

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF:	*	
DIANE SAFAR, et al,	*	
Charging Parties,	*	
v.	*	PSLRB Case SV 2018-10
CARROLL COUNTY	*	
EDUCATION ASSOCIATION,	*	
Charged Party.	*	
* * * * * * * * * * * *		

DECISION AND ORDER

I. INTRODUCTION AND PROCEDURAL BACKGROUND

On February 8, 2018, Diane Safar, Matthew Fogle, W.G. Knill, David M. Herman, Mary E. Hale, and Carli Swift (“Charging Parties”) 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).

This Charge arises out of several internal union complaints lodged by the Charging Parties against Celeste Jordan, a member of the Board of Directors of the Carroll County Education Association, Inc. (“CCEA”). More specifically, the Charging Parties assert that the CCEA violated its duty of fair representation as reflected in Section 6-407(b) of the Education Article by failing to represent them with regard to allegations that Ms. Jordan bullied, intimidated, and harassed the Charging Parties while working for the Carroll County Public Schools (“CCPS”), which the Charging Parties claim is a violation of the CCEA’s Constitution and By-Laws and Code of Ethics for Educators, as well as the Bylaws of the Maryland State Education Association.¹ The Charging parties also assert that, “[i]n order to avoid any confusion, this issue is solely about Celeste Jordan in her capacity as an elected CCEA official and not as a teacher or individual and has nothing to do with CCPS.”

¹ The CCEA is an affiliate of the Maryland State Education Association.

On February 26, 2018, the CCEA filed a Motion to Dismiss. In its Motion to Dismiss, the CCEA asserts three defenses. First, the CCEA asserts that the Charge is untimely per COMAR 14.34.04.03(A)(2). Second, the CCEA asserts that the statutory duty of fair representation incorporated in Section 6-407(b) does not apply to internal union disputes, and therefore, the PSLRB lacks jurisdiction over this matter. Third, the CCEA asserts that the Charging Parties fail to state a claim for which relief may be granted.

On March 8, 2018, the Charging Parties filed a Rebuttal to the CCEA's Motion to Dismiss along with a Request that the Motion to Dismiss be denied.

II. FINDINGS OF FACT

On April 3, 2017, Ms. Safar lodged an internal union complaint with Teresa McCulloh, President of the CCEA, in which she requested representation with regard to allegations of bullying, intimidation, and harassment in the workplace by Ms. Jordan. In May 2017, and in response to Ms. Safar's complaint, the CCEA offered mediation to help resolve Ms. Safar's concerns; however, Ms. Safar did not accept the CCEA's offer to mediate her complaint. Dissatisfied with the CCEA's offer to mediate, and after several months had passed, Ms. Safar contacted the CCEA on November 5, 2017, to check on the status of her complaint. In an e-mail dated November 6, 2017, a representative of the CCEA indicated to Ms. Safar that "President McCulloh... considers the matter closed."

On December 14, 2017, Ms. Safar lodged a second complaint with the CCEA; however, this complaint only addressed Ms. Safar's concern that the CCEA failed to represent the Charging Parties following her April 3, 2017, complaint, the closing of which Ms. Safar was made aware on November 6, 2017.

III. ANALYSIS

COMAR 14.34.04.03(A)(2) states, "[i]n order to be timely, Form PSLRB-05 must be filed with the Executive Director of the Board within 60 days after the charging party knew, or reasonably should have known, of the statutory violation alleged."²

As discussed above, the Charging Parties claim that the CCEA failed to represent them with regard to an internal union complaint that Ms. Safar lodged with President McCulloh on April 3, 2017. On November 6, 2017, a CCEA representative notified Ms. Safar that President McCulloh considered her complaint closed. Because the Charging Parties knew, or reasonably should have known that the CCEA was not going to take any further action with regard to the complaint on November 6, 2017, more than 60 days prior to February 8, 2018, the date on which the Charging Parties filed the instant Charge, the Charge is untimely.

Because the charge in this case is untimely, it is, as indicated below, dismissed on this threshold ground, and we have no need to reach the CCEA's other defenses. In order to provide guidance with regard to possible future filings dealing with the issue raised in this case, however,

² Under COMAR 14.34.04.06(E)(1), "Time periods in this regulation refer to calendar days unless otherwise indicated."

we take this occasion to reiterate the PSLRB's position vis-a-vis a union's statutory duty of fair representation and internal union disputes.

In Resnick v. Association of Supervisory and Administrative School Personnel, PSLRB SV 2014-06, the PSLRB held that a union's duty of fair representation "does not apply to matters that are strictly internal union affairs, which do not impact the relationship of bargaining unit members to their employer." Because the Resnick case involved non-certificated – as opposed to certificated – employees, which are involved in this case, the PSLRB's holding referred to the duty of fair representation incorporated in Section 6-509(b) of the Education Article. Because the language in the latter Section is identical to the language in Section 6-407(b)(i), the same conclusion applies to the issue in this case.

As explained above, the Charging Parties assert that the CCEA failed to represent them with regard to internal union complaints lodged against Ms. Jordan, and further indicated in their Charge that "this issue is solely about Celeste Jordan in her capacity as an elected CCEA official and not as a teacher or individual and has nothing to do with CCPS." Because the Charge involves a strictly internal union affair, which does not impact the relationship of the Charging Parties to the CCPS, Section 6-407(b) does not apply.

IV. CONCLUSIONS OF LAW

Because the PSLRB finds that the Charge in this case is untimely, it must be dismissed.

V. ORDER

IT IS HEREBY ORDERED THAT THE CHARGE IN THE INSTANT MATTER, PSLRB Case No. SV 2018-10, IS DISMISSED.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD:



Elizabeth Morgan, Chair



Ronald S. Boozer, Member



Robert Chanin, Member



Donald W. Harmon, Member



Philip S. Kauffman, Member

Annapolis, MD

June 8, 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).