Selection of qualified individuals to serve on SERB's Roster of Neutrals. [Section 4117.02]
- Investigation of petitions for election (initial representation elections, challenge elections by rival unions, or decertification elections), including an examination of a showing of interest required to demonstrate adequate employee interest in an election. Also, investigation of requests for voluntary recognition in which elections may be unnecessary. [Sections 4117.05 and 4117.07]
- Determination or mediation of appropriate bargaining-unit configurations (often through hearing) that may involve the determination of whether employees are confidential, management level, or supervisory. [Sections 4117.01 and 4117.06]
- Conducting secret ballot elections by mail for eligible employees in appropriate units. [Section 4117.07]
- Resolution, through evidential hearing, of other disputed issues associated with representation activity, such as contract bar, election bar, standing, objectionable campaign activity by a party, and eligibility of voters. [Section 4117.02]
- Determination, through evidential hearing and legal arguments, whether job actions constitute prohibited strikes. [Section 4117.23]
- Determination, through evidential hearing and legal arguments, whether otherwise legal strikes pose a clear and present danger. [Section 4117.16]
- Acquisition and analysis of more than 2,900 Ohio public-sector collective bargaining agreements for use as an informational clearinghouse. [Section 4117.02]
- Production of reports reflecting bargaining agreement terms for political subdivision categories, in further fulfillment of the clearinghouse and analysis functions. [Section 4117.02]
- Annually update a list of school districts that have collective bargaining agreements with teacher unions to show, for each district for the current fiscal year, the starting salary in the district for teachers with no prior teaching experience who hold bachelors degrees, and send a copy of the updated list to the state board of education. [Section 4117.102]
- Presentation of training programs for representatives of employee organizations and public employers, and preparation of educational bulletins and manuals. [Section 4117.02]
- Development and implementation of labor-management cooperation initiatives, including interest-based bargaining and labor-management committee training and facilitation. [Section 4117.02]
- Collection, organization, and verification of union financial and organizational reports. [Section 4117.19]
- Investigation of alleged failure to comply with employee organization reporting requirements and possible imposition of penalties. [Section 4117.19]
- Dissemination of information regarding the Ohio Public Employees' Collective Bargaining Act to interested parties such as organizations, public employees, employers, and academicians. [Section 4117.02]

The Board

The three-member State Employment Relations Board and its administrative staff were created by Ohio's Public Employees' Collective Bargaining Act of 1983. The Act was incorporated as Chapter 4117 of the Ohio Revised Code. Acting as a neutral, the quasi-judicial board determines appropriate bargaining units, conducts representation elections, certifies exclusive bargaining representatives, monitors and enforces statutory dispute procedures, adjudicates unfair labor practice charges, and determines unauthorized strikes. Board appointments are made by the governor with the advice and consent of the Senate. A board member's term is six years.

W. Craig Zimpher, Chair

W. Craig Zimpher was appointed to the Board by Governor John R. Kasich effective January 21, 2011. Prior to his appointment, he had been Vice President for Government Affairs at Nationwide Insurance Enterprise.

Mr. Zimpher's private-sector positions included service as Assistant V.P. of Ohio Operations for Gates, McDonald and Company and Assistant Dean of Students at Ohio Wesleyan University.

Mr. Zimpher's previous public-sector work includes serving as Chairman of the Industrial Commission of Ohio; an appointment by Governor Richard F. Celeste to the Commission on Workers Compensation Administration; serving as Deputy Assistant to Governor James A. Rhodes and as Legislative Assistant to the Minority Leader of the Ohio House of Representatives. Mr. Zimpher, a native of Piqua, Ohio, received his B.A. and M.A. degrees in History from The Ohio State University. He served as a 1st Lieutenant in the U.S. Army. He also lectured as an Adjunct Instructor in History/Humanities at Ohio Dominican University.

Robert F. Spada, Vice Chairperson

Robert F. Spada was appointed to the Board by Governor Ted Strickland on November 3, 2008. At the time of his appointment Spada was serving in his 10th year in the Ohio Senate representing the 24th Senate District from Cuyahoga County.

He served two terms as Assistant Majority Floor Leader. His Committee assignments included Insurance, Commerce and Labor Committee and State and Local

Government Committee, which he chaired. Mr. Spada was also a member of the Joint Committee on Agency Rule Review.

Other public and private sector work includes employment with the U.S. Department of Labor - Labor Management Services Administration, the U.S. Department of the Treasury - Internal Revenue Service, Willoughby South High School and as a partner in an accounting firm. Board Member Spada, a Cleveland Native, received his BBA in Accounting from Cleveland State University, and an MBA in Systems Management from Baldwin Wallace College. He served in the U.S. Army as a Systems Analyst.

N. Eugene Brundige, Member

Governor Ted Strickland appointed N. Eugene Brundige to the State Employment Relations Board effective May 12, 2008. Governor Strickland appointed him to a second six-year term effective October 6, 2010. At the time of his initial appointment, Mr. Brundige was an arbitrator, mediator and labor relations consultant, serving on the following arbitration rosters: American Arbitration Association (Labor Panel), Federal Mediation and Conciliation Services, Arbitration Mediation Service, and SERB's Roster of Neutrals. In addition to 15 years as a mediator, Mr. Brundige served previously as Vice Chair of the State Employment Relations Board. Mr. Brundige served as Chief Negotiator for the City of Columbus, Director of Classified Personnel for Columbus Public Schools, Chief Negotiator for the State of Ohio, and HR Chief for the Ohio Bureau of Workers' Compensation. He also served in a number of capacities within a statewide union, including President of the Ohio Education Association and Director of Uniserv, supervising 70 staff representatives. He worked on assignment for the National Education Association in Florida. Mr. Brundige is a graduate of Ohio University, where he received his Bachelors Degree in History and Government and also earned a Masters Degree in Education Administration. He has also served as adjunct faculty at Columbus State Community College and The Ohio State University in various labor-management programs.

SERB Fiscal Year 2012 Expenditures Summary

	Payroll	Purchased Personal Services	Training	Supplies / Maintenance	Equipment	Totals
						as of 07/01/12
General Revenue	\$2,873,178	\$161,690	\$0	\$416,078	\$36,058	\$3,487,004
Special Accounts*	\$0	\$6,785	\$0	\$509	\$0	\$7,294
TOTAL	\$2,873,178	\$168,475	\$0	\$416,587	\$36,058	\$3,494,298

* Non-General Revenue Fund Sources

SERB Personnel FY 2006- 2012

Includes Full-Time Permanent, Part-Time Permanent and, Intermittents and Legal Interns.

	2006	2007	2008	2009	2010	2011	2012
Staff	31	33	33	30	29*	28	33

* With the passage of Am. Sub. H. B.1, the staff of the State Personnel Board of Review (SPBR) were consolidated with the staff of SERB, effective July 17, 2009. The number of SERB personnel reported for FY 2010 reflects the consolidated staff, which is an overall reduction of 8 employees from the 38 employees serving the two Boards prior to the consolidation.

Organization

Executive Director

The Executive Director is the chief administrative officer of the agency and reports directly to the Board. Charged with its daily operations, the Executive Director oversees the administration of agency funds and personnel. The Executive Director is responsible for implementing Board policy, and manages, directs, and supervises activities of the Board.

Office of the General Counsel

The Office of the General Counsel serves as in-house counsel, providing legal support for the Board and its sections, assisting in the preparation of Board opinions, drafting unfair labor practice complaints, and working with SERB's litigation counsel (the Ohio Attorney General) in the preparation of SERB-related cases pending before Ohio courts. Additionally, the General Counsel is the Chief Ethics Officer for the agency and provides or arranges annual ethics training for SERB personnel under Executive Order 2011-03K.

Representation Section

The Representation Section oversees the review of all representation filings; as well as Requests for Recognition and Petitions for Representation Election to determine sufficiency, coordination of efforts to achieve consent-election agreements, and the subsequent scheduling of 60-70 representation mail-ballot elections annually. Additionally, the section is responsible for the substantive development and presentation of recommendations to the Board on representation issues, and for review and recommendations of rebate cases for fair-share-fee payers.

Investigations Section

The Investigations Section is charged with the initial review, investigation, recommendation to the Board, and maintenance of statistics involving all unfair labor practice charges before SERB. The section is responsible for the investigation and recommendation to the Board of employee organization reporting complaints and jurisdictional work disputes. The agency's Labor Relations Specialists investigate an average of more than 700 of these charges each year. Additionally, the Labor Relations Specialists are involved in the mediation of unfair labor practice disputes before the Board's initial determination of whether probable cause exists.

Bureau of Mediation

The Bureau of Mediation oversees implementation of the collective bargaining impasse-resolution procedures established by Section 4117.14 of the Ohio Revised Code. These procedures provide for strict timelines and for the appointment of mediators, factfinders, or conciliators (interest arbitrators) based upon the circumstances of each case. The bureau reviews Notices to Negotiate to determine whether to apply the statutory impasse resolution process or an alternate process designed by the parties. If the statutory process applies, the bureau

establishes timelines for negotiations. If an alternate impasse-resolution process applies, the bureau monitors these negotiations and assists the parties when requested. The bureau reviews strike notices and the progress of negotiations, and intervenes when necessary to avoid or end a strike. The bureau develops and coordinates labor-management-cooperation training and facilitation for interest-based bargaining and labor-management committee effectiveness.

Hearings Section

The Hearings Section conducts administrative hearings to resolve factual disputes or help decide significant issues of law in cases involving representation, impasse resolution, unfair labor practice matters, and other substantive responsibilities imposed by the Ohio Public Employees' Collective Bargaining Act. Cases are heard before an administrative law judge who submits recommended findings of fact and conclusions of law to the Board. Administrative law judges may subpoena witnesses and documents, administer oaths, and receive or exclude evidence for cause. Administrative law judges may also mediate representation matters.

Clerks Office

The Clerks Office docket and maintains custody of case-related documents, processing processes an average of more than 2,000 new case filings annually. This section receives and distributes all case filings and other incoming documents, and is responsible for providing assistance to SERB customers. SERB's intake and record-keeping arm is vital to the agency's operation and is enhanced by a computerized and web-based docketing/imaging system.

Business/Records Office

The Business/Records Office is responsible for fiscal and budget functions and records retention and certification of the record in administrative hearings to court for SERB and State Personnel Board of Review cases. It is also responsible for SERB's fleet-management and facilities-management functions.

Research and Training Section

The Research and Training Section fulfills SERB's statutory commitment to act as a clearinghouse of information relating to wages, fringe benefits, and employment practices applicable to the various political subdivisions of the state. Also by statute, the section is responsible for training representatives of employee organizations and public employers in the rules and techniques of collective bargaining. The section's primary tool is its computerized *Clearinghouse*, a system providing customized collective bargaining agreement information for all jurisdictions in the state. The section is also responsible for writing, editing, and producing SERB's *Annual Report* and SERB's *Annual Report on the Cost of Health Insurance in Ohio's Public Sector*.

Year-End Case Status Summary

Cases Filed	FY 2011	FY 2012
Total Cases	2,508	1,914
Mediation (MED)	1,927	1,451
Strike determinations (STK)	10	0
Representation (REP) ¹	153	151
Rebate Determination(RBT)	3	0
Unfair Labor Practices (ULP)	423	309
Employee Organization Reporting Complaints (ERC)	2	3
Jurisdictional Work Disputes (JWD)	0	0

Agency Activities	FY 2011	FY 2012
State mediator appointed	970	781
Federal mediator appointed	276	234
Fact Finder appointed	478	385
Conciliator appointed	66	88
Strikes	00	1
Elections held ²	85	52
Board decision to issue complaint	48	30
Hearings held ³	13	11
Board meetings ⁴	26	20
Board opinions issued	9	4

Mediations Conducted⁵	FY 2011	FY 2012
ULPs Pre-Determination	29	26
ULPs Post-Probable Cause	36	26
Representation Matters Pre-Direction to Hearing	73	8
Representation Matters Post-Direction to Hearing	2	0
Total Non-Contract Mediations	140	60

Final Dispositions	FY 2011	FY 2012
Total Dispositions	2,321	1,863
Impasse matters settled or withdrawn	1,543	1,417
Election results certified	94	54
Voluntary recognition requests certified	16	9
Recognition requests/election petitions dismissed	24	14
Miscellaneous representation activities	183	90
RBT petitions settled or withdrawn	90	0
ULP charges dismissed	307	173
ULP charges settled or withdrawn	108	70
ULP charges deferred/jurisdiction retained	15	6
ULP complaints settled	31	30

¹ This figure reflects the consolidation into one case of voluntary recognition requests with responsive petitions and multiple petitions of the same unit. It also includes petitions for amendment of certification and for clarification of bargaining unit.

²Includes professional/non-professional unit determination elections.

³Includes Board-conducted strike authorization hearings.

⁴Includes only regular board meetings.

⁵The statistical report on mediations conducted has been expanded and moved here from the Hearings Section Summaries on Page 15.

Collective Bargaining Agreements by Employer Type As Of June 30, 2012

Employers	Employers with Contracts	Employer Type	Number of Contracts On File	Employees Covered By Contracts
Local Government				
247	240	City	984	45,565
87	5	County Auditor	8	131
28	13	County Children Services	16	1,757
88	7	County Clerk of Courts	7	348
88	42	County Commissioners	83	2,597
88	3	County Coroner	3	35
88	51	County Engineer	55	1,438
35	18	County Health Care	20	1,119
16	2	County Hospital	4	2,314
88	49	County Job and Family Services	54	7,173
48	1	County Mental Health	1	31
88	46	County Board of Developmental Disabilities	77	6,316
1	1	County Narcotics Agency	1	8
2	2	County Prosecutor	2	23
87	7	County Recorder	7	56
88	85	County Sheriff	219	8,990
19	12	County Support Enforcement Agency	13	977
88	9	County Treasurer	9	264
14	10	Emergency Medical District	12	414
19	13	Fire District	15	240
83	9	Health District	9	316
52	13	Park District	22	829
5	5	Sanitary District	6	103
18	2	Conservancy District	2	10
20	10	Water/Sewer District	13	436
251	28	Library	31	2,644
40	18	Metropolitan Housing Authority	34	1,444
5	3	Port Authority	6	212
1	1	Regional Turnpike Commission	2	742
15	13	Regional Transit Authority	20	4,651
14	13	State University	44	17,658
14	9	Community College	19	2,178
9	4	Technical College	9	721
153	92	Township	222	3,377
33	16	Miscellaneous	19	6,20
2,020	852	Total	2,049	115,737
State Government				
1	1	Attorney General	3	643
1	1	Auditor of State	1	25
1	1	Office of the Governor	5	39,837
1	1	Secretary of State	1	63
1	1	Treasurer of State	1	46
5	5	Total	11	40,614
Boards of Education				
722	651	Boards of Education	1,218	190,297

Summary

Total of all employers.....	2,747
Total number of employers with contracts	1,508
Total contracts filed with SERB.....	3,278
Total employees covered.....	346,648

Collective Bargaining Agreements by County As Of June 30, 2012

County	Boards of Education	Others	Total	County	Boards of Education	Others	Total
Adams	3	4	7	Licking	17	22	39
Allen	18	22	40	Logan	6	6	12
Ashland	9	12	21	Lorain	32	56	88
Ashtabula	17	35	52	Lucas	21	66	87
Athens	13	25	38	Madison	8	9	17
Auglaize	9	13	22	Mahoning	35	76	111
Belmont	16	12	28	Marion	9	13	22
Brown	9	4	13	Medina	15	36	51
Butler	21	58	79	Meigs	6	5	11
Carroll	4	1	5	Mercer	7	6	13
Champaign	9	9	18	Miami	12	20	32
Clark	15	19	34	Monroe	2	4	6
Clermont	17	19	36	Montgomery	34	78	112
Clinton	6	5	11	Morgan	2	6	8
Columbiana	22	23	45	Morrow	7	2	9
Coshocton	6	7	13	Muskingum	11	14	25
Crawford	10	9	19	Noble	4	3	7
Cuyahoga	87	267	354	Ottawa	9	8	17
Darke	10	9	19	Paulding	4	3	7
Defiance	7	7	14	Perry	7	3	10
Delaware	12	26	38	Pickaway	5	10	15
Erie	14	27	41	Pike	7	3	10
Fairfield	12	16	28	Portage	27	49	76
Fayette	3	4	7	Preble	9	3	12
Franklin	37	84	121	Putnam	14	4	18
Fulton	13	8	21	Richland	18	29	47
Gallia	6	6	12	Ross	13	6	19
Geauga	14	16	30	Sandusky	11	15	26
Greene	17	32	49	Scioto	14	14	28
Guernsey	4	10	14	Seneca	9	15	24
Hamilton	38	108	146	Shelby	10	7	17
Hancock	12	16	28	Stark	40	64	104
Hardin	11	7	18	Summit	42	107	149
Harrison	4	3	7	Trumbull	45	62	107
Henry	8	9	17	Tuscarawas	17	20	37
Highland	7	6	13	Union	3	5	8
Hocking	2	9	11	VanWert	5	8	13
Holmes	3	2	5	Vinton	2	1	3
Huron	13	13	26	Warren	17	31	48
Jackson	6	14	20	Washington	13	10	23
Jefferson	10	22	32	Wayne	18	14	32
Knox	8	9	17	Williams	8	11	19
Lake	21	71	92	Wood	20	38	58
Lawrence	16	17	33	Wyandot	4	3	7

Summary

Boards of Education	1,218
Other Employers.....	2,060
Total 2012 Contracts.....	3,278

Bureau of Mediation Summaries

Filings and Appointments	FY 2011	FY 2012
<i>Matters filed</i>		
Notices to Negotiate	1,927	1,449
Impasse Matters Settled/Withdrawn	1,543	1,417
Notices of Intent to Strike	5	6
<i>Neutrals appointed</i>		
Mediator Appointments	1,246	1,015
Fact-Finder Appointments	478	385
Conciliator Appointments	66	88

FY 2012 Notices to Negotiate	Statutory	MADs	Total
Initial	43	0	43
Reopener	273	37	310
Successor	740	356	1,096
<i>Total</i>	<i>1,056</i>	<i>393</i>	<i>1,449</i>

FY 2012 Fact-Finding Statistical Summary	
<i>Cases with reports accepted</i>	60
Accepted by both parties	20
Deemed accepted . . .	40
by employee organization only	11
by employer only	14
by both parties	15
<i>Cases with reports rejected</i>	70
by employee organization only	29
by employer only	29
by both parties	12
Total FY 2012 reports	130

Results of Fact-Finding		
	FY 2011	FY 2012
Rejections	57	70
Acceptances	49	60

Fact-Finding Cases by Employer Type		
	FY 2011	FY 2012
Cities	49	62
Counties	32	42
School Districts	3	2
Townships	10	12
Universities	2	4
State Government	0	0
Other	10	8

Fact-Finding Cases by Employee Type		
	FY 2011	FY 2012
Police	39	55
Fire	13	18
Teaching	3	4
Nursing	0	0
Other	51	53

Public Sector Strikes, April 1, 1984—June 30, 2012

Type	04/01/84–06/30/09	FY 2010	FY 2011	FY 2012	Total
Education	148	0	0	1	149
City	10	0	0	0	10
County	44	0	0	0	44
Township	2	0	0	0	2
Other	9	0	0	0	9
<i>Total</i>	<i>213</i>	<i>0</i>	<i>0</i>	<i>1</i>	<i>214</i>

Public Sector Strikes Before and After the Collective Bargaining Act

1978	67	1983	na	1988	14	1993 ²	3	1998	14	2003	7	2008	3
1979	56	1984 ¹	4	1989	17	1994 ³	13	1999	6	2004	4 ⁴	2009	2
1980	60	1985	9	1990	13	1995	7	2000	2	2005	1	2010	0
1981	na	1986	14	1991	17	1996	4	2001	8	2006	6	2011	0
1982	na	1987	19	1992	11	1997	3	2002	6	2007	4	2012	1

¹ 04/01/84 – 12/31/84

² 01/01/93 – 06/30/93

³ Beginning with July 1, 1993, all data are reported by fiscal year, July 1 through June 30.

⁴ FY 2004 strike total adjusted from 2004 annual report.

Representation Summaries

	04/01/84-06/30/09	FY 2010	FY 2011	FY 2012	Total
Elections held	3,111	57 ¹	84 ³	52	3,304
Unit Determination elections held (Professional/Nonprofessional)	209	1 ²	1 ³	1	212
Choices for representation	2,358	48	73	75	2,554
Approximate number of eligible voters	186,942	1,420	3,094	1,833	193,289
Voter turnout	157,322 84%	1,197 84%	2,386 77%	1,219 67%	162,124 84%
Certification via Request for Recognition	1,256	20	16	9	1,301

¹ 12 onsite, 45 via mail

² 1 onsite

³ via mail only

Unfair Labor Practice Summaries

Cases	04/01/84-06/30/08	FY 2010	FY 2011	FY 2012	Total
ULP Charges Filed	17,412	527	423	312	18,362
Probable Cause Findings	3,345 ¹	54	13	30	3,412
Complaints Settled	2,673 ²	47	25	30	2,775
Complaints Adjudicated	513 ²	2	13	4	532
ULP Charges Dismissed	9,483	413	307	173	10,376
ULP Charges Withdrawn	4,378	154	108	70	4,710
Deferrals to Arbitration (with retention of jurisdiction)	196 ³	25	15	6	242

¹ Adjusted figures in 1990 used in total.

² Does not include 1984-85, when these statistics were not kept.

³ Does not include 1984-87, when these statistics were not kept.

FY 2012 Unfair Labor Practice Allegations

Total Allegations of RC 4117.11 violations.....	312
Section 4117.11(A) alleged employer violations.....	223
Section 4117.11(B) alleged employee/employee organization violations.....	89

Board Findings of Statutory Violations

	04/01/84-06/30/08	FY 2010	FY 2011	FY 2012	Total
	366	15	9	3	393

Hearings Section Summaries

Action	04/01/84-06/30/09	FY 2010	FY 2011	FY 2012	Total
ALJPOs/ALJRDs	927	10	15	9	961
Settlements	1,448 ¹	30	25	30	1,533
Hearings held	908	17	13	11	949
Pretrials held	1,027 ¹	21	26	24	1,098

NOTE: The statistical report on mediations conducted has been expanded and moved to the Year-End Case Status Summary report on Page 9.

¹ Statistic maintained beginning December 1994.

Board Opinions Issued in Fiscal Year 2012

In re Rootstown Local Sch. Dist. Bd. Of Educ., SERB 2011-004 (6-16-2011)

On August 30, 2010, Rootstown Education Association (“the Union”) filed an unfair labor practice charge against Rootstown Local School District Board of Education (“the School District”), alleging that the School District violated Ohio Revised Code (O.R.C.) §§ 4117.11(A)(1) and (A)(5). On June 16, 2011, the State Employment Relations Board held that the School District violated O.R.C. § 4117.11(A)(5) but not (A)(1) when it unilaterally instituted a wage and step freeze for the 2010—2011 school year prior to exhausting the dispute resolution procedure for a successor agreement.

The School Board and the Administrative Law Judge assigned to this case recommended that SERB modify established legal precedent relating to the status quo ante because of the economic challenges facing many public entities in the State of Ohio, including the School Board. However, this Board declined to alter the established legal precedent relating to the status quo ante rule and determined that this Board will continue to follow its prior legal precedent.

In *In re Crestline Exempted Village School Dist Bd of Ed*, SERB 2006-003 (3-21-2006), SERB addressed a fact pattern essentially identical to the one here. In *Crestline*, this Board found that when an employer unilaterally changes a term or condition of employment by refusing to award step increases under the CBA, the employer commits an unfair labor practice. In *In re City of Reynoldsburg*, SERB 2010-003 (3-30-2010), SERB provided guidance regarding the effect of an established pattern or practice on the status quo ante rule. “When annual changes to a condition of employment are part of an established pattern or practice, the existence of such changes is, in fact, part of the current situation.” As part of the current situation, annual changes to a condition of employment, such as step increases, must be maintained under the status quo ante rule.

The Union and the School District were parties to a Collective Bargaining Agreement (CBA) effective by its terms from August 1, 2007 through July 31, 2010. The CBA required, and the bargaining-unit employees always received, automatic annual step increases pursuant to the salary schedule and procedure contained in the CBA. Therefore, the annual increases in the case at hand are part of the current situation, and as such, they must be maintained under the status quo ante rule until the parties reach a successor agreement or until ultimate impasse. This Board concluded that with regard to the status quo ante rule, the status quo ante was to grant annual step increases pursuant to the salary schedule and procedure contained in the parties’ expired agreement.

In re City of Munroe Falls, SERB 2011-005 (06-30-2011)

In this unfair labor practice case, the State Employment Relations Board (“SERB” or “the Board”) found that the City of Munroe Falls (“Respondent”) violated Ohio Revised Code (“O.R.C.”) §§ 4117.11(A)(1) and (A)(5) when it refused to recognize or negotiate with the Board-certified exclusive representative and failed to maintain the status quo when it unilaterally implemented terms and conditions of employment for the Full-Time Sergeant (“Sergeant Unit”) without bargaining to ultimate impasse. SERB issued a cease-and-desist order with a Notice to Employees to be posted by the Respondent for 60 days where bargaining-unit employees represented by the Ohio Patrolmen’s Benevolent Association (“the Union”) work. SERB also ordered Respondent to return to the status quo ante, including providing equitable relief to the Union and its bargaining unit member for any losses sustained as a result of the unilaterally-implemented changes, and to bargain in good faith with the Union toward a successor collective bargaining agreement (“CBA”).

The Union was first certified as the exclusive bargaining representative for the Sergeant Unit in 1991 and then again in 2004 pursuant to an unopposed Petition for Amendment of Certification. In 1991, the Sergeant Unit had two members, but consisted of only one member since 2004. The Union and the Respondent met to negotiate a successor CBA in 2010 and bargained to impasse for the Sergeant Unit and two other bargaining units. When the Union requested separate panels of fact-finders for each bargaining unit negotiation, the City Law Director notified the Union and SERB that Respondent was not willing to recognize a single-member unit for collective bargaining purposes. The parties did not proceed to fact finding as a result. Respondent later passed a resolution setting forth a rate of pay for Sergeant contrary to the terms of the expired CBA and refused to consider the merits of several grievances filed by the Sergeant for alleged violations of the CBA.

The Union argued that Respondent violated O.R.C. § 4117.11(A)(5) by refusing to bargain with the Union to ultimate impasse on the terms and conditions of employment for the Sergeant Unit and subsequently making unilateral changes to the status quo ante. Respondent argued that the plain language of O.R.C. Chapter 4117 provides protections only to individuals engaged in group activity and not to single-member units.

The Board rejected Respondent's defense, noting that SERB considered and rejected the same arguments in *In re Wauseon*, SERB 88-019 (12-23-88). O.R.C. § 4117.06(D)(6) restricts police unit structure by providing that bargaining units may not contain both rank and file members of the department with members ranked sergeant or higher. Here, there was no other possible unit configuration for the Sergeant. In addition, Respondent had not argued that this arrangement caused any harmful effects to its efficiency or structure.

The Board also concluded that O.R.C. § 4117.04(B) requires employers to bargain with recognized exclusive representatives and that no statutory provisions exempt an employer from negotiating with a single-member unit nor eliminates Board certification of an exclusive representative if membership in the unit declines to one person. Further, the Board held that it has exclusive jurisdiction to determine the unit appropriate for collective bargaining and that it had decided that the Sergeant's Unit was appropriate for collective bargaining both in 1991 and 2004. Thus, Respondent violated O.R.C. § 4117.11(A)(5).

Considering the issue of whether Respondent violated O.R.C. § 4117.11(A)(1), the Board concluded that Respondent had the right to fill the vacant Sergeant position since 2004 and in essence created the one-person Sergeant Unit by not doing so. Because an employer may not unilaterally withdraw recognition of or refuse to bargain collectively with an incumbent union, even for a good faith reason, the refusal to recognize the Sergeant Unit, in the totality of the circumstances, interfered with, restrained, or coerced the bargaining unit employee in violation of O.R.C. § 4117.11(A)(1).

In re Urbana Firefighters Association, IAFF Local 1823, SERB 2011-006 (11-17-2011)

On September 13, 2010, the City of Urbana ("City") filed unfair labor practice charges against the Urbana Firefighters Association, IAFF Local 1823, et al. ("Union"). On December 2, 2010, the State Employment Relations Board determined that probable cause existed to believe that the Union had committed or were committing unfair labor practices in violation of Ohio Revised Code ("O.R.C.") § 4117.11(B)(3). In lieu of an evidentiary hearing before an Administrative Law Judge, the parties agreed to submit proposed stipulations of fact, joint exhibits, and their respective legal briefs on March 14, 2011. The parties further agreed to submit the record directly to this Board for a decision on the merits.

The Union was alleged to have violated O.R.C. § 4117.11(B)(3). Specifically, the Union was charged with circumventing its duty to bargain in good faith. Union members circulated a petition to place on the November 2010 ballot an amendment to the City's Charter to permanently add, inter alia, a minimum manning provision for firefighters, thereby bypassing the public employer's designated bargaining representative. In contrast, the parties' CBA stated that the City had the exclusive right to determine the size of the workforce.

This Board found the Union to have instigated, authorized, and condoned the actions of its members in the circulation of the petition to amend the City's Charter. Therefore, the employees who circulated the petition were acting as agents of the Union. However, the employees' actions were not in violation of O.R.C. § 4117.11(B)(3).

The Union did not have to bargain with the City in order to circulate a petition to place an amendment to the City's Charter on the ballot. In *In re Toledo*, SERB held that a party can modify an existing CBA if legislative action by a "higher-level legislative body" after the Agreement became effective requires a change to the Agreement. Later, in *In re Cincinnati*, SERB found the voters of the City of Cincinnati to constitute a "higher-level legislative body." In that case, SERB concluded that the City of Cincinnati did not have to bargain with the Union over the changes to the City's Charter because "[w]hen the voters decide an issue at the ballot box, they are acting as a 'higher-level legislative authority' to the City under the second exception to the bargaining requirement set forth in Toledo."

This Board expressed concern that the holding in the instant case has the potential to undermine the collective bargaining process by disrupting the lines of communication essential to the process. This Board cautioned both public employers and employee organizations that deal with public employers to be circumspect when considering taking any action to secure through a charter amendment terms and conditions of employment that are different from those in the parties' existing CBA. Such actions will be closely scrutinized, and unfair labor practice charges will be examined on a case-by-case basis.

In re Clark-Shawnee Local Education Association, SERB 2011-007 (11-17-2011)

In this unfair labor practice case, the State Employment Relations Board ("SERB" or "the Board") found that the Clark-Shawnee Local Education Association ("Respondent" or "the Union") violated Ohio Revised Code ("O.R.C.") § 4117.11(B)(6) when it executed a Memorandum of Understanding ("MOU") on May 6, 2010 that

altered the parties' contractual layoff provision, thereby favoring the Union president by saving him from layoff while causing the layoff of bargaining-unit member John Timothy Shook. SERB issued a cease-and-desist order with a Notice to Employees to be posted by the Respondent for 60 days where bargaining-unit employees represented by the Respondent work. SERB also ordered Respondent to assure that any future MOU which alters the express language of the parties' collective bargaining agreement ("CBA") is ratified by the Union membership and to implement procedures to ensure that all Union officers are actively involved in matters pertaining to the representation of bargaining-unit members.

The CBA in effect during the time at issue provided that a reduction in force ("RIF") is to be first covered by attrition and then by seniority, where seniority is defined as the number of years of service with the school district and certified or licensed employees are placed on seniority lists organized by area of certification. In April, 2010, parties met to discuss a RIF for the 2010-2011 school year. The School Board's expected RIF scenario listed reductions of one position from each of four teaching fields (First Grade, High School Business, High School English, and High School Math). At that time, the Union President was the least senior teacher in the High School Business teaching field and would have been subject to the RIF by the terms of the CBA.

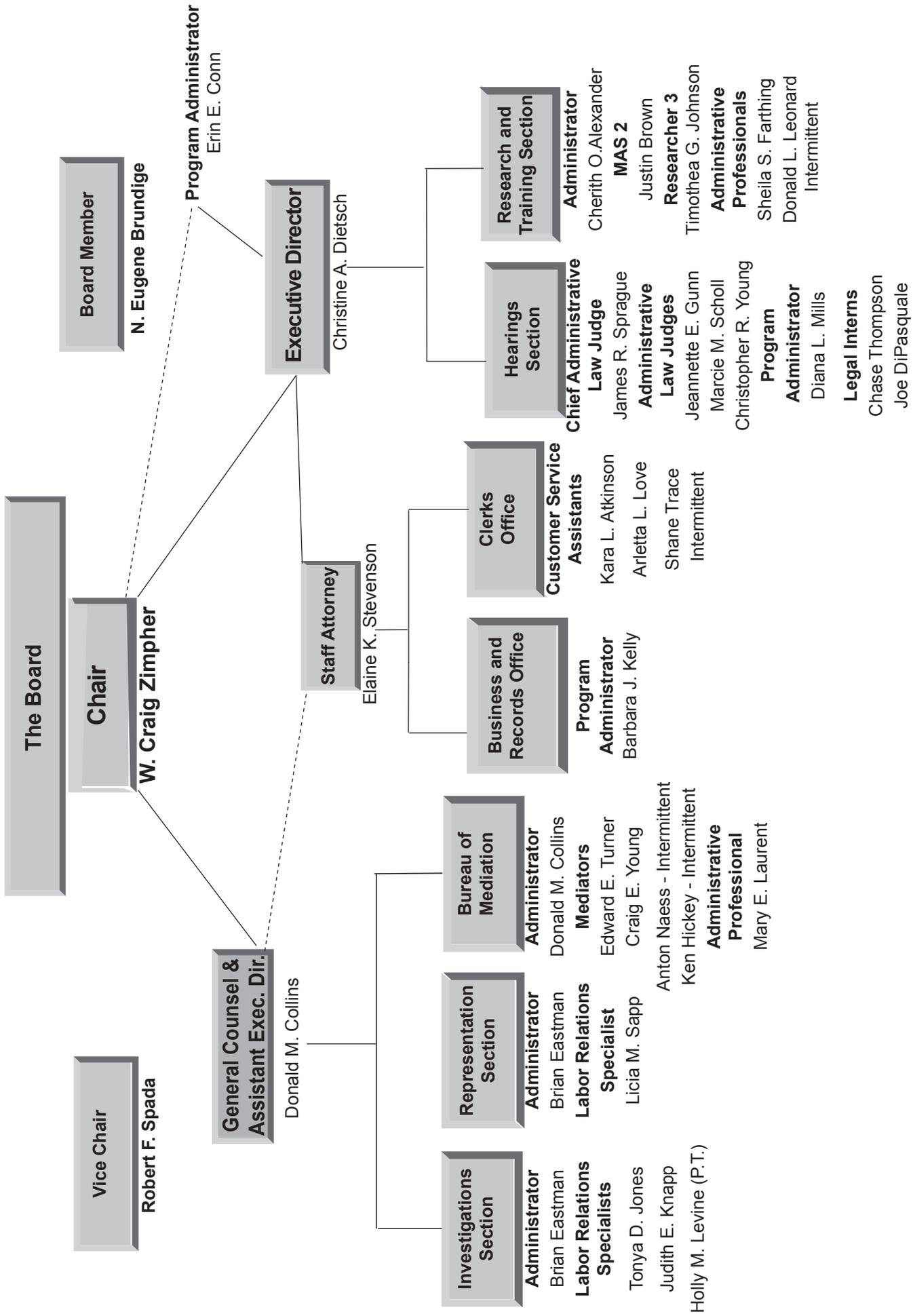
On May 6, 2010, the School Board passed a resolution implementing the RIF for the 2010-2011 school year and stated that the School Board and the Union entered into a one-time only MOU the very same day to address how the RIF would be implemented. The parties worked together to create the MOU. The MOU was not submitted to the Union membership for ratification. The MOU stated that its terms were "inconsistent with and outside the negotiated language" in the CBA and allowed for a teacher subject to the RIF to displace another teacher with less seniority in another teaching field, if the reduced teacher had dual certification in the other teaching field.

Under the terms of the MOU, a High School Math teacher with a dual certification was involuntarily transferred to a High School Music position, thus displacing Mr. Shook, and allowing the Union President to move from High School Business to Middle School Math. The Union argued that the reason for entering into the MOU was to protect the most senior and the most certified of its membership. In addition, the Union argued that membership ratification of the MOU was not required because ratification of MOUs had not been required in the past and the MOU merely clarified the contract and memorialized the parties' past practice.

The Board rejected these arguments, holding that the MOU changed the terms of the CBA and required ratification. Furthermore, due to the benefit given to the Union President over non-office-holding membership through the MOU, the Union should have taken special care to avoid the appearance of impropriety. The Union could have avoided allegations of wrongdoing by disclosing the effect of the MOU to the Union membership and seeking ratification. In addition, the Union President could have removed himself from the MOU creation process and allowed another Union official to handle the matter.

The Board found that the Union's stated reason for entering into the MOU was a pretext for the Union President to avoid being laid off at the expense of a non-office-holding Union member. The Board concluded that the Union's actions were discriminatory and in bad faith as they failed to fairly represent all of the Union's bargaining-unit employees. The fact that the Union refused to take Mr. Shook's grievance to arbitration further supported the conclusion that the Union violated § 4117.11(B)(6), although this refusal, by itself, would not be dispositive proof of a violation.

State Employment Relations Board



Glossary of Terms

SERB's current case-typing system uses these designations:

ERC	Employee Organization Reporting Complaint
JWD	Jurisdictional Work Dispute
MED	Mediation
RBT	Fair Share Fee Rebate Determination
REP	Representation
STK	Employer's Request for Determination of Unauthorized Strike <i>and</i> Request for Determination of Clear and Present Danger
ULP	Unfair Labor Practice

The following case designations were in use before January 1, 1987:

AC	Amended Certification
CE	Conscientious Exemption
CPS	Request for Determination of Clear and Present Danger (Strike case)
FR	Fair Share Rebate Determination
GR	Grandfather (Notification of historical status)
MF	Mediation/Fact-finding/Conciliation
OR	Organization Report
RC	Representation Certification by Election
RD	Petition for Decertification Election
RE	Representation Certification by Election
REPF	Fair Share Fee Rebate Determination
SD	Representation Certification for Self-Determination Election
UC	Unit Clarification
UE	Unfair Labor Practice Charge Filed Against an Employee
UR	Unfair Labor Practice Charge Filed Against an Employer
US	Notice of Strike/Request for Determination of Unauthorized Strike
UU	Unfair Labor Practice Charge Filed Against an Employee Organization
VR	Request for Voluntary Recognition by an Employee Organization

The following abbreviations are in common administrative use:

ALJPO *	Administrative Law Judge's Proposed Order (Administrative Law Judge's recommendation in a ULP complaint case)
ALJRD *	Administrative Law Judge's Recommended Determination (Administrative Law Judge's recommendation in a non-ULP case)
MAD	Mutually Agreed-Upon Dispute Settlement Procedure (negotiations procedure adopted by the parties that supersedes the statutory procedure)

* In earlier annual reports these abbreviations were HOPO and HORD. Over time the position title *Hearing Officer* (HO) changed to *Administrative Law Judge*.

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