

State of Maryland
State Higher Education Labor Relations Board

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In the matter of:)	
<i>Gloria Jean Johnson,</i>)	
)	
)	
Petitioner)	
)	SHELRB ULP 2019-03
v.)	
)	
<i>Charlene Gray, President,</i>)	
<i>AFSCME Local 1870 (BCCC)</i>)	
)	
Respondent)	
_____)	

Executive Director’s Investigative Report & Recommended Determinations

On November 14, 2018, Ms. Johnson filed this matter against Ms. Gray, President of American Federation of State, County and Municipal Employees (AFSCME) Local 1870 regarding Ms. Gray’s alleged handling of a grievance and response to a transfer of Ms. Johnson to a different and allegedly improper and undesirable job position.

Pursuant to SHELRB Regulations at COMAR §14.30.07.04F - G, the Executive Director must investigate allegations contained in a properly filed ULP petition to determine whether probable cause exists for the SHELRB to proceed on the case. After having reviewed the pleadings in this matter as applied to SHELRB Regulations at COMAR §14.30.07.04A, I recommend to the SHELRB that this matter be dismissed.

Petitioner’s Position/Information

Ms. Johnson filed this matter on November 14, 2018, alleging that Ms. Gray and the AFSCME Local neglected to follow up on a grievance from June 7, 2018, and also alleging that the Union allowed Ms. Johnson to be transferred to an undesirable job so they wouldn’t have to deal with her. As background, Ms. Johnson states that on April 25, 2018, she sent e-mail and photographs to her Director regarding a safety concern that he never addressed from a previous conversation between himself and Ms. Johnson. Ms. Johnson states that she copied the Dean and Vice President of BCCC on the e-mail about this issue. Ms. Johnson states that the resulting communication after she sent the e-mail was for the supervisors to state that they are concerned that Ms. Johnson was fabricating allegations in an accusatory manner, and that she had no right to send out these e-mails, but to just bring various matters to her supervisor’s attention. Ms. Johnson alleges that at this point, her supervisor would no

longer interact with her. Ms. Johnson states that on May 22, 2018, she was called into a meeting at the Human Resources office and given a suspension letter. Ms. Johnson states that Ms. Gray had filed a grievance on her behalf on June 7, 2018, and that a meeting was scheduled with the Human Resources office regarding this grievance on June 22, 2018. Ms. Johnson states that she wasn't available to attend this meeting due to having a doctor's appointment on that date. Ms. Johnson states that she called the Human Resources Office to indicate she couldn't be there, a staff member, Mr. Smith, told Ms. Johnson that was fine, and that he would let everyone know and that the Human Resources Office would follow up with her to reschedule. Ms. Johnson alleges that Mr. Smith never followed up with her and avoided her future calls and e-mail messages. Additionally, Ms. Johnson alleges that Ms. Gray similarly avoided her phone calls and e-mail messages, and that Ms. Gray ultimately assigned her son to take over Ms. Johnson's case, whom Ms. Johnson alleges had no idea about the background of the situation, and that Ms. Gray's son didn't follow up with her either.

Respondents' Position/Information

On December 18, 2018, Ms. Gray acknowledged having received the unfair labor practice petition filed by Ms. Johnson and the SHELRB processing letter for same. However, to the date of the issuance of this recommendation, Ms. Gray has not responded to the petition, nor asked for additional time to respond.

Analysis

COMAR §14.30.07.04F – G authorizes various actions undertaken by the Executive Director regarding unfair labor practices filed before the SHELRB. Under these sections, the Executive Director shall, subject to SHELRB review, consider properly filed complaints, and investigate the facts. Further, the Executive Director should recommend SHELRB dismissal of the matter if a petitioner fails to state an actionable claim under State Personnel & Pensions Article §§3-101 through 3—602, or appropriate COMAR regulations; or determines that the SHELRB has no jurisdiction over the claims presented. Appropriate COMAR regulations administered and enforced by the SHELRB are found at §14.30.01 - §14.30.11. As applicable to the filing of this matter, COMAR §14.30.07.04A addresses timeliness of unfair labor practice allegations. Under this regulation:

A party alleging an unfair labor practice may request relief from the Board by filing a petition with the Executive Director, within 90 days of knowledge of the occurrence, under the procedures set forth in COMAR 14.30.11 except as otherwise modified by this regulation


Per Ms. Johnson's petition, she received a suspension letter on May 22, 2018, her job transfer occurred on June 6, 2018, her grievance was filed on June 7, 2018, and the Human Resources meeting was scheduled for June 22, 2018. The date on which Ms. Johnson filed this unfair labor practice petition was November 14, 2018, 145 days after June 22, 2018. This is double the amount of time in which parties are required to file unfair labor practice charges, and it is questionable that Ms. Johnson wouldn't have had knowledge that Ms. Gray

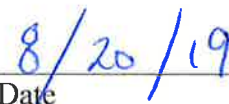
or Ms. Gray's son were acting in the ways alleged in the petition within the ninety day time frame from the any of the dates of the actions surrounding Ms. Johnson's allegations, up through and including June 22, 2018.

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 Ms. Johnson has not filed an actionable claim under appropriate COMAR Regulations at §14.30.07.04A, and thus the matter should be dismissed due to untimely filing.

Pursuant to SLRB Regulations at COMAR §14.30.05.02G - 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.


Erica L. Snipes, Executive Director
State Higher Education Labor Relations Board


Date