

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF:	*	
AFSCME, LOCAL 434,	*	
Charging Party,	*	
v.	*	PSLRB Case SV 2018-08
BOARD OF EDUCATION	*	
OF BALTIMORE COUNTY,	*	
Charged Party.	*	

* * * * *

DECISION AND ORDER DENYING REQUEST FOR RELIEF AND DISMISSING CHARGE

I. INTRODUCTION AND POSITIONS OF THE PARTIES

On December 7, 2017, AFSCME, Local 434 (“AFSCME”) filed a CHARGE OF VIOLATION OF TITLE 6, SUBTITLE 4 OR SUBTITLE 5, OF EDUCATION ARTICLE (Form PSLRB-05) with the Public School Labor Relations Board (“PSLRB”). Form PSLRB-05 reflects the authority granted to the PSLRB by the Education Article of the Annotated Code of Maryland to “decide any controversy or dispute arising under Title 6, Subtitle 4 or 5 of this Article.” Md. Code Ann., Educ. § 2-205(e)(4)(i).

In its Charge, AFSCME claims that the Baltimore County Board of Education (“County”) violated Sections 6-510(a)(1)-(2) and 6-512 of the Education Article by refusing to provide AFSCME with certain information it requested relating to a grievance filed involving the County’s decision not to promote Patrick Harmon, a County employee and member of AFSCME. More specifically, AFSCME asserts that the duty to bargain in good faith requires the County to turn over the information requested.

On December 27, 2017, the County filed its Response to the Complaint of Statutory Violation (“Response”). In its Response, the County asserts that AFSCME’s Charge involves the “administration” of the collective bargaining agreement between the County and AFSCME, and therefore falls outside of the purview of Section 6-510. The County did not respond to AFSCME’s allegations with regard to Section 6-512.

II. FACTUAL BACKGROUND

On April 3, 2017, a grievance was filed by Patrick Harmon contesting the County’s decision not to promote him. On this same date, AFSCME filed an initial information request

with the Office of Employment and Student Appeals demanding that the County provide it with certain information relating to Mr. Harmon's grievance, and the County's decision not to promote him. After not receiving the information, AFSCME made several additional requests, most recently on November 17, 2017. AFSCME still has not received the requested information.

III. ANALYSIS

In a decision involving these same parties, *AFSCME, Local 434 v. Board of Education of Baltimore County*, PSLRB SV 2017-03, the PSLRB analyzed Section 6-510 of the Education Article with respect to the administration of collective bargaining agreements. In that case, the PSLRB held:

Although the introductory provision to this Section states that “[w]hen a public school employer and an employee organization negotiate under this section,” they shall, inter alia, “[h]onor and administer existing agreements,” this statement must be read in context. To begin with, Section 6-510, by its terms, imposes the latter obligation on the public school employer and the employee organization **only during the period when they “negotiate under this section.”** The remainder of Section 6-510 deals in its entirety with the process for negotiating -- as opposed to honoring and administering -- collective bargaining agreements, and in the negotiation process the Section specifically assigns to the PSLRB responsibility for resolving disputes between the parties regarding the negotiability of proposed topics and for resolving impasses that may be reached in negotiations. **Section 6-510 does not address the administration of collective bargaining agreements and does not in any way suggest that the PSLRB should play a role in the administration process.** Indeed, Section 6-510(b) suggests the contrary. This latter Section, which is titled “Binding arbitration,” provides that collective bargaining agreements negotiated by public school employers and employee organizations “may provide for binding arbitration of the grievances arising under the agreement that the parties have agreed to be subject to arbitration.” (Emphasis added).

Based on this holding, it is clear that Section 6-510 does not apply to the instant dispute as the parties are not engaged in negotiations, nor does the matter deal with a negotiability dispute or the collective bargaining process. Moreover, the instant matter involves a request for information relative to the processing of a grievance, a process in which the PSLRB has determined it should not play a role. Therefore, the PSLRB rejects the County's arguments with respect to Section 6-510.

In addition, as noted above, AFSCME also asserts that the County violated Section 6-512 of the Education Article. This Section provides that public school employers may not “interfere with, intimidate, restrain, coerce, or discriminate against any public school employee because of the exercise of his rights under §§ 6-503 and 6-504 of this subtitle.”¹ Section 6-503(a) of the Education Article establishes the right of public school employees “to form, join, and participate

¹ The only subsections relevant to this decision are 6-503(a) and 6-504(a).

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.” Section 6-504(a) establishes the right of public school employees “to refuse to join or participate in the activities of employee organizations.” Read together, these Sections provide that a charge may only be filed against a public school employer if the public school employer interferes with, intimidates, restrains, coerces, or discriminates against the public school employee because he exercised his right to form, join, or participate in the activities of an employee organization of his own choosing, or because he exercised his right to refuse to do so.

AFSCME has not alleged, nor does the record support a finding that the County interfered with, intimidated, restrained, coerced, or discriminated against Mr. Harmon because he exercised his right to form, join, or participate in the activities of an employee organization of his own choosing, or because he exercised his right to refuse to do so. As a result, the PSLRB also rejects AFSCME’s allegations with regard to Section 6-512.

IV. CONCLUSIONS OF LAW

As indicated above, in the Charge that it has filed in this case, AFSCME alleges that the County has violated Sections 6-510(a)(1)-(2) and 6-512 of the Education Article by refusing to provide AFSCME with certain information it requested relating to a grievance. The PSLRB finds that the County has not violated either Section 6-510(a)(1)-(2) or Section 6-512 of the Education Article by refusing to supply AFSCME with the requested information.

V. ORDER

IT IS HEREBY ORDERED THAT THE CHARGE IN PSLRB Case No. SV 2018-08 IS DISMISSED.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD:



Elizabeth M. Morgan, Chair



Robert H. Chanin, Member



Ronald S. Boozer, Member



Donald W. Harmon, Member



John A. Hayden, III, Member
Annapolis, MD

February 16, 2018

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).