

**State of Maryland  
Public Employee Relations Board**

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In the matter of:	)	
	)	
AFT-MD	)	
	)	
Charging Party	)	
	)	
and	)	PERB ULP 2024-13
	)	
	)	
HOWARD COMMUNITY COLLEGE	)	
	)	
Charged Party	)	
_____	)	

**Decision and Order**

**I. Introduction and Procedural Background**

On November 20, 2023, the American Federation of Teachers – Maryland (“the Union”) filed the initial unfair labor practice charge in this matter, and filed amended charges on November 21, 2023, December 8, 2023, and January 4, 2024. The Union alleged that Howard Community College (HCC) made unilateral changes to terms and conditions of employment by adopting 7-week courses and retaliated against the union and bargaining unit employees by refusing to implement a new promotion policy being considered at the time of the union’s certification.

The Maryland Public Employee Relations Board (PERB) issued a Complaint against HCC on April 10, 2024. The PERB then conducted a hearing on the allegations on June 22, 2024. HCC and the Union submitted post-hearings briefs on July 26, 2022.

**II. Facts**

**Alleged Unilateral Implementation of Seven-Week Courses**

HCC through exhibits and testimony showed that it began researching and considering offering seven-week courses as early as 2019. From 2019 to 2021, HCC solicited feedback regarding such shortened courses. By 2022, HCC had established

a work group and subgroup to discuss seven-week courses. In March 2023, an online newsletter announced that “in the near future, HCC will be adding seven-week courses for the fall and spring semesters.” On March 9, 2023, HCC’s Center for Learning Excellence Interim Director, Jamie Bourne, emailed faculty and noted that “[m]any faculty are ready to design their courses for our new default term length (7-weeks) . . . .” Other record evidence shows that in 2023, HCC had decided to offer seven-week courses in fall 2024.

In fall 2023, HCC informed faculty it would do a “phased deployment” of the seven-week course model, to start with the top twenty enrolled courses. By the date of the hearing, “a little over 1,100 students” were enrolled in seven-week courses for fall 2024.

Meanwhile, on August 21, 2023, the Union filed a petition to represent HCC’s full-time faculty. PERB certified a unit of full-time faculty on August 30, 2023 and an amended certification on September 21, 2023. On September 15, 2023, Union representative Lisa Minnick demanded that the College “immediately cease and desist any unilateral changes to the terms and conditions of employment” of bargaining unit employees.

### **Consideration of Faculty Promotion**

In 2022, HCC Associate Vice President Megan Myers established a committee to study and propose changes to the promotion procedure. That committee proposed amendments to the promotions procedure, and submitted a report explaining its recommendations.

The committee’s proposals were finalized and then went through a series of reviews from different levels at the College. The proposed amendments had been revised somewhat when reaching one of the final steps, approval by the College Policy and Procedure Advisory Committee (CPPAC). The CPPAC approved the proposed amendments on September 8, 2023.

After the CPPAC’s approval, HCC notified the Union that it would not implement the amendments to the promotion procedure. HCC has given different reasons for this decision, but at least one is that it chose to maintain the “status quo” while it was bargaining with the Union.

### III. Analysis

#### **Alleged Unilateral Change by Offering Seven-Week Courses**

Maryland Code State Government (SG) §22-204(a) provides that “a public employer has the right to (1) determine how the statutory mandate and goals of the public employer, including the functions and programs of the public employer, its overall budget, and its organizational structure, are to be carried out.” In *AFSCME v. Frostburg State*, SHELRB 2002-12, the former State Higher Education Labor Relations Board (SHELRB) adopted the executive director’s report and recommendation. That executive director stated that “[t]he exercise of a statutory State employer right is not, itself, subject to collective bargaining.” The SHELRB found that applied to a Maryland higher education institution.

Under Maryland Code SG § 22-309(b), the PERB is bound by prior decisions of the SHELRB. Given the SHELRB’s decision in *AFSCME v. Frostburg State*, and the language of SG §22-204(a), if HCC’s decision to offer seven-week courses in Fall 2024 was an exercise of its right to determine its “functions and programs,” then HCC had no obligation to bargain over that decision before implementing it. The Board finds that HCC was exercising its right under SG §22-204(a) when it chose to offer seven-week courses, and therefore it committed no unfair labor practice by refusing to bargain over that decision.<sup>1</sup>

Regarding its decision to offer seven-week courses in Fall 2024, HCC also argued that it was not required to bargain with the Union because it had made that decision before the Union filed a petition or was certified. The Board agrees that HCC proved its decision to offer seven-week courses was made long before it was required to bargain with the Union. The Board also finds the record evidence fails to show that HCC made that decision, or opted to implement it, due to anti-union animus. For these additional reasons, the Board rejects the Union’s allegations that HCC acted illegally in implementing its decision to offer seven-week courses.

#### **HCC’s Failure to Implement Proposed Amendments to Promotion Procedure**

The Union alleged that HCC did not implement the proposed amendments to the promotion procedure to “discredit the Union and to retaliate” against bargaining unit members. For the reasons discussed below, the Board finds that the Union failed

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<sup>1</sup> HCC is obliged to bargain over the effects on full-time faculty of its decision to offer seven-week courses.

to prove this allegation.

As discussed earlier in the Facts section, the CPPAC did not approve the proposed amendments on promotion until September 8, 2023. That was more than a week after PERB first certified the Union as the representative of HCC's full-time faculty.

The Board finds that the CPPAC approval was a necessary step before the proposed amendments to the promotion procedure could be finalized. The Board also finds that HCC could not predict that CPPAC would approve those amendments without any further changes. By the date CPPAC approved the amendments, HCC knew it was legally obligated to bargain with the Union over the promotion procedure. *See Maryland State Employees Union, American Federation of State, County and Municipal Employees, Council 92 and International Brotherhood of Teamsters v. Department of State Police*, SLRB ULP Case No. 05-U-04 (no statutory violation when public employer chose to maintain "status quo" when bargaining for an initial contract.)

Finally, the Board finds that the record evidence fails to prove the Union's allegation that HCC declined to implement the promotion procedure amendments due to anti-union animus or with the objective of retaliating against the full-time faculty for choosing the Union as a representative.

For these reasons, the Board concludes that HCC's decision not to implement the proposed amendments to the promotion procedure was not an unfair labor practice.

### **Order**

It is hereby ordered that the charge in PERB ULP 2024-13 is dismissed.

**Annapolis, MD  
August 22, 2024**

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD:**



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Michael J. Hayes, Chair

### Appeal Rights

Any party aggrieved by this action of the Board may seek judicial review in accordance with Title 10 of the State Government Article, Annotated Code of Maryland, Section 10-222, and Maryland Rules, 7-201 et. seq.