

**State of Maryland**  
*State Labor Relations Board*

In the matter of:	)	
<i>Jill Chlan,</i>	)	
	)	
	)	
Petitioner	)	
	)	SLRB Case No. 2017-U-10
v.	)	
	)	
<i>Maryland Professional</i>	)	
<i>Employees Council,</i>	)	
	)	
Respondent	)	
	)	

Executive Director’s Investigative Report & Recommended Determinations

On April 11, 2017, Jill Chlan (Chlan) filed an Unfair Labor Practice (ULP) against the Maryland Professional Employees Council (MPEC). This ULP was filed pursuant to State Labor Relations Board (SLRB) regulations at COMAR 14.32.05, and after receipt of the ULP, the Executive Director further notified MPEC of the filing, and requested that MPEC file a response with the SLRB, which it did.

Pursuant to SLRB Regulations at COMAR §14.32.05.02G - H, the Executive Director must investigate allegations contained in a properly filed ULP petition to determine whether probable cause exists for the SLRB to proceed on the case. After having reviewed the pleadings, exhibits and documentary evidence from both parties, in addition to conducting my own investigation, I hereby find and recommend to the full membership of the SLRB that Chlan’s ULP petition be dismissed. The results of my investigation, as described below, support this recommendation.

Undisputed Facts

It is undisputed that Jill Chlan is an employee with the Department of Labor, Licensing, and Regulation, and that as an employee with DLLR, she is entitled to representation of the employee organization that represents her unit of employees. The parties do not dispute that the employee organization that represents Ms. Chlan is MPEC.

## Disputed Items

Generally, the parties dispute the appropriateness of the mid-year evaluation of Ms. Chlan, and the action of the union in failing to move forward with a grievance on Ms. Chlan's behalf regarding her mid-year evaluation. Further, the parties disagree on the appropriateness of any remedy sought in this matter.

## Petitioner's Position/Information

In her ULP, Chlan alleges that her supervisor at the Maryland Department of Labor, Licensing, and Regulation (DLLR) is a contractual employee, and at Chlan's mid-year performance evaluation, the supervisor told Chlan that she wasn't rating her at that time, necessitating Chlan's signing of a blank evaluation form. At a later point, Chlan was using the Workday program (used for timekeeping and evaluation of Maryland State employees), and she found the performance evaluation form that she had signed was now filled out. Chlan alleges that the Office Manager told her that she had witnessed the supervisor fill out the form, and the supervisor herself admitted to Chlan that she had filled out the evaluation form after Chlan had signed off on the blank version. Based on the ULP, it appears that Chlan approached MPEC for pursuit of a claim on this situation, but Chlan alleged that MPEC would not pursue the claim because "they are not aware of rules that prohibit a contractor from supervising state employees." (ULP, p.2). Further, Chlan alleges that MPEC told her that since this was a mid-cycle performance evaluation, the situation was not grievable. As remedy for her allegations, Chlan asks that her supervisor's contract be terminated.

## Respondent's Position/Information

In response, MPEC notes that Chlan did not allege any particular unfair labor practice, and argues that she generally is seeking relief beyond the scope of the collective bargaining process. In its response, MPEC provides a timeline of events and communications between Chlan and her union representative. First, MPEC alleges that Ms. Chlan had an incorrect understanding that, without the midyear evaluation, her previous evaluation of "Outstanding" would automatically remain. MPEC alleges that there is no policy that requires this rating holdover. Further, MPEC points out that in State Personnel & Pension Article Section 12-101, a "grievance" does not include a dispute about a mid-year performance appraisal. Further MPEC argues that in the Performance Evaluation guidelines issued by the Department of Budget and Management, a supervisor need not complete a full evaluation of the employee in a mid-year performance cycle if the employee's performance during this time had been satisfactory or better. MPEC provides specific exhibits in support of its various arguments and defenses, and generally points out that there was sufficient communication back and forth between Ms. Chlan and her union representative informing her of the process and requirements of grievances. MPEC argues that an obligation to represent unit employees includes an obligation to all unit employees, and that its resources be utilized wisely. MPEC argues that pursuit of a non-grievable matter would not be "a judicious use of those resources." (Response, p. 2)


## Analysis


It is the duty of the Executive Director to recommend to the SLRB whether a complaint is presented in a manner that satisfies the statutory and regulatory requirements. As such, I first look to the requirements for allegations of an unfair labor practice. Ms. Chlan, although providing allegations of an improper performance evaluation, does not allege any particular unfair labor practice under State Personnel and Pensions Article Section 3-306. As Ms. Chlan has not sufficiently stated a claim upon which any relief can be granted, this matter should be dismissed.

## Recommendation

Based on the evaluation of the evidence gathered during the course of this investigation, and discussed in the above analysis, the Executive Director finds and recommends that this matter should not proceed at the full Board level and should therefore be dismissed.

Pursuant to SLRB Regulations at COMAR §14.32.05.02G - H, this report will be sent to the full membership of the SLRB as well as to the parties. Any party aggrieved by the Executive Director's Report and Recommended Determinations is permitted to request reconsideration by the full board **no later than fifteen days** after the issuance of this report.

  
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Erica L. Snipes, Executive Director  
State Labor Relations Board

  
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Date