

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF:	*	
	*	
LORETTA BLAKE,	*	
	*	
Charging Party,	*	
	*	
v.	*	PSLRB Case No. SV 2018-04
	*	
BALTIMORE COUNTY PUBLIC	*	
SCHOOL SYSTEM,	*	
	*	
Charged Party.	*	
* * * * * * * * * * * *		

DECISION AND ORDER DENYING REQUEST FOR RELIEF AND DISMISSING CHARGE

I. INTRODUCTION AND POSITIONS OF THE PARTIES

On October 4, 2017, Loretta Blake 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). In her Charge, Ms. Blake asserts that the Baltimore County Public School System (“BCPSS”) violated Sections 6-402 or 6-503(a) (“Right of a public school employee to form, join, and participate in the activities of employee organization”), and 6-409 or 6-512 (“Interference with right of public school employee to exercise certain statutory rights”) of the Education Article. More specifically, Ms. Blake contends that the BCPSS, on September 2, 2017, refused to certify her Public Service Loan Forgiveness (PSLF): Employment Certification Form (“PSLF Form”) on the basis that she was not an employee of the BCPSS.

On October 31, 2017, the BCPSS filed its Response to Complaint and Motion to Dismiss (“Response”).¹ In its Response, the BCPSS argues that Ms. Blake is not a “public school employee”, and therefore lacks standing to file the instant Charge. In addition, the BCPSS asserts that, even assuming Ms. Blake possesses standing as a public school employee, Ms.

¹ COMAR 14.34.04.03(B)(1) states that “[w]ithin 20 days of service of a charge, a respondent shall file with the Executive Director a written answer to the charge, signed by the respondent or respondent’s representative, and serve a copy on the charging party.” Although Ms. Blake filed her Charge with the PSLRB on October 4, 2017, the BCPSS’s October 31, 2017, Response is timely inasmuch as the Charge was not served on the BCPSS until October 12, 2017.

December 13, 2017

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).

Blake's allegations do not rise to the level of a statutory violation because the BCPSS's actions "have not interfered [with], hindered, or otherwise violated" Ms. Blake's rights under the Education Article.

II. ANALYSIS

Sections 6-402 and 6-503(a) of the Education Article establish the right of public school employees "to 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." Although not specifically cited in Ms. Blake's Charge, Sections 6-403 and 6-504(a) are relevant to our analysis: Sections 6-403 and 6-504(a) establish the right of public school employees "to refuse to join or participate in the activities of employee organizations." Sections 6-409 and 6-512 make it unlawful for "[a] public school employer... [t]o interfere with, intimidate, restrain, coerce, or discriminate against any public school employee because of the exercise of" these rights. Read together, these Sections provide that a public school employee may file a charge against her public school employer only if the public school employer interferes with, intimidates, restrains, coerces, or discriminates against the public school employee because she exercised her right to form, join, or participate in the activities of an employee organization of her own choosing, or because she exercised her right to refuse to do so.

As noted above, the BCPSS's initial argument is that Ms. Blake is not a "public school employee", and therefore lacks standing to file the instant Charge. Section 6-401(e)(1) of the Education Article provides in relevant part that a "[p]ublic school employee" means a certificated professional who is employed by a public school employer...." Section 6-501(g)(1) provides in relevant part that a "[p]ublic school employee" means a noncertificated individual who is employed for at least 9 months a year on a full-time basis by a public school employer."

The record indicates that Ms. Blake was employed as a substitute teacher by the BCPSS from September through June of the following three school years: 2014-2015, 2015-2016, and 2016-2017. Ms. Blake was not employed in any capacity by the BCPSS after June 30, 2017. Accordingly, at the time Ms. Blake filed her Charge (i.e., October 4, 2017) -- and indeed, at the time of the incident giving rise to her Charge (i.e., the BCPSS's refusal to certify Ms. Blake's PSLF Form on September 2, 2017) -- she was not a "public school employee" under either of the definitions provided in Section 6-401(e)(1) or Section 6-501(g)(1). As a result, we find that Ms. Blake lacks standing to file the instant Charge with the PSLRB.

That being said, even assuming Ms. Blake has standing to file the instant Charge, Ms. Blake does not allege in her Charge that the BCPSS in any way interfered with, intimidated, restrained, coerced, or discriminated against her for exercising her right to form, join, or participate in the activities of an employee organization, or for exercising her right to refuse to do so. Accordingly, Ms. Blake's Charge would in any event warrant dismissal on the merits.

III. CONCLUSION OF LAW

For the reasons stated herein, we conclude that Ms. Blake does not have standing to file the instant Charge, and further, that the BCPSS has not violated Sections 6-402 or 6-503(a), Sections 6-403 or 6-504(a), or Sections 6-409 or 6-512 of the Education Article.

IV. ORDER

IT IS HEREBY ORDERED THAT THE CHARGE IN PSLRB Case No. SV 2018-04 ARE DISMISSED.

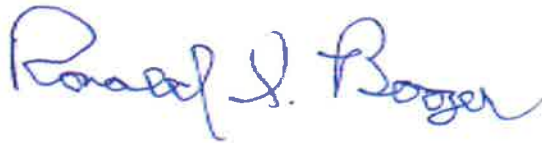
BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD:



Elizabeth M. Morgan, Chair



Robert H. Chanin, Member



Ronald S. Boozer, Member



Donald W. Harmon, Member



John A. Hayden, III, Member

Annapolis, MD

December 13, 2017

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).