

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF: *

GAIL P. BINGHAM *

Charging Party, *

v. * PSLRB Case No. SV 2013-14

PRINCE GEORGE’S COUNTY *

BOARD OF EDUCATION *

Charged Party *

* * * * *

DECISION AND ORDER DENYING REQUEST FOR RELIEF
AND DISMISSING CHARGE

I. INTRODUCTION

Gail P. Bingham (“Charging Party”) is employed in a certificated position with the Prince George’s County Board of Education (“County Board”). On June 19, 2013, she filed a Charge of Violation of Title 6, Subtitle 4 or Subtitle 5 of the Education Article (“Form PSLRB-05”), with the Public School Labor Relations Board (“Board” or “PSLRB”). Form PSLRB-05 reflects the authority granted to the PSLRB by Section 2-205(e)(4)(i) of the Education Article to “decide any controversy or dispute arising under Title 6, Subtitle 4 or Subtitle 5 of this Article.”

In her Charge, Charging Party alleges that the County Board violated Sections 6-

402¹ and 6-409² of the Education Article by subjecting her to harassment and discrimination in retaliation for exercising her statutory rights.

II. FINDINGS OF FACT³

Charging Party cites 19 instances between March 15 and June 8, 2012, in which the County Board allegedly subjected her to “warnings,” “threats,” “reprimands,” and related actions which culminated in the issuance of an end-of-year performance appraisal “with less than satisfactory ratings/comments.”

On July 20, 2012, the Prince George’s County Educator’s Association (PGCEA) filed an appeal on Charging Party’s behalf challenging the performance appraisal. On July 30, 2012, the Superintendent issued a decision denying Charging Party’s appeal. By letter dated August 20, 2012, PGCEA appealed the Superintendent’s decision to the County Board. PGCEA’s letter also explained that Charging Party “will be represented by her own counsel” in the appeal.

Charging Party does not allege any other wrongful act by the County Board until April 19, 2013. On this date, Charging Party claims that she received “legal papers”

¹ Section 6-402. “Matters relating to salaries, wages, hours, and other working conditions” – (a) Public school employees may form, join, and participate in the activities of employee organizations of their own choice for the purpose of being represented on all matters that relate to salaries, wages, hours, and other working conditions.

² § 6-409. “Interference with employees prohibited” – “A public school employer and employee organization may not interfere with, intimidate, restrain, coerce, or discriminate against any public school employee because of the exercise of his rights under §§ 6-402 and 6-403 of this subtitle.”

³ The facts herein and all reasonable inferences drawn therefrom are considered in the light most favorable to the Charging Party.

indicating that her “grievance will not be heard by the [County Board] and/or that they are being represented by counsel hence my filing of this complaint.” The PSLRB sought confirmation of this claim by requesting Charging Party to produce a copy of the “legal papers.” At the same time, the PSLRB explained to Charging Party that the April 17, 2013 letter she submitted with her Charge contains a “Withdrawal of Appearance” by the law firm representing the County Board, but makes no reference to a refusal by the County Board to hear Charging Party’s grievance.

On July 17, 2013, Charging Party responded to the PSLRB as follows, “I guess my question is why would they need a law firm if they were planning to hear my grievances?” Charging Party presented no other information to support her claim that the County Board indicated its refusal to hear her grievance in April 2013.

III. POSITIONS OF THE PARTIES

Charging Party contends that the County Board violated Sections 6-402 and 6-409 of the Education Article by subjecting her to harassment and discrimination in retaliation for exercising her statutory right to participate in a Faculty Advisory Council (FAC).⁴ She further contends that the County Board’s actions constitute discrimination on the basis of race “as [her] Caucasian counter-parts did not receive the same threats to employment/treatment for similar activity.”

⁴ Article 403.E of the Negotiated Agreement between the Prince George’s County Educator’s Association and Board of Education of Prince George’s County states that “[t]he purpose of the FAC is to provide the teachers with a vehicle in which they may discuss school operating procedures, curriculum development, scheduling of meetings, instructional programs, budget requests and any other areas of professional concern.”

The County Board contends, among other things, that the Charge was not timely filed.⁵ To this end, it states that Charging Party alleges conduct that occurred between March and June 2012, and that the only action that occurred within the 60-day limitations period—the Withdrawal of Appearance by the County Board’s attorney—did not impact Charging Party’s procedural or substantive rights.

IV. ANALYSIS

As a threshold matter, we consider whether this action was timely filed. The Board’s Regulations provide that a Charge “must be filed with the Executive Director of the PSLRB within 60 days after the charging party knew, or reasonably should have known, of the statutory violation alleged.” Code of Maryland Regulations (COMAR) 14.34.02.01B.

Charging Party’s claims against the County Board arise out of conduct that allegedly occurred between March 15, 2012, and June 8, 2012. Though Charging Party contends that she received a letter in April 2013 indicating that the County Board refused to hear her grievance, she has presented no evidence to support this assertion. Nor has Charging Party offered any other evidence that the County Board committed a statutory violation within the 60-day limitations period.

⁵ The County Board separately claims that “the PSLRB lacks jurisdiction to hear Petitioner’s claim under § 6-402 of the Education Article,” and that “[t]he Maryland State Board of Education has primary jurisdiction over cases and controversies involving the interpretation of the Education Article § 2-205.” The County Board also claims that Charging Party has failed to link any adverse action to her participation in an employee organization, prove that her ability to participate in such an organization was negatively impacted, or exhaust her administrative remedies under Section 4-205.

On these facts, it is clear that Charging Party “knew, or reasonably should have known, of the statutory violation alleged” well before 60 days prior to June 19, 2013, the date on which she filed this Charge. Because Charging Party chose not to file her Charge until after the limitations period expired, it is time-barred and dismissed on this basis.⁶

V. CONCLUSIONS OF LAW

For the reasons stated herein, we conclude that Charging Party failed to file this action in a timely fashion, and therefore DISMISS the Charge.

ORDER

IT IS HEREBY ORDERED THAT THE CHARGE IN THE INSTANT MATTER, PSLRB Case No. SV 2013-14, IS DISMISSED.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD



Seymour Strongin, Chairman

⁶ As to the jurisdictional issue noted above, the General Assembly has directed that the PSLRB “shall decide any controversy or dispute arising under Title 6, Subtitle 4 or Subtitle 5 of this article.” Md. Code Ann., Educ. § 2-205(e)(4)(i). Section 2-205 therefore gives the PSLRB primary jurisdiction to decide issues—such as those now before us—involving alleged violations of Sections 6-402 and 6-409 of the Education Article.

Robert H. Chanin

Robert H. Chanin, Member

Charles I. Ecker

Charles I. Ecker, Member

Stuart O. Simms

Stuart O. Simms, Member

Glen Burnie, MD
August 22, 2013

APPEAL RIGHTS

Any party aggrieved by this action of the PSLRB may seek judicial review in accordance with Title 10, Subtitle 2 of the State Government Article, Annotated Code of Maryland, Sec. 10-222 (Administrative Procedure Act—Contested Cases), and Maryland Rules CIR CT Rule 7-201 *et seq.* (Judicial Review of Administrative Agency Decisions).