

STATE EMPLOYMENT RELATIONS BOARD



ANNUAL REPORT

2018



MISSION

Promoting orderly and constructive relationships between public employers and their employees.

CULTURE

SERB embraces a culture based on our core values of Integrity, Teamwork, Greatness and Sharing. These values define who we are and what we do, as individuals and as an agency.

Integrity and objectivity in the way we conduct ourselves;

Teamwork as we act with civility and mutual respect, towards achieving the common goal of our mission;

Greatness achieved by never compromising our work, providing excellent performance in serving our stakeholders, and pursuing continual improvements; and

Sharing and celebrating in each other's successes and viewing challenges as opportunities

ABOUT SERB

The State Employment Relations Board (SERB) administers the Ohio Public Employees' Collective Bargaining Act through a three-member Board appointed by the Governor and a staff of 24. Board members are appointed to staggered six-year terms, and only two Board members may be of the same political party. One Board member is designated by the Governor as the agency's Chairman and its appointing authority. An Executive Director handles the day-to-day administration of the agency, and a General Counsel provides legal support in-house and serves as liaison with the Ohio Attorney General's office, which represents the agency in court.

SERB's key statutory functions include: Investigating unfair labor practice charges, Adjudicating the merits of unfair labor practice complaints after investigation, Processing representation petitions and requests for recognition, Determining appropriate bargaining units and conducting secret ballot representation elections, Determining fair share fee rebate challenges, Analyzing and reporting wage and benefit data from collective bargaining agreements, Providing impasse resolution services through mediation, fact-finding, and conciliation, Resolving disputes as to the legality of strikes and, where appropriate, reviewing the imposition of sanctions, Collecting and monitoring registration and financial filings by employee organizations; and Training representatives of labor and management in the methods and rules of collective bargaining.

To fulfill these functions, the agency is organized administratively into the following sections: Investigations, Representation, Hearings, Bureau of Mediation, and Research and Training. In addition, the Clerk's Office serves as an intake and docketing center, and an Administrative Services Section is responsible for personnel, fiscal, budget, and facilities management.

LETTER FROM THE BOARD

We are pleased to bring you SERB's annual report covering fiscal year 2018. SERB administers Ohio's Public Employees' Collective Bargaining Law (Ohio Revised Code 4117) for the State's 2,734 public employers and 320,651 public employees.

We had another busy year with just over 1,700 cases filed with our office. Our Labor Relations Specialists processed 136 representation matters while our Investigators performed 247 unfair labor practice investigations. Our mediators travelled across the State to conduct 156 mediations, and our Administrative Law Judges held 110 hearings.

In addition to investigating and rendering decisions on legal matters, our staff spent a significant amount of time assisting parties with collective bargaining contract negotiations. Our Research & Training section received nearly 600 research requests and our mediators provided individual training on interest-based bargaining (IBB) and modified-traditional bargaining (MTB) to equip and prepare parties for their negotiations.

Many of our accomplishments cannot be shown by numbers. Perhaps they are best shown through the words of the management and union reps we worked with this past year.

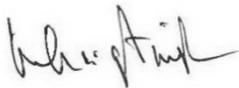
A union rep recently told us our assistance with their contract negotiation was very helpful, explaining, "The SERB mediators get to work with bargaining units state-wide in various professions, whereas those of us in the field for our respective unions only get to work with units within our unions [and] professions. Having state-wide experience broadens the experiences from which to pull."

A manager for a city agency shared this: "The support we received from the SERB mediation team was the key to resolution of a contentious and protracted contract renewal effort lasting nearly two years. Having access to professional mediation services is an incredible value for our community and helped both the union and management to restore our collective focus to providing... service to [our] region."

They have also shown their appreciation for those who perform investigations, conduct hearings, provide research, and respond to inquiries.

It's a privilege to serve Ohio and its citizens by working closely with labor and management to foster constructive relationships, and we remain committed to that mission.

Sincerely,



W. Craig Zimpher
Chairman



Aaron Schmidt
Vice Chairman



J. Richard Lumpe
Board Member



W. Craig Zimpher was appointed to the Board by Governor John R. Kasich effective January 21, 2011 and reappointed for a second term effective October 7, 2016. Prior to his appointment, he had been Vice President for Government Affairs at Nationwide Insurance.

Mr. Zimpher's public-sector work has included 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. His private-sector work has included serving as Assistant VP of Ohio Operations for Gates, McDonald and Company and Assistant Dean of Students at Ohio Wesleyan University.

Mr. Zimpher is a native of Piqua. He received a B.A. and an M.A. in History from The Ohio State University. He served as a First Lieutenant in the U.S. Army. He has also lectured as an Adjunct Instructor in History/Humanities at Ohio Dominican University.

W. CRAIG ZIMPHER



Aaron A. Schmidt was appointed to the Board by Governor John R. Kasich effective January 2, 2014. Prior to his appointment, he served as legal counsel to the Ohio Lottery Commission.

Mr. Schmidt's public-sector work as legal counsel to the Ohio Lottery included advising the agency on a variety of legal matters, including contracts, compliance, litigation, labor relations, intellectual property, public records, and administrative law, as well as assisting in the promulgation of administrative rules, policies, and procedures. His private-sector work included practicing law in two Cleveland private law firms and managing litigation in a corporate legal department.

Mr. Schmidt is a native of Cleveland. He received a B.A. in English from The Ohio State University and a J.D. from Cleveland-Marshall College of Law. Mr. Schmidt is a member of the Ohio State Bar Association and the Cleveland Metropolitan Bar Association, where he authors articles on alternative dispute resolution and mediation.

AARON SCHMIDT



J. Richard Lumpe was appointed to the Board by Governor John R. Kasich effective June 1, 2016. Prior to his appointment, he served as Vice Chairman of the State Personnel Board of Review (SPBR).

Mr. Lumpe's public-sector work has included serving as Legal Assistant for the Columbus City Attorney, an Assistant Prosecuting Attorney for the Franklin County Prosecutor's Office, and an Assistant Attorney General. In the private-sector, he practiced law for more than 50 years at his firm, Lumpe and Raber, Esq., Attorneys at Law, until his retirement. His practice was limited to and specialized in administrative and regulatory law and legislative representation, which included drafting proposed rules and legislation.

Mr. Lumpe is a native of Columbus. He received a B.S. in Business Administration from The Ohio State University and a J.D. from Capital Law School.

J. RICHARD LUMPE

A MESSAGE FROM THE EXECUTIVE DIRECTOR



As the fiscal year window closed behind us, another window opened providing a look forward to the coming year with its challenges, fresh perspectives and a renewed sense of expectation. This past year presented us with many positive experiences. However, it also held an unusual and unforeseen challenge.

The most difficult time occurred with the unexpected loss of a valued staff member, Elaine Stevenson. Elaine was a Staff Attorney and Administrative Law Judge for the SERB Board. She had a brilliant legal and fiscal mind and is remembered as a distinguished practitioner of the law. She began her career with the State Personnel Board of Review (SPBR) in 1998 as a legal intern and transitioned to SERB in 2009 when the boards merged. She helped lead the charge to blend and unify the staff of both agencies. Elaine was a colleague and a cherished friend to many; her presence is deeply missed. We dedicated Hearing Room 3 to her memory. This window closed.

Early in the fiscal year we initiated a project to redesign and re-platform the SERB website to migrate to the new Ohio Digital Experience platform known as ODX. The staff put forth many hours of work into the creation of this new website. One of the exciting things about the new design is it uses a mobile-first approach so users will have instant access to the resources they need from their hand-held devices. Of course, tablets, laptops and PCs will be equally as fast. The newly designed website is scheduled to launch in the next few months. The website window portends a look at exciting things to come.

The agency reviewed and updated its Record Retention schedules and then developed a software application that would assist with the logging and purging of records per the new retention schedule. The new system was developed to ensure compliance with the Auditor of State suggestions for tracking and compliance.

SERB also completed a wireless device upgrade project this year that improved the performance of the wireless coverage across the agency. Visitors to the agency can now expect a faster wireless internet connection upon their arrival. The wireless window is now “wide open”.

SERB produced 10 sold out training sessions, conferences and academies this year! These events included two SERB Academies, a Fact-Finding Conference, and an SPBR Conference. In concert with these regular trainings offered by SERB, the Mediation Section kicked off six additional specialized training sessions for practitioners in the field wanting to hone their skills in mediation, negotiation, and labor management committee organization (LMC); these included 1 LMC Training, 2 Interest Based Bargaining Trainings, Practical Negotiations Training and 2 Advanced Negotiations Training. Whew! The staff were very busy on top of their normal jam-packed schedules. The look through the window toward FY2019 reveals an even busier training schedule.

FY2018 was a great year and FY2019 is on point to be yet another terrific year. We are very proud to serve you in our mission to promote orderly and constructive labor relations between public employers and their employees and pledge our continued work on your behalf.

Sincerely,

Christine A. Dietsch
Executive Director



GENERAL COUNSEL

The Office of General Counsel serves as the Board’s in-house legal counsel. The General Counsel provides legal support to the Board, issues unfair labor practice complaints, assists in the preparation of Board opinions, and works with the Ohio Attorney General’s Office (SERB’s litigation counsel) in the preparation of cases pending before Ohio courts. The General Counsel also serves as the agency’s Chief Ethics Officer and provides annual ethics training for its employees and the Board.

The Office of General Counsel oversees the Investigations Section and the Bureau of Mediation. The General Counsel maintains SERB’s Roster of Neutrals and monitors the roster to ensure that standards of neutrality are maintained. The office assigns mediators and provides fact finder and conciliator panels to parties.

In FY 2018, the office made 911 mediator appointments, 226 fact finder appointments, and 41 conciliator appointments. A total of 100 fact-finding reports were issued, from which 54 reports were accepted (54%) and 46 were rejected (46%).

RESULTS OF FACT-FINDING



FACT-FINDING REPORTS ISSUED BY EMPLOYEE TYPE





RESEARCH & TRAINING

The Research & Training (R&T) section provides public employers and employee organizations with detailed information on wages, fringe benefits, health insurance, and other employment provisions.

R&T maintains SERB's Clearinghouse, a database that contains data from 3,416 current labor agreements (see chart on right for detailed breakdown) and 34,283 historical labor agreements.

R&T produces three annual reports: The Wage Settlement Report, Cost of Health Insurance Report in Ohio's Public Sector, and SERB's Annual Report. R&T also produces a Job Title Benchmark Report, Benefits Report, Wage Increase Report, Insurance by Employer Report, and custom reports that are available upon request. In FY 2018, R&T responded to 597 report requests.

The Clearinghouse is updated annually by compiling current data from an annual report that employers are required to submit. It's also updated with every collective bargaining agreement that is executed and filed with SERB.

R&T provides training on SERB's rules and procedures through four annual conferences: SERB Academy (a comprehensive two-day conference in the Spring and Fall), SPBR Conference, Fact-Finding Conference, and negotiation training. Last year, 721 labor professionals attended these training conferences.



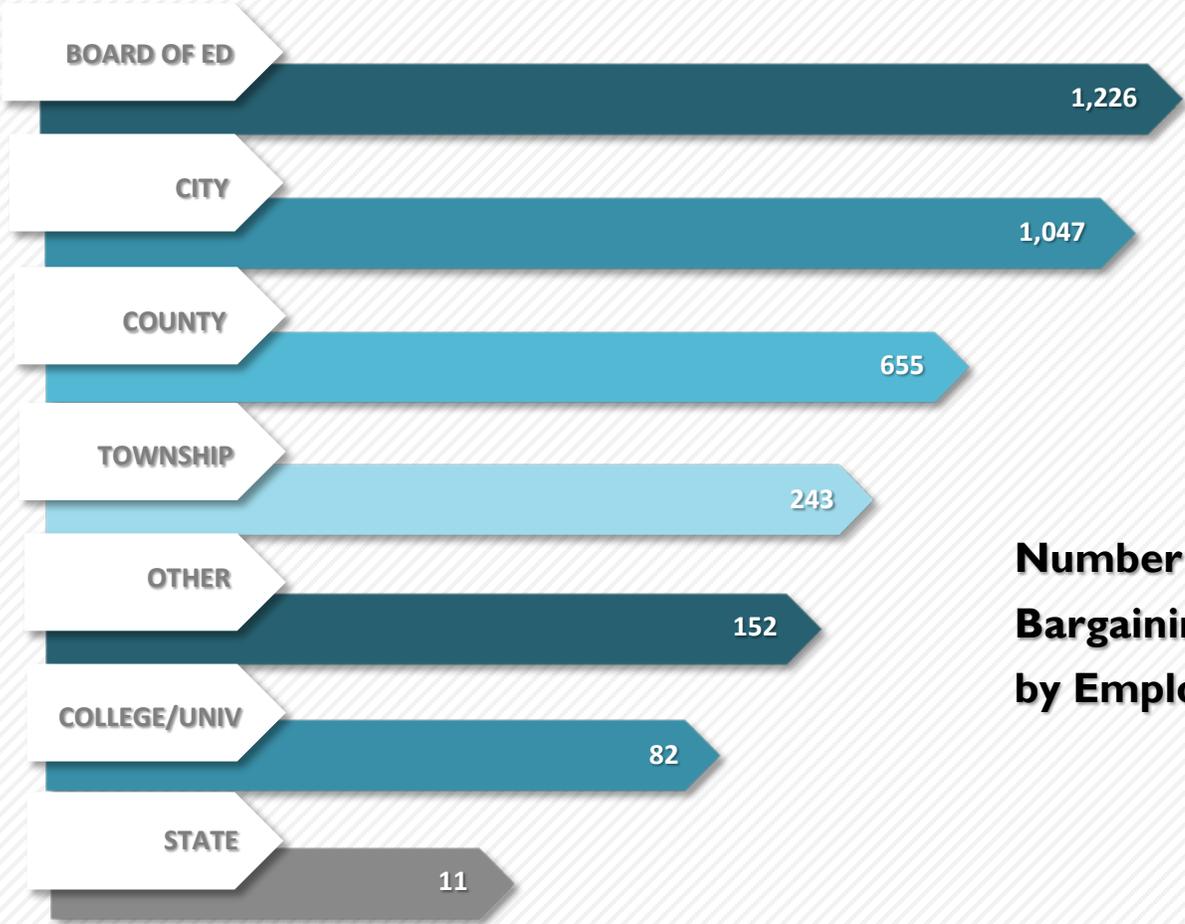
SERB ACADEMY: For newcomers to public-sector collective bargaining, new managers or new employee organization officials, staff, and those who are or will be working in positions where they need to know how Ohio's law governs labor relations in the public sector.

FACT-FINDING: Conference on Ohio Public Sector Fact-Finding that brings together professionals -as presenters and as participants- who are part of the fact-finding process. It includes representatives of labor and management, neutrals who preside as fact finders, staff of the State Employment Relations Board, under whose jurisdiction the fact-finding is conducted, and attorneys whose practice includes representing the parties at fact-finding.

SPBR CONFERENCE: The conference provides attendees with an overview of basic civil service elements, as well as best practices for participating in administrative hearings and administering due process within the civil service laws.

NEGOTIATIONS TRAINING: The objective is to provide training to labor relations professionals who are new to the profession and to give new perspective to experienced labor relations professionals to facilitate solutions during collective bargaining. The training covers different negotiation strategies with emphasis on those strategies best suited to result in successful negotiations.

CONTRACTS ON FILE BY COUNTY



Number of Collective Bargaining Agreements by Employer Type



MEDIATION

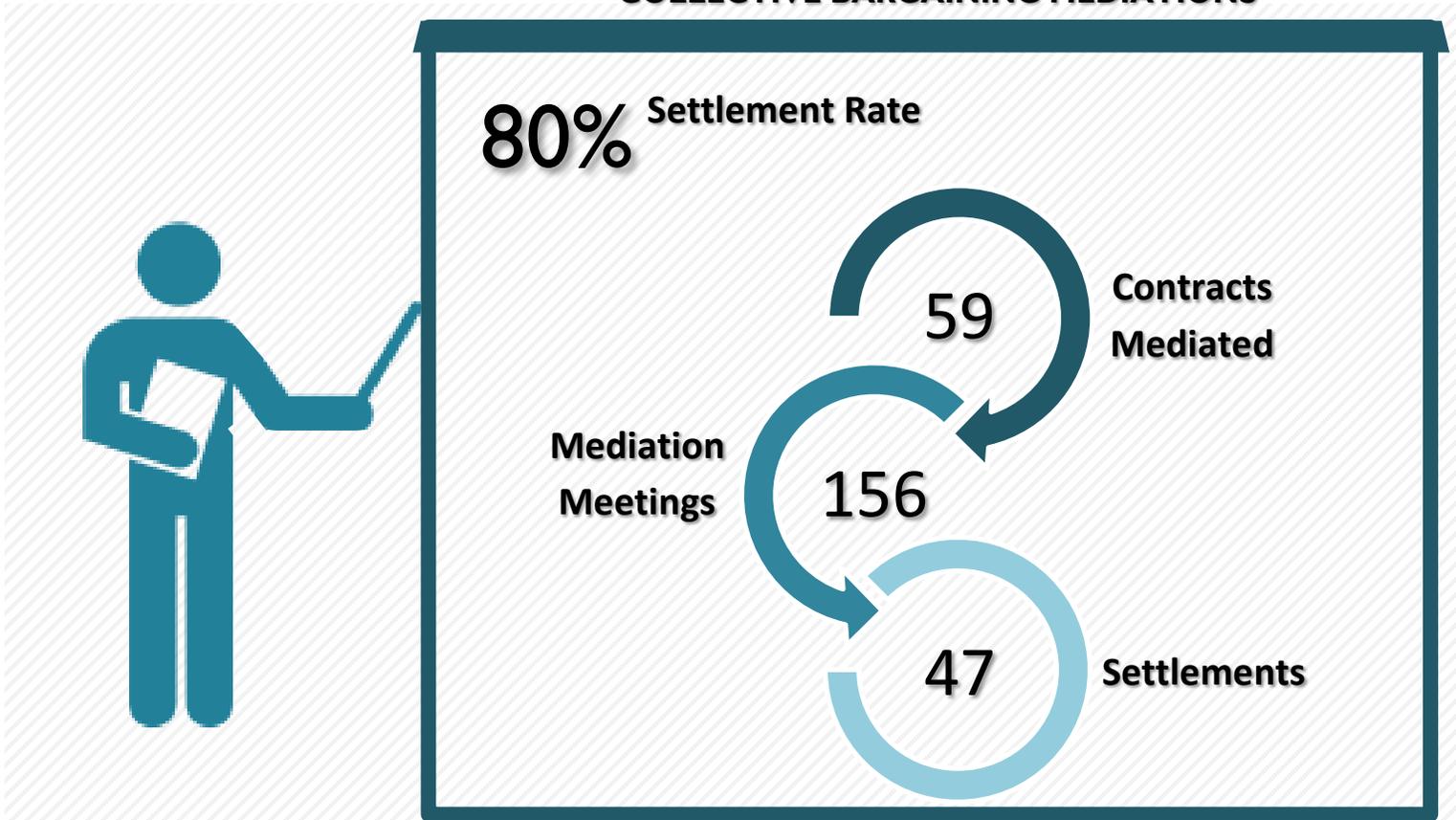
SERB's mission to promote orderly and constructive relationships between public employers and their employees is carried out every day by our mediators. They travel throughout the state to provide a variety of services at no cost to employers and employee organizations. Our mediators assist the parties at every stage of their relationship, from facilitating contract negotiations to mediating unfair labor practice charges.

The Bureau of Mediation offers mediation services in four areas: collective bargaining, grievances, unfair labor practices, and representation. Last year, they conducted 59 collective bargaining mediations (with a 80% settlement rate) and 17 mediations involving unfair labor practices and representation matters (with a 47% settlement rate). Each successful settlement represents a substantial savings in time and costs to the parties.

The Bureau of Mediation offers several training programs to help prepare parties for contract negotiations. Last year, they conducted two training meetings on practical negotiations for 164 participants. The mediators facilitated actual contract negotiations with the parties, when requested.

The Bureau of Mediation plays a key role in SERB's success. As our mediation services and training programs have expanded, we have seen a decrease in unfair labor practice filings.

COLLECTIVE BARGAINING MEDIATIONS



UNFAIR LABOR PRACTICE CHARGES AND REPRESENTATION MATTERS MEDIATED

17
Cases
Mediated



17
Mediation
Meetings



8
Settlements





INVESTIGATIONS

REPRESENTATION

The Representation Section is responsible for all representation matters filed with SERB. The Board determines appropriate bargaining units, conducts representation elections, and certifies exclusive bargaining representatives.

The section's Labor Relations Specialists review and process petitions for representation and decertification elections, requests for recognition, petitions for amendment or clarification of existing bargaining units, and rebate challenges.

The specialists work with the parties to a proposed election to reach a consent election agreement (where they agree to the description of the bargaining unit, proposed dates, times, and places or polling period of the election, and an employee eligibility date). The specialists schedule and conduct the secret ballot elections and tally the ballots.

Finally, the section is responsible for preparing recommendations on representation cases for the Board's review and determination.

In FY 2018, 55 elections were held. Out of 2,167 eligible voters, 1,703 members (79%) voted in an election, a 3% decrease in voter turnout over the previous year.

55

REPRESENTATION ELECTIONS HELD

ELECTION VOTER TURNOUT



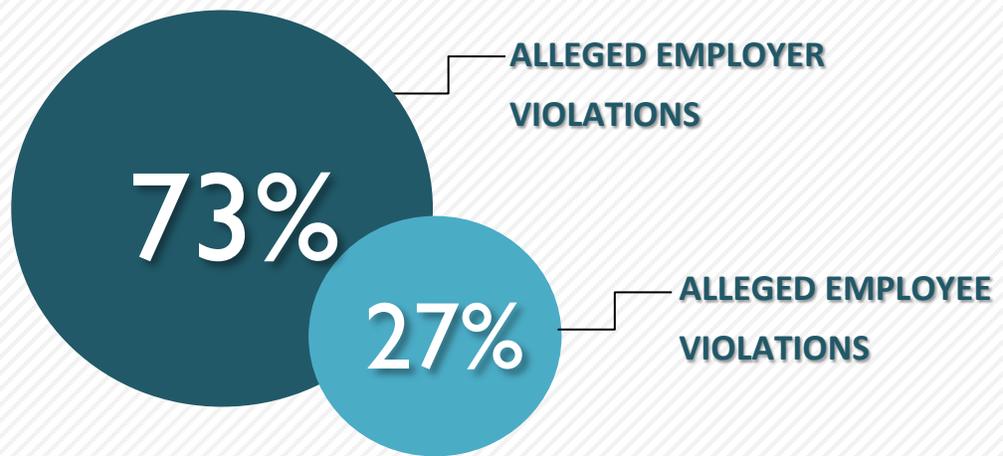
UNFAIR LABOR PRACTICES

The Unfair Labor Practice (ULP) Section is responsible for investigating all ULP charges, non-compliance complaints (ERC), or jurisdictional work disputes (JWD) that are filed with SERB. ULP charges allege that an employer, an employee organization, or a public employee may have violated Ohio Revised Code (ORC) § 4117.11, the unfair labor practice provision of the statute.

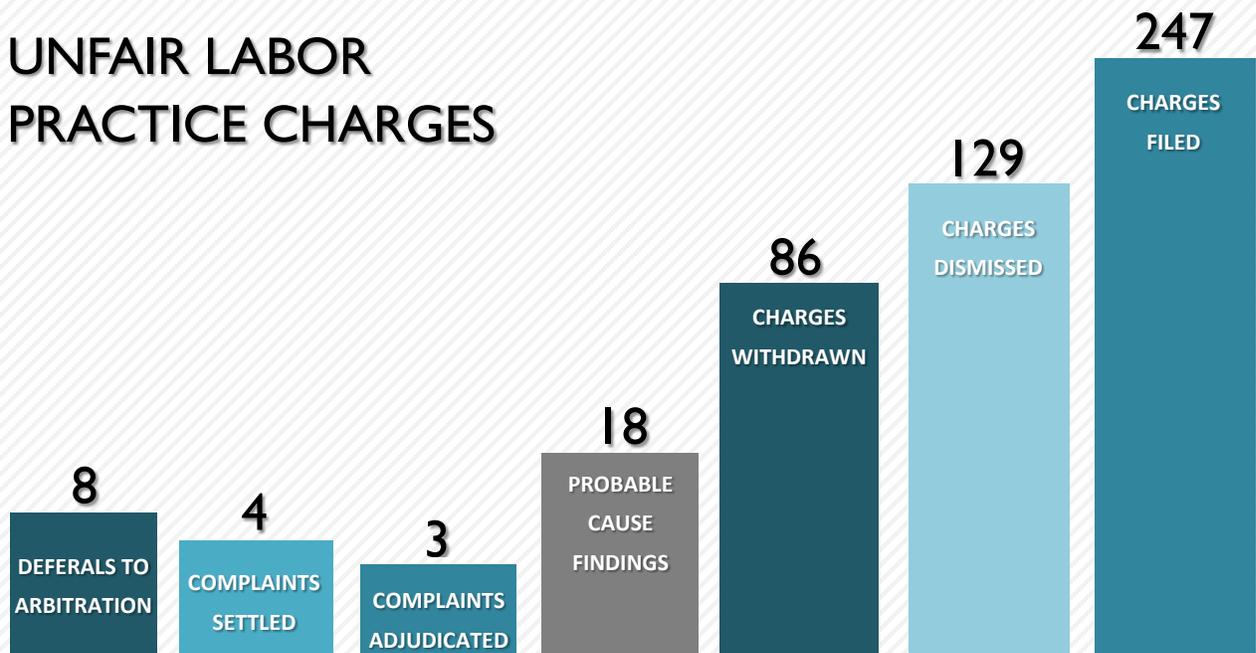
Investigations are conducted by Labor Relations Specialists, who are highly trained and skilled investigators. The Specialists review the parties' position statements and any supporting documentation, and may request additional information from the parties if necessary. After a thorough review of the information provided by the parties, the Specialists prepare an investigative report and recommendation, which is submitted to the Board for review and consideration. In some cases, the Specialists may mediate a ULP charge during the course of the investigation, in an attempt to resolve the parties' dispute.

In FY 2018, 247 ULP cases alleging violations of ORC § 4117.11 were filed with SERB. From the total ULP cases, 188 cases alleged violations by public employers and 67 cases alleged violations by employee organizations or employees. There were 31 cases adjudicated from the previous year.

ALLEGATIONS OF O.R.C 4117.11 VIOLATIONS



UNFAIR LABOR PRACTICE CHARGES





HEARINGS

The Hearings Section conducts administrative hearings to resolve factual and legal disputes in cases involving significant issues of law arising from unfair labor practice charges, representation matters, impasse resolution, and other issues under Ohio Revised Code 4117.

In addition, the Hearing Section supports the State Personnel Board of Review (SPBR) to hear cases pertaining to exempt employees in the classified service, non-exempt employees in the classified service who have not been organized, and non-exempt employees whose collective bargaining agreements allow an appeal to SPBR.

All cases are heard before an administrative law judge who submits recommended findings of fact and conclusions of law to the Board and report and recommendations to the SPBR.

In FY 2018, our administrative law judges conducted 62 pre-hearings, held 48 record hearings, and prepared 136 report and recommendations representing 190 cases. There were 54 cases withdrawn or settled before the issuance of a Report and Recommendation.

HEARINGS & RECOMMENDATIONS (SERB & SPBR)

62

PRE-HEARINGS

48

RECORD HEARINGS

136

REPORT &
RECOMMENDATIONS

SERB v. Cleveland Police Patrolmen's Association, SERB 2017-002 (10-12-2017)

The issue in this case was whether the Cleveland Police Patrolmen's Association ("the Union") committed an unfair labor practice by violating R.C. 4117.11(B)(1) and (B)(5) when it opposed having its members volunteer for the City of Cleveland's ("the City") newly created Neighborhood Impact Community Engagement Squad ("NICE Squad"), which was created to proactively target violent crime areas.

SERB found that the City and the Union were able to resolve their differences regarding the creation and staffing of the NICE Squad and move forward with its implementation. The City had issued a new departmental notice that was agreed upon by both parties and the Union withdrew its grievance regarding the creation and staffing of the NICE Squad. The Union President sent a letter to all union members notifying them that the parties were able to staff the new NICE Squad within the confines of the parties' collective bargaining agreement and encouraged union members to voluntarily request assignment to the NICE Squad.

Therefore, since the controversy giving rise to the underlying charge had been resolved by the parties, SERB dismissed the unfair labor practice charge and complaint as moot.

SERB v. Revere Local School District Board of Education, SERB 2018-001 (5-3-2018)

The issue in this case was whether the Revere Local School District Board of Education ("the School Board") committed an unfair labor practice by violating R.C. 4117.11(A)(5) when it unilaterally created and implemented an employee Code of Excellence which incorporated a disciplinary component.

The School Board did not dispute that it unilaterally implemented the employee Code of Excellence without bargaining. The question was whether the Code of Excellence was a mandatory subject of bargaining.

In the case of *In re Cuyahoga County Sheriff's Department, SERB 99-018 (6-30-99)*, SERB held: "Where an employer introduces a disciplinary component to a work rule or policy and the potential discipline affects wages, hours, or terms and other conditions of employment, the work rule or policy, whether new or revised, is a mandatory subject of bargaining."

SERB found that the School Board violated R.C. 4117.11(A)(5) when it refused to bargain with the Union over a disciplinary policy which affected wages, terms, and other conditions of employment and modified an existing term of a collective bargaining agreement.

SERB v. Portage County Educators Association for Developmental Disabilities, SERB 2018-002 (5-3-2018)

The issue in these cases was whether the Portage County Educators Association for Developmental Disabilities – Unit B ("the Union") violated R.C. 4117.11(B)(7) by inducing and/or encouraging picketing outside the private residences of the Portage County Board of Developmental Disabilities' Board members ("the Board") and by inducing and/or encouraging picketing outside of the place of private employment of one Board member in connection with a labor relations dispute.

The Union admitted that it induced or encouraged its members to picket the private residences of various Board members. The Union also admitted that it induced or encouraged its members to picket the place of private employment of a Board member.

Based on the clear violations that occurred, SERB determined it was neither necessary nor appropriate for it to consider any issue dealing with the constitutionality of the narrow prohibitions set forth in R.C. 4117.11(B)(7). SERB noted that neither the general provisions of Ohio's Public Employee Collective Bargaining Act (R.C. 4117) nor the specific provisions of SERB's enabling act (R.C. 4117.02) authorize it to review and opine on the constitutionality of any statute.

SERB found that the Union violated R.C. 4117.11(B)(7) when it induced or encouraged its members to picket the private residences of six Board members and when it induced or encouraged its members to picket the place of private employment of one Board member in connection with a labor relations dispute.



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