

STATE OF MARYLAND  
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF:

Rodney Dorsey,

Charging Party,

v.

Frederick County Public Schools, Paula  
Lawton, Robert Wedge, and Frederick  
Association of School Support Employees,

Charged Parties.

AND

Tracey Dorsey,

Charging Party,

v.

Paula Lawton and Frederick  
Association of School Support Employees,

Charged Parties.

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PSLRB Case Nos. SV 2023-02 through -06

**DECISION AND ORDER DENYING REQUEST FOR RELIEF AND  
DISMISSING CHARGES**

I. DECISION

a. Introduction and Procedural Background

This decision involves five separate unfair labor practice charges – three filed by Rodney Dorsey (PSLRV SV 2023-02, -03, and -04) and two filed by Tracey Dorsey (PSLRB SV 2023-05 and -06). Each of the five charges filed surround identical allegations involving an incident with the Frederick County Sheriff’s Office when Mr. Dorsey responded to a security alarm at Urbana High School, and Mr. Dorsey’s access to an Employee Assistance Program.

COMAR 14.34.04.05 states, “[u]pon application of a party or upon its own initiative, the Board may consolidate cases which involve common questions of law or fact.” Because matters PSLRB SV 2023-02 thru -06 involve identical questions of law or fact, they are hereby consolidated.

We now turn to the charges.

**PSLRB SV 2023-02 (Dorsey v. Frederick County Public Schools and Paula Lawton)**

On October 4, 2022, Rodney Dorsey 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). Under Section II.B of his Charge, Mr. Dorsey names Frederick County Public Schools (“FCPS”) and Paula Lawton, former Acting Director of Human Resources, as the Charged Parties.

In his Charge, Mr. Dorsey asserts that the Charged Parties violated “Section 6-407(b) or 6-509(b)” (duty of fair representation) and “Section 6-409 or 6-512” (interference with right of public school employee to exercise certain statutory rights) of the Education Article.

In response, the Charged Parties filed a Motion to Dismiss Charge of Statutory Violation (“Response”). As part of their Response, the Charged Parties assert that the Charge should be dismissed “based on a failure to state a claim for which relief may be granted and based on lack of jurisdiction.”

Section 6-509(b)<sup>1</sup> of the Education Article provides that “[a]n 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.” As the PSLRB has previously stated, this statute codifies the “duty of fair representation” owed by an exclusive negotiating representative “to avoid arbitrary conduct,” “to exercise its discretion with complete good faith and honesty,” and “to serve the interests of all members [of the negotiating unit] without hostility or discrimination.” Sylvia Walker, et al. v. The Baltimore Teachers Union, et al., PSLRB Case No. SV 2012-10 (2010) (quoting Stanley v. American Federation of State and Mun. Employees Local No. 533, 165 Md. App. 1, 15 (Md. Ct. Spec. App. 2005) (citations omitted)).

Neither the FCPS nor Ms. Lawton are “employee organizations,” and therefore, Section 6-509(b) does not apply to them. Therefore, Mr. Dorsey’s Charge with regard to this Section is dismissed.

Section 6-512 of the Education Article states “[a] public school employer and employee organization 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

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<sup>1</sup> Because Mr. Dorsey is a non-certificated employee, Section 6-509(b) of the Education Article applies.

subtitle.” These sections involve employees’ rights with regard to membership in employee organizations and their refusal to join or participate in such organizations.

Mr. Dorsey’s claims do not involve his rights with regard to membership in employee organizations or his rights of refusal to join or participate in such organizations. Therefore, his Charge with regard to Section 6-512 is also dismissed.

**PSLRB SV 2023-03 (Dorsey v. Robert Wedge)**

On October 4, 2022, Mr. Dorsey filed another Charge – this time against Robert Wedge, Senior Manager-Human Resources of FCPS. In this Charge, Mr. Dorsey alleged that Mr. Wedge violated “Section 6-407(b) or 6-509(b)” (duty of fair representation) of the Education Article.

As indicated above, the factual circumstances in this Charge were identical to those in PSLRB SV 2023-02, and, again, Section 6-509(b) applies only to “employee organizations.” Because Mr. Wedge is not an employee organization, this Charge should be also dismissed.

**PSLRB SV 2023-04 (Dorsey v. Frederick Association of School Support Employees)**

On October 4, 2022, Rodney Dorsey filed a third Charge – this time against the Frederick Association of School Support Employees (“FASSE”). In his Charge, Mr. Dorsey asserts that the Charged Parties violated “Section 6-407(b) or 6-509(b)” (duty of fair representation) and “Section 6-409 or 6-512” (interference with right of public school employee to exercise certain statutory rights) of the Education Article. Again, the factual circumstances alleged in Mr. Dorsey’s Charge were identical to those in the aforementioned Charges.

On October 20, 2022, FASSE filed a Motion to Dismiss and Memorandum of Law in Support thereof (“Response”) asserting the following defenses: (1) that “Dorsey’s Charge lacks any indication that FASSE failed to administer any area of the collective bargaining agreement, let alone that FASSE failed to pursue a matter covered under the collective bargaining agreement in bad faith,” and (2) that “Dorsey’s Charge lacks any assertion that FASSE interfered, coerced, or discriminated against Dorsey for joining or not joining FASSE....”

As previously explained, Section 6-509(b) of the Education Article codifies the duty of fair representation and is only violated when a union’s conduct with regard to the representation of a member of the negotiating is arbitrary, in bad faith, or discriminatory.

The factual circumstances surrounding Mr. Dorsey’s Charge do not support a finding that FASSE in any way violated the duty of fair representation – nor does Mr. Dorsey even allege that the union’s actions were arbitrary, in bad faith, or discriminatory. Therefore, Mr. Dorsey’s Charge with regard to Section 6-509(b) is dismissed.

Finally, as discussed above, Section 6-512 of the Education Article prohibits a public school employer and employee organization from interfering with, intimidating, restraining, coercing, or discriminating against public school employees based on their membership in employee organizations or their refusal to join or participate in such organization.

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The factual circumstances surrounding Mr. Dorsey's Charge do not support a finding that FASSE in any way interfered with, intimidated, restrained, coerced, or discriminated against Mr. Dorsey with regard to his membership rights – nor does Mr. Dorsey make such an assertion. As a result, Mr. Dorsey's claims with regard to Section 6-512 are also dismissed.

**PSLRB SV 2023-05 (Dorsey v. FASSE) and -06 (Dorsey v. Lawton)**

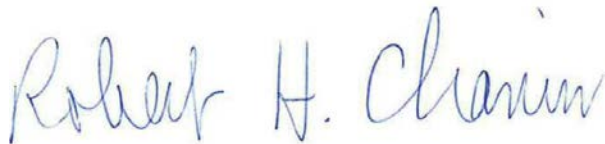
On October 18, 2022, Tracey Dorsey filed two separate Charges alleging violations of Title 6, Subtitle 4 or Subtitle 5, of the Education Article, with the PSLRB. The first charge, PSLRB SV 2023-05, was filed against FASSE, and the second charge, PSLRB SV 2023-06, was filed against Paula Lawton. As explained above, the facts and claims alleged in Ms. Dorsey's Charges are essentially identical to those contained in Mr. Dorsey's Charges. In other words, the claims involve allegations of violations against Mr. Dorsey himself, not Ms. Dorsey, and Ms. Dorsey appears to have filed these additional claims on Mr. Dorsey's behalf.

COMAR 14.34.04.10(A) states, “[u]nless prohibited by law, an individual who is a party in a contested case may represent himself or herself.” However, COMAR 14.34.04.10(B) further states, “A party in a contested case may be represented by an attorney authorized to practice law in Maryland or, when authorized by law, appear through a representative who is not an attorney.” The PSLRB has interpreted these regulations to mean that non-attorneys are not permitted to represent claimants in charges filed before the PSLRB. Based on the record, Ms. Dorsey is not an attorney, nor has she been authorized by law to appear as a representative of Mr. Dorsey. As a result, Ms. Dorsey's Charges are dismissed.

II. ORDER

IT IS HEREBY ORDERED THAT THE CHARGES IN CASE NOS. SV 2023-02 THROUGH -06 ARE HEREBY DISMISSED

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD:



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Robert H. Chanin, Member



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R. Allan Gorsuch, Member



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Philip S. Kaffman, Member

Annapolis, MD

March 8, 2023

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).

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