

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF: *

SUZANNE WINDSOR *

Charging Party, *

v. * PSLRB Case No. SV 2014-09

*

PRINCE GEORGE'S COUNTY
EDUCATORS' ASSOCIATION *

*

Charged Party *

* * * * *

DECISION AND ORDER DENYING REQUEST FOR RELIEF
AND DISMISSING CHARGE

I. INTRODUCTION

Suzanne Windsor (“Charging Party”) is employed in a certificated position with the Prince George’s County Board of Education (“County Board”). On November 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 her union, the Prince George’s County

Educators' Association ("PGCEA"), violated Section 6-407(b)¹ of the Education Article by refusing to represent her in connection with her application for a vacant position.

II. FINDINGS OF FACT

Charging Party is employed as a Pupil Personnel Worker with the County Board. By email dated September 18, 2013, the County Board notified a number of employees that it had "re-posted the Pupil Personnel Transition Worker – 12 month position as a result of a call from PGCEA."² This action was taken, according to the County Board, based on information from PGCEA that prospective applicants "could not access or did not see the posting when it was advertised."

Charging Party previously filed a Charge with the PSLRB on July 26, 2012,³ alleging that PGCEA breached its duty of fair representation in connection with her application for another Pupil Personnel Worker vacancy. As the PSLRB explained in its decision on her 2012 Charge, "[t]he thrust of [Charging Party's] complaint involves her claim that she was not given a position as a [Pupil Personnel Worker] in the Homeless Education Office of [the County Board] in the fall of 2011." The PSLRB dismissed the 2012 Charge on the basis of timeliness and/or failure to state a claim. *See Windsor v. Prince George's County Educators Association*, PSLRB Case No. SV 13-01 (2012). The Circuit Court for Prince George's

¹ Section 6-407(b). "Fair Representation" – "(1) An employee organization designated as an exclusive representative shall represent all employees in the unit fairly and without discrimination, whether or not the employees are members of the employee organization."

² Charging Party is listed as a recipient of the County Board's September 18, 2013 email.

³ Charging Party has requested that we "refer to" her 2012 Charge for information concerning the matter now before us.

County affirmed the PSLRB's dismissal. *See Windsor v. Prince George's County Educators Association*, PSLRB Case No. SV 13-01 (2012), *aff'd*, Cir. Ct. Prince George's Co., Case No. CAL 12-35904 (2013).

III. POSITIONS OF THE PARTIES

Charging Party states that PGCEA "represented others in reference to the posting of a position but refused to represent [her] when [she] took issue with a position being advertised by email & not on the County website." Charging Party further states "[i]n this instance the position for which the Union lended [sic] their services was actually posted for all to see but merely because some did not notice it & apply in timely fashion the Union fought to have it readvertised." Charging Party therefore contends that PGCEA acted in an arbitrary, capricious and illegal manner "in representing that party(ies) but refusing to assist [Charging Party] though [her] complaint was for a position not advertised in accordance with the Negotiated Agreement at all."

PGCEA denies the allegation that it breached the duty of fair presentation, and contends that Charging Party failed to file her Charge in a timely fashion. As to the timeliness issue, PGCEA states that Charging Party's claims in the present case are untimely as they arise out of her 2011 non-selection for the Pupil Personnel Worker position in the County Board's Homeless Education Office.

As to the allegation that it breached the duty of fair representation, PGCEA states that it was contacted by bargaining unit members in September 2013 who complained that they were unable to access a posted vacancy announcement for a 12-month Pupil Personnel

Transition Worker.⁴ After considering the matter, PGCEA determined that the position was not properly posted in accordance with Article 4.09 of the Negotiated Agreement. It therefore requested the County Board to re-post the vacancy announcement. As such, PGCEA maintains that it fulfilled its duty of fair representation to Charging Party.

IV. ANALYSIS

Charging Party's breach of duty claim in the matter now before us is premised entirely on PGCEA having failed to properly represent her in connection with the 2011 Pupil Personnel Worker vacancy. The only difference is that Charging Party now seeks to offer new evidence in support of her 2012 Charge, i.e., the contrast between the manner in which PGCEA represented her in connection with the 2011 vacancy, and PGCEA's representation of other bargaining employees in connection with the 2013 vacancy.

It is therefore clear that Charging Party's claims in this case are the same as those giving rise to her 2012 Charge, and that these claims have already been adjudicated by the PSLRB and the Circuit Court. *See Windsor v. Prince George's County Educators Association*, PSLRB Case No. SV 13-01 (2012), *aff'd*, Cir. Ct. Prince George's Co., Case No. CAL 12-35904 (2013). We find no reason to rule upon them again. Because Charging Party's claims in the case now before us are the same as those in her 2012 Charge, i.e., the failure to properly represent her in connection with her non-selection for the 2011 vacancy, we find that Charging Party is precluding from re-litigating the PSLRB's prior decision and order on her 2012 Charge.

⁴ This position is different from Charging Party's in that it has a 12-month pay differential.

For the same reasons, we also find that the Charge is not timely filed. The PSLRB's Regulations provide that a Charge "must be filed with the Executive Director ... 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. Here, it is clear that Charging Party "knew or reasonably should have known" of the alleged 2012 statutory violation more than 60 days prior to November 19, 2013, the date on which she filed her Charge with the PSLRB. Accordingly, the Charge is untimely and is dismissed on that basis.

Even if Charging Party's claims had not been previously adjudicated and/or had been timely filed, we would nonetheless still dismiss her Charge for failing to allege a violation of Title 6, Subtitle 4 or 5. In this regard, Form PSLRB-05 instructs charging parties to "[p]rovide a clear and concise statement of the facts constituting the alleged statutory violation(s), including the names and positions of individuals involved and the dates and places of the occurrences giving rise to the charge." Here, Charging Party has not explained how PGCEA failed to properly represent her, what communication she had with PGCEA in an effort to obtain representation, why PGCEA's actions constitute a breach of the duty of fair representation, the dates on which PGCEA is alleged to have breached its duty of fair representation, or the names and positions of the PGCEA representatives who allegedly committed the breach of duty. Charging Party has therefore failed to submit factual information required by Form PSLRB-05, i.e., she has not provided a "concise statement of the facts constituting the alleged statutory violation(s)," "the names and positions of the individuals involved," or the "dates and places of the occurrences giving rise to the charge."

Relatedly, Charging Party has not submitted sufficient information to support her claim that PGCEA breached its duty of fair representation, i.e., that it failed to “serve the interests of all members without hostility or discrimination,” “exercise its discretion with complete good faith and honesty,” or “avoid arbitrary conduct.” *Sylvia Walker, et al. v. The Baltimore Teachers Union, et al.*, PSLRB Case No. SV 2012-10 (2012) (quoting *Stanley v. American Federation of State and Municipal Employees, Local No. 553, et al.*, 165 Md. App. 1 (2005) (citations omitted)). To the contrary, the evidence presented indicates that PGCEA provided assistance to bargaining unit members who were unable to access a posted vacancy announcement for a position. Under these circumstances, we find no basis for concluding that PGCEA breached its duty of fair representation.

V. CONCLUSIONS OF LAW

For the reason set forth herein, we conclude that Charging Party failed to timely file this Charge, that Charging Party’s claims have already been litigated and decided upon in the PSLRB’s prior decision in Case No. SV 13-01 (2012), and that Charging Party has failed to establish a breach of the duty of fair representation. We therefore DISMISS the Charge.

ORDER

IT IS HEREBY ORDERED THAT THE CHARGE IN THE INSTANT MATTER, PSLRB Case No. SV 2014-09, IS DISMISSED.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD



Seymour Strongin, Chairman



Robert H. Chanin, Member



Charles I. Ecker, Member



Donald W. Harmon, Member

Annapolis, MD
January 6, 2014

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, Section 10-222 (Administrative Procedure Act—Contested Cases), and Maryland Rule 7-201 *et seq.* (Judicial Review of Administrative Agency Decisions).