

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF:	*	
Teachers Association of Anne Arundel	*	
County,	*	
Charging Party,	*	
v.	*	PSLRB Case SV 2019-04
Board of Education of Anne Arundel	*	
County,	*	
Charged Party.	*	

* * * * *

DECISION AND ORDER DENYING REQUEST FOR RELIEF AND DISMISSING CHARGE

I. INTRODUCTION AND POSITIONS OF THE PARTIES

On October 12, 2018, the Teachers Association of Anne Arundel County (“TAAAC”) 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”).¹ 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). On this same date, TAAAC served its Charge on the County Board via e-mail; no other method of service was effectuated.

In its Charge, TAAAC claims that the Board of Education of Anne Arundel County (“County Board”) violated Sections 6-402 and 6-409 of the Education Article. More specifically, TAAAC claims that the County Board “unlawfully interfere[ed]... with union members [sic] ability to participate in the activities of” TAAAC and the Maryland State Education Association (“MSEA”) when it “informed principals that the granting of leave to attend MSEA’s Convention on October 19, 2018 was discretionary when, in fact, it is contractually agreed” upon in the parties’ collective bargaining agreement.

¹ TAAAC labeled its Charge an “EMERGENCY PETITION” and requested a “preliminary ruling” in this matter “on or before October 17, 2018.” Neither the Education Article nor its regulations provide procedures for processing “emergency petitions.” Therefore, TAAAC’s Charge was processed in accordance with the procedures established under COMAR 14.34.04, et seq. (“Charge of Statutory Violation”).

On November 9, 2018, the County Board filed its Answer and Motion to Dismiss, or in the Alternative, to Stay (“Answer”). In its Answer, the County Board asserts several defenses. First, the County Board asserts that “no convention leave requests had been denied... [t]herefore, the alleged violation of the employees’ right to participate in union activities under Section 6-402 or Section 6-409 never occurred, and the complaint must be denied.” Second, the County Board asserts the TAAAC’s Charge should be dismissed on the grounds of mootness. Third, the County Board asserts that, because of TAAAC’s “failure to exhaust the administrative remedy, i.e., the parties’ negotiated grievance process” that its Charge should be dismissed.

On November 9, 2018, TAAAC filed its Response to the County Board’s Motion to Dismiss (“Response”).²

II. ANALYSIS

COMAR 14.34.04.03(A)(3) states that an “original charge shall be filed with the Executive Director in person, by electronic mail, or by U.S. mail return receipt requested. A copy of the charge shall be simultaneously served on the respondent, in person or by U.S. mail return receipt requested.”

As indicated above, TAAAC served its Charge on the County Board by e-mail alone; it did not serve the County Board in person or by U.S. mail return receipt requested. As a result, TAAAC’s Charge must be dismissed on this procedural deficiency alone, thereby removing TAAAC’S Charge from the jurisdiction of the PSLRB.

That being said, inasmuch as the parties were not notified of this procedural deficiency, and have filed substantial responses and motions with regard to the instant matter, the PSLRB nonetheless addresses the substantive issues involved in this matter, to be used as guidance for the filing of future charges.

As indicated above, TAAAC asserts that the Board of Education violated Sections 6-402 and 6-409 of the Education Article “in that the County Board is unlawfully interfering with union members [sic] ability to participate in the activities of TAAAC/MSEA. Specifically, the County Board informed principals that the granting of leave to attend MSEA’s Convention on October 19, 2018 was discretionary when, in fact, it is contractually agreed.”

The PSLRB has previously concluded that “it is not the appropriate forum for resolving disputes as to the interpretation or application of the provisions in existing collective bargaining agreements. And this conclusion is reflected in the ‘INSTRUCTIONS’ for Form PSLRB-05, which provide that ‘THIS FORM SHOULD NOT BE USED TO RESOLVE... A DISPUTE INVOLVING THE INTERPRETATION OR APPLICATION OF A COLLECTIVE BARGAINING AGREEMENT.’” *AFSCME Local 434 v. Board of Education of Baltimore County*, PSLRB SV 2017-03 (2017).

² On November 16, 2018, the County Board requested that the PSLRB permit it to reply to TAAAC’s November 9, 2018, Response. The PSLRB did not approve the County Board’s request.

TAAAC's Charge involves a matter of pure contract interpretation, in that TAAAC is requesting the PSLRB to interpret provisions of the parties' collective bargaining agreement relating to leave to attend MSEA's Convention. While we dismiss TAAAC's Charge based on the procedural deficiency outlined above, i.e., TAAAC's failure to properly serve the Charge under COMAR 14.34.04.03(A)(3), we note that, even absent this procedural deficiency, the PSLRB would otherwise be required to dismiss TAAAC's Charge on the basis that the PSLRB "is not the appropriate forum for resolving disputes as to the interpretation or application of the provisions in existing collective bargaining agreements." Id.

III. CONCLUSIONS OF LAW

As indicated above, TAAAC failed to properly serve its Charge in accordance with COMAR 14.34.04.03(A)(3), and therefore must be dismissed.

IV. ORDER

IT IS HEREBY ORDERED THAT THE CHARGE IN PSLRB Case No. SV 2019-04 IS DISMISSED.

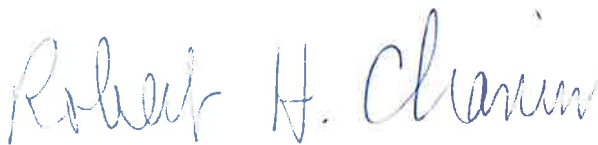
BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD:



Elizabeth Morgan, Chair



Ronald S. Boozer, Member



Robert H. Chanin, Member



R. Allan Gorsuch, Member



Philip S. Kauffman, Member

Annapolis, MD

January 17, 2019

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).