

OHPELRA Update

THE OHIO PUBLIC EMPLOYER LABOR RELATIONS ASSOCIATION NEWSLETTER, WINTER, 2006

Don't Miss OHPELRA'S 22nd Annual Training Conference!

THE PREMIER EVENT of the OHPELRA program year is always our Annual Training Conference, packed with two and a half days of the best professional training available on public-sector human resources and labor relations issues. You should have received a brochure and registration materials for our *22nd Annual Training Conference*, which will be held at beautiful Cherry Valley Lodge in Newark on February 5-7, 2006. The cost is only \$220 for members and \$320 for non-members, and all meals are provided. It's an outstanding bargain in tough budget times.

Programs include a keynote address on *The Future of Public-Sector Labor Relations*, a thought-provoking talk on *Intolerance of Intolerance*, a look at the recent split in the labor movement and what it means for public employers, changes in OPERS, workplace romance and off-duty misconduct, deciding when to settle a case, attendance issues, and our ever-popular legal update. That's only a few of the sessions available. For the complete program, you can see our website at www.ohpelra.org, and you can also register on line. There is also a registration form included in this issue.

Also, don't forget to come on Sunday afternoon for a powerful talk by our New York friend, Paul Hutchins.

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OHPELRA members and friends enjoy the 2005 Annual Training Conference at Cherry Valley Lodge in Newark, Ohio.

Letter From The President

HAPPY NEW YEAR! I hope your holidays were joyous. It always amazes me how quickly they seem to pass.

Our annual conference is just a few weeks away, **February 5-7, at Cherry Valley Lodge** in Newark, Ohio. I look forward to this event each year because I get to visit with old friends and make new ones from around the State. I hope I will see you there. Please register as early as possible because our training events always fill fast. The Sunday afternoon opening session this year is very special as our own honorary member, Paul Hutchins, from New York will be sharing some of his post 9/11 on-the-job experiences with us. As always, the opening reception/Superbowl party immediately follows Paul's presentation. Hopefully we'll be cheering your team to victory this year.

Don't forget to get your nominations for the *Pacesetter* and *Excellence Awards* going to Kevin Williams or Kathy Weisgarber. Information and forms are available on the website, www.ohpelra.org or you can contact any board member for information. We would like to have as many nominations as possible submitted. It is not only a great way to recognize our worthy members for notable contributions to our field of work on the State level but the winners will also be submitted to NPELRA for consideration at the National conference in Newport Beach, California March 26-30. We're hoping to have the largest group ever from Ohio at the national conference this year so I hope you are planning to attend. The NPELRA website www.npelra.org has information and registration forms available.

Looking forward to visiting with you at the conference in February as we spend a couple of days **learning together**.

Sincerely,

L. Joy Campbell
President

Learning Together

February 5-7, 2006

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Starting at 4:00 p.m., Paul will be speaking on *Overcoming Adversity in the Workplace*, with gripping stories of public servants who became unsung heroes on September 11, 2001. Registration opens at 2:00 p.m., and after Paul's talk, we hope that you stay and join us for our opening reception and Super Bowl Party! The OHPELRA Conference is known not only for top-notch professional education, but for our camaraderie and informal networking.

During the conference, we will have a session entitled *Ask the Experts — Been There, Done That*. We are asking you to think of your most complex questions and challenges so you can forward them to us so one of the Past Presidents on the panel can give you some answers.

Please submit your questions to Marsha Jordan-Smart at mjordan-smart@co.greene.oh.us, and we will try to have someone give you some insight into your mystery.

See you at Cherry Valley!

Learning Together

February 5–7, 2006



NPELRA's Annual Training Conference

THE 2006 ANNUAL TRAINING CONFERENCE PROGRAM IS NOW ONLINE at www.npelra.org!

Along with reviewing the conference program, you can register online, access the Hyatt Regency Newport Beach's (the official conference hotel) website and research entertainment activities. Also while you are there, don't forget to download applications for the *Award of Excellence* and *Pacesetter Awards*.

The NPELRA Annual Conference provides an educational experience for both novices and experienced professionals in the public sector labor and employee relations field. It includes a week of speakers, workshops and roundtable discussions on a variety of labor relations and human resource topics.

In addition to our jam-packed *Professional Program*, the *Social Program* in sunny Newport Beach will make our 2006 Conference our most exciting yet. There will be social activities almost every night, beginning with great live music at the opening reception, a scenic harbor cruise with dinner on Tuesday and PELRA receptions throughout the week.

The NPELRA annual conference is a great opportunity to meet fellow labor relations professionals and leaders in the field. We're very enthusiastic about the 2006 schedule and truly look forward to meeting you March 26-30, 2006 in Newport Beach, CA.

If you have further questions, please do not hesitate to contact the NPELRA office at 800-296-2230 or email us at info@npelra.org.

See you in California!!!

Ohio Labor Mediators Caught Up in Discord

Former Member Laments Inactivity

Sunday, December 04, 2005

Ted Wendling

Plain Dealer Bureau

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COLUMBUS — EVERY WEEKDAY MORNING, employees at the State Employment Relations Board open the doors and turn on the lights in the offices of Karen Gillmor and Michael Verich, knowing it is unlikely that either board member will be coming to work.

“It's like the Motel 6 slogan: ‘We'll leave the lights on for you,’ ” said Carol Drake, who resigned last month as chairwomen of the three-member board to join Gov. Bob Taft's Cabinet as director of the Department of Administrative Services. “It wasn't a very functional board. It's a real shame.”

Drake is the second chair of the agency, charged with mediating collective-bargaining disputes, to butt heads with Gillmor. The strong-willed former state senator is married to U.S. Rep. Paul Gillmor, a Republican from Old Fort.

Despite rarely being in the office, Karen Gillmor also clashed with Sue Pohler, Drake's predecessor. Pohler resigned in 2002.

Last month, Drake bailed out, too, giving up three years of financial security at SERB for the one year left in Taft's term. She said she made the decision because she was frustrated by her colleagues' poor attendance, their decision to

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force the resignation of Executive Director Pat Snyder and their claims of a “lack of accountability” at SERB.

“I have to say I find it remarkable that two people who were not in the office had concerns about the direction of the agency,” Drake, 45, said. “That’s the sort of vague thing they would say about Pat, and I’m frustrated by it. I think we did a good job with accountability, and I guess I would ask what they did to be informed.”

Plenty, Gillmor and Verich contend.

Both members said they work hard despite rarely being in their offices. Gillmor, 57, said she spends 40 to 50 hours a week reading and discussing cases by phone. Verich, 51, estimated he devotes 50 to 60 hours a week to SERB.

“The job is not management in the office; the job is reading,” Gillmor said. “I read the cases at home.”

Verich, a former state representative and member of “Democrats for Bush,” agreed.

“I read this all off-premises,” he said, waving a sheaf of papers. “I spend a lot of time reviewing these cases, and I think I make some pretty darn significant contributions during case discussions.”

Although being a SERB member is, by law, a full-time job based on a 40-hour workweek, a 1990 attorney general’s opinion says 40 hours “does not constitute a legal requirement” that members be in the office or work 40 hours a week.

Consequently, Gillmor and Verich rarely show up except to attend meetings twice a month. The meeting last for two to three hours and then they are gone again — Verich to his home in Warren and Gillmor to her home in Dublin, a Columbus suburb.

For their services Gillmor and Verich are paid \$82,992 and \$81,640 a year, respectively. In addition SERB pays \$140 a month in parking fees for each of them and provides medical, dental and vision coverage amounting to \$3,653 a year for single coverage for Verich and \$9,644 for family coverage for Gillmor.

SERB also provides another unorthodox benefit: Employees deliver case documents to Gillmor and Verich — either by express-delivery service, fax or car — even though Gillmor lives just 20 miles from her office.

Gillmor bristled when asked why she doesn’t pick up materials, saying she has received only seven courier deliveries.

“The decision to use courier service’s is the chairman’s,” she said. “I have never asked them to send me anything by courier, ever.”

That’s true, Drake said, but misleading.

“We need to get the materials to them, and they weren’t coming in the office to pick them up,” she said. “If that was the only way for us to get it to them, that’s what we had to do.”

Drake particularly chafes at former colleagues’ treatment of Snyder. Although Gillmor and Verich denied that they

pressured Snyder to leave, noting that only the chair can oust the executive director, Drake said they gave Snyder no option.

“They created the atmosphere,” Drake said. “Pat understood what was happening, and she didn’t want a no-confidence vote on the record. That would have been devastating for her.”

So Snyder resigned Aug. 29, accepting a lower-paying job at the Commerce Department. Verich helped her land the post, prompting Snyder to write him a letter of gratitude. “Not bad for a guy who allegedly forced her out, huh?” Verich said.

Snyder declined to comment, but her resignation letter to Drake supports Drake’s contention that she was pushed out.

“Although I have enjoyed your support, I do not have the support of the full board,” Snyder wrote. “No director can lead an agency effectively without that, and it is clear that it is time for me to move on.”

Jon Allison, Taft’s chief of staff, said he was aware of the conflicts Gillmor and Verich have had with previous chairs and warned that SERB members need to stop squabbling and do the public’s business.

“I’m not over there trying to manage that agency” he said. “That’s not what we do in the governor’s office. We expect them to get the work done and be professionals. If there are personality conflicts, they need to manage around those and not let it interfere with the job.”

To reach this Plain Dealer reporter: twendling@plained.com, 1-800-228-8272.



OHPELRA Website Changes

Be sure to check out the OHPELRA web site at www.ohpelra.org for new information online. If you are a member and have forgotten the user name and password for the member-only portions of the website, please e-mail webmaster Steve Barker at barkes@odjfs.state.oh.us.

OHPELRA Welcomes New Members

SINCE THE LAST ISSUE OF *OHPELRA UPDATE*, the following new members have joined OHPELRA and NPFLRA. Welcome to our organization, and we hope to see you at our next event!

DAVID M. BORDEN Support Services Administrator City of Columbus, Department of Public Safety	EMILY HAMMAN Human Resources Analyst Wright State University	LOUWANA OLIVA Assistant Executive Director/EEO Officer METRO Regional Transit Authority
ROGER CLARK Supervisor-Legal Department Butler County Department of Job & Family Services	ROBERT S. HOAG P.E., P.S., Chief Deputy Montgomery County Engineer	RAYMOND C. PATER III, ESQ. Deputy Director Butler County Child Support Enforcement Agency
LISA DUBOSE Director of Human Resources Lucas Metropolitan Housing Authority	CASSANDRA HOLTZMANN, ESQ. Staff Attorney/HR Manager Holmes County Department of Job and Family Services	WILMA ROACH Administrative Support Director Montgomery County Department of Job and Family Services
DANIEL G. EVERS Township Administrator Deerfield Township	VICKY L. LYONS Assistant Director Erie County Department of Job & Family Services	DR. DONALD VAN METER Founder Van Meter & Associates, Inc.
TRACY FOX Assistant Director of Nursing Butler County Care Facility	TIM MYERS Director of Administrative Services Butler County Juvenile Court	GARY W. YATES Court Administrator Butler County Court of Common Pleas

Ohio Court of Appeals Denies Striking Workers Unemployment Benefits

IN JULY 2003, MEMBERS OF THE COMMUNICATION WORKERS OF AMERICA, Local 4546 went on strike at the Summit County Children's Services Agency. The strike lasted 156 days. Approximately 230 of the 370 union employees filed for unemployment compensation benefits. At issue was whether the employees were unemployed due to a "labor dispute other than a lockout" and therefore ineligible for unemployment benefits pursuant to R.C. 4141.29.

The employees, represented by the Union, pointed to a letter dated July 13, 2003 (the day before the strike) which stated,

"Effective at 11:59 today all previous and existing offers made by the Agency to the Union are completely with-

drawn and any and all tentative agreements previously entered into are null and void."

The employees argued that this letter constituted a withdrawal of all offers, including the offer to continue working. Thus, according to the employees, the employer was creating a lock out situation as it had changed the status quo and had withdrawn any offer to continue working. The employer argued that later oral statements assuring the Union representatives that the employer would remain open for business and that the employees would be governed by the terms and conditions of the expired contract constituted a maintenance of the status quo and that it was the employees who voluntarily withheld their services.

The Union countered by stating that it offered to extend the agreement but that the employer refused. The employer stated that while it would not sign a written extension, because that had not proven beneficial to the negotiations process, it nonetheless offered a maintenance of the status quo and continued employment.

The court found that the employer's letter, coupled with its proposal for a new contract constituted "hard bargaining" but was not an alteration of the status quo.

The court analyzed the situation and determined that the letter dealt with the withdrawal of proposals and agreements regarding a successor agreement, but did not constitute a withdrawal of the employer's statements assuring employees that they could continue to work under the old agreement. The court found further support for its analysis in the fact that numerous employees continued to work and to receive pay and benefits for the duration of the strike.

The determination of the Unemployment Compensation Review Commission was upheld and the striking workers were denied unemployment compensation.

Please contact Lori Torriero of Downes, Hurst & Fishel at (614) 221-1216 with questions or comments about this article.

SERB Opinion 2005-006 SERB vs. City of Cincinnati

IN A LONG AWAITED DECISION, the State Employment Relations Board reversed the recommendations of the ALJ and dismissed the unfair labor practice charge against the City of Cincinnati in a matter arising out of the Charter amendment, Issue 5, where in 2001 the citizens of Cincinnati voted to amend the Charter, removing the upper level management employees, including the assistant police chiefs, from the classified service. The FOP was the only union which opposed this Charter amendment and has continuously fought through numerous procedures the change. In this matter, the union alleged the City violated

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Learning Together

February 5-7, 2006

OHPELRA 2006 Annual Training Conference

Registration Form

Register on line at www.ohpelra.org or complete form below.

First Name/Nick Name
Name: Title:
Agency:
Address:
City: State: Zip:
Telephone: (.....)..... Facsimile: (.....).....
E-mail

Fees		Total Enclosed:
Member Rate	\$220.00	\$
Non-Member Rate	\$320.00	\$

Single Day Registration **Only:** Monday or Tuesday (CHECK DAY)
Member Rate (one-day) \$ 130.00 \$
Non-Member Rate (one-day) \$ 170.00 \$
Please bill my organization: (PUT TOTAL FEES) \$

If non-member, would you like to JOIN to take advantage of lower member rate? Yes No

Is this your first OHPELRA Conference? Yes No

NOTE: All checks payable to "OHPELRA." Taxpayer ID# is 31-1614788.

Will you be attending the Sunday night Opening Reception & Super Bowl Party? Yes No

Will you be attending the banquet on Monday, February 6, 2006?
 Yes No

Vegetarian Entree Needed?

Please Note: *Dress is business casual for banquet; casual for all other receptions, programs, and meetings.*

Registration fees, minus a \$40.00 administrative fee, will be refunded if the **written cancellation is received no later than February 1, 2006.** Substitutions may be made at any time. No refunds will be offered after that time.

Hotel reservations must be made **directly** with Cherry Valley Lodge. Please mention this conference to take advantage of our reserved block of rooms. **Note that the room block guarantee expires several weeks before the Conference, so reserve your room early!**

Contact Cherry Valley Lodge for directions and information at (740) 788-1200 or www.cherryvalleylodge.com

Please mail or fax completed form to:

Douglas E. Duckett, *OHPELRA Treasurer*
Butler County Department of Personnel
315 High Street, 6th Floor, Hamilton, Ohio 45011

Phone: (513) 887-3257, FAX: (513) 785-5199

All checks payable to "OHPELRA"

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4117.411(A)(1) and (5) with the Charter amendment and further alleged that the individual on the promotional list for assistant chief should be promoted to a position which was to become vacant in December 2002 following the announced resignation in September 2002 of an assistant chief. The union also filed a grievance arbitration on the same subject which grievance was denied. In addition, the Union filed a lawsuit requesting injunctive relief over this same promotional position. The case went to hearing in August 2003, report and recommendation of the ALJ was issued following that, recommending the Board find violations of the unfair labor practice provisions. Oral arguments were conducted in April 2004. In the decision issued September 21, 2005, the Board rejected the recommendations of the ALJ and dismissed the unfair labor practice charge.

Additionally, and of interest, two key points arise. First, the Board gave great deference to the arbitrator's decision for two reasons. First, that an arbitration provision existed to allow the individual and Union to grieve the filling of the assistant chief position and secondly that the arbitrator has ruled against the Union and grievant.

The other key finding was the Board's application of the second part of the Toledo decision, finding that the City was required to follow the change established by a "higher legislative body" when it implemented the provisions of Issue 5. While the Board held that the change of the position of assistant chief was a mandatory topic of bargaining, it "excused" the City from a bargaining obligation because of this second prong of the Toledo test. This is the first time that I am aware that the Board has issued a decision in a circumstance applying the second prong of the Toledo test. This analysis is particularly interesting and will be helpful to jurisdictions which may want to consider charter amendments in order to refine or define certain employment conditions and responsibilities.

Because this decision dismissed the unfair labor practice charge, I am uncertain of the next step or steps that the Union will take in this matter. There are at least three other actions outstanding in Common Pleas Court in Hamilton County and the resolution of this matter may have further impact on the remaining issues and lawsuits filed by the Union. The Union has aggressively opposed any changes resulting from Issue 5.

If you have any interest in the details of this or any questions, please contact Jonathan Downes or Ben Albrecht of Downes, Hurst & Fishel at (614) 221-1216. Downes, Hurst & Fishel are a contributing sponsor of OHPELRA.



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