

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF: *

SYLVIA HILL-GILCHRIST *

Charging Party, *

v. *

PSLRB Case No. SV 2014-01

BALTIMORE CITY BOARD OF *
SCHOOL COMMISSIONERS *

and *

PUBLIC SCHOOL *
ADMINISTRATORS AND *
SUPERVISORS ASSOCIATION *

Charged Parties *

* * * * *

DECISION AND ORDER DENYING REQUEST FOR RELIEF
AND DISMISSING CHARGE

I. INTRODUCTION

Sylvia Hill-Gilchrist (“Charging Party”) is employed in a certificated position with the Baltimore City Board of School Commissioners (“City Board”). On July 9, 2013, she filed a Charge of Violation of Title 6, Subtitle 4 or Subtitle 5 of the Education Article (“Form PSLRB-05”), with the Public School Labor Relations Board (“PSLRB”). Form PSLRB-05 reflects the authority granted to the PSLRB by Section 2-205(e)(4)(i) of the Education Article to “decide any controversy or dispute arising under Title 6, Subtitle 4 or Subtitle 5 of this Article.”

In her Charge, Charging Party alleges that the City Board and the Public School Administrators and Supervisors Association (PSASA) violated Sections 6-407(b)¹ and 6-409² of the Education Article by failing to afford her the rights she was entitled under Article 10 of the parties' Memorandum of Understanding.

II. FINDINGS OF FACT³

Charging Party was appointed Principal of Garrison Middle School in September 2009. In August 2010, the City Board reassigned Charging Party to a comparable position with the Combined Campaign Charities. By letter dated August 23, 2011, the City Board notified Charging Party that she was being reassigned to work as a teacher, and that her salary would be adjusted commensurate with the teaching assignment.

After receiving the reassignment notice, Charging Party contacted PSASA to request that a grievance be filed against the City Board. Believing that PSASA had refused to process a grievance on her behalf, Charging Party on September 6, 2011, filed an "Unfair Labor Practice Complaint" with the PSLRB. In her Complaint, Charging Party alleged that the City Board's reassignment violated her "due process rights," and

¹ Section 6-407(b). "Fair and nondiscriminatory representation of employees" – (1) "An 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."

² Section 6-409. "Interference with employees prohibited" – "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 §§ 6-402 and 6-403 of this subtitle."

³The facts herein and all reasonable inferences drawn therefrom are considered in the light most favorable to the Charging Party.

that PSASA had “failed to process [her] grievances” and “enforce the union contract, the Memorandum of Understanding, with the Baltimore City Public Schools.”

On October 10, 2011, PSASA filed a grievance on Charging Party’s behalf alleging that her reassignment to a teaching position at a lower salary violated Section 6-201 of the Education Article.⁴ On March 6, 2012, PSASA represented Charging Party at an appeal hearing on her grievance before a Hearing Examiner designated by the City Board.

On March 12, 2012, the Hearing Examiner issued a recommendation to uphold the decision to reassign Charging Party. PSASA thereafter appealed the Hearing Examiner’s recommendation to the City Board. On June 12, 2012, the City Board affirmed the Hearing Examiner’s recommendation. Charging Party then filed a *pro se* appeal of the City Board’s decision to the Maryland State Board of Education (“State Board”). On December 17, 2012, the State Board dismissed Charging Party’s appeal. *See Gilchrist v. Balt. City Bd. of School Comm’rs, 12 Op. MSBE 52 (2012).*

Charging Party subsequently appealed the State Board’s ruling to the Circuit Court for Baltimore City. On June 17, 2013, the Circuit Court issued a decision affirming the State Board’s ruling. *See Sylvia Hill-Gilchrist v. Balt. City Bd. of School Comm’rs*, Case No. 24-C-12-008108 (June 17, 2013). On July 9, 2013, Charging Party filed her Charge with the PSLRB.

⁴ Section 6-201 outlines the local superintendent’s authority to assign principals, teachers and other certificated personnel “to their positions in the schools,” and to “[t]ransfer them as the needs of the schools require.”

III. POSITIONS OF THE PARTIES

Charging Party contends that the City Board failed to follow the procedures outlined in Article 10 of the Memorandum of Understanding,⁵ and that PSASA failed to file a grievance to enforce her rights under Article 10.

The City Board maintains that the facts alleged by Charging Party occurred at the beginning of the 2011-2012 school year when Charging Party was notified of her reassignment to a teaching position. It therefore contends that the Charge is untimely having not been filed with the PSLRB within the 60-day limitations period.

PSASA likewise maintains that the Charge should be dismissed as untimely, noting that it derives from the same facts set forth in Charging Party's September 6, 2011 Unfair Labor Practice Complaint. PSASA also contends that the Charge should be dismissed because it fulfilled its duty by representing Charging Party before a Hearing Examiner and the City Board in her appeal of the reassignment and salary reduction.

IV. ANALYSIS

For present purposes, we need not determine if the City Board violated Section 6-409 of the Education Article, or whether PSASA breached its duty of fair representation in violation of Section 6-407(b) of the Education Article. As we explain below, this is because Charging Party has failed to file her Charge in a timely fashion.

⁵ Article 10 specifies the process to be followed when a principal or administrator is reassigned. This includes: (1) written notice of the reassignment for the upcoming school year "not later August 15 or in cases of emergency, August 31"; and (2) an "opportunity to discuss the[] assignment with the appropriate supervisor."

The PSLRB's Regulations provide that a Charge "must be filed with the Executive Director ... within 60 days after the charging party knew, or reasonably should have known, of the statutory violation alleged." Code of Maryland Regulations (COMAR) 14.34.02.01B.

In the case now before us, Charging Party's claims arise out of the same facts and circumstances as those in her September 6, 2011 Complaint, i.e., that the City Board's reassignment violated Charging Party's "due process rights," and that PSASA "failed to process [her] grievances" and "enforce the union contract, the Memorandum of Understanding, with the Baltimore City Public Schools."

Thus, leaving aside the absence of any allegation by Charging Party that the City Board's actions were taken "because of the exercise of [Charging Party's] rights under" Sections 6-402⁶ or 6-403⁷ of the Education Article, or evidence that PSASA's actions rise to the level of arbitrary, discriminatory or bad faith conduct in violation of Section 6-409(b)(1)⁸ of the Education Article, it is clear that Charging Party knew, or reasonably

⁶ § 6-402. "Membership in employee organizations" – "(a) public school employees may form, join, and participate in the activities of employee organizations of their own choice for the purpose of being represented on all matters that relate to salaries, wages, hours, and other working conditions."

⁷ § 6-403. "Refusal to join or participate in employee organizations" – "A public school employee may refuse to join or participate in the activities of employee organizations."

⁸ See *Stanley v. Am. Fed'n of State & Mun. Emples. Local No. 553*, 165 Md. App. 1, 15 (2005) (duty of fair representation requires union to act without hostility or discrimination, avoid arbitrary conduct, and exercise its discretion in good faith) (citations omitted).

should have known, of the statutory violations alleged in her Charge as early as September 2011.

On these facts, and in the absence of any claim by Charging Party that either of the Charged Parties committed a statutory violation within the 60-day limitations period, we find that Charging Party “knew, or reasonably should have known, of the statutory violation alleged” well before July 9, 2013, the date on which she filed her Charge. Because Charging Party did not file her Charge until after the 60-day limitations period had expired, it is time-barred and dismissed on this basis.⁹

V. CONCLUSIONS OF LAW

For the reasons stated herein, we conclude that Charging Party failed to file this action in a timely fashion, and therefore DISMISS the Charge.

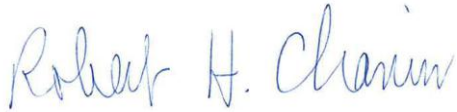
ORDER

IT IS HEREBY ORDERED THAT THE CHARGE IN THE INSTANT MATTER, PSLRB Case No. SV 2014-01, IS DISMISSED.

⁹ Though not necessary to the outcome in this case, we note that the Circuit Court for Baltimore City likewise concluded that the “time period for [Charging Party] to request relief from the PSLRB ... had lapsed.” *Sylvia Hill-Gilchrist v. Balt. City Bd. of School Comm’rs*, Case No. 24-C-12-008108 (June 17, 2013).

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD

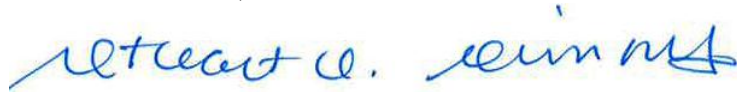
Seymour Strongin, Chairman¹⁰



Robert H. Chanin, Member



Charles I. Ecker, Member



Stuart O. Simms, Member

Glen Burnie, MD
August 9, 2013

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).

¹⁰ Chairman Strongin did not participate in the consideration of this case.