

Maryland Public Employee Relations Board

45 Calvert Street, Room 102
Annapolis, MD 21401
(410) 260-7291



Wes Moore,
Governor

Membership

Lafe E. Solomon, *Chair*
Harriet E. Cooperman
Judith E. Rivlin
Jennifer Epps

In the Matter of:

**AFSCME Maryland Council 3;
AFSCME Local 1870,**

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Charging Parties,

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PERB ULP 2026-12

v.

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Baltimore City Community College,

*

Respondent.

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DECISION AND ORDER

I. Procedural Background

On September 17, 2025, AFSCME Maryland Council 3 and AFSCME Local 1870 (collectively, “AFSCME” or “Union”) filed an unfair labor practice charge with the Public Employee Relations Board (“PERB” or “Board”) alleging that Baltimore City Community College (“BCCC” or “Employer”) refused to bargain in good faith over wages, a mandatory subject of bargaining, in violation of § 22-206(a)(8) of the Public Employee Relations Act (“PERA”).

BCCC filed a timely response denying the allegations. Following investigation, the Deputy Director issued a Report and Recommendation finding probable cause to believe that BCCC had committed an unfair labor practice. Based on that recommendation, PERB issued a complaint.

Thereafter, BCCC filed an answer to the Complaint and a motion for summary decision. AFSCME opposed BCCC’s motion and filed its own motion for summary decision. BCCC then filed an opposition to AFSCME’s motion. Pursuant to a pre-hearing order, the parties submitted joint stipulations of fact and joint exhibits, including the parties’ collective bargaining agreements, bargaining ground rules, correspondence between the parties, bargaining dates, and exchanged proposals and counterproposals. After reviewing the motions, oppositions, stipulations, and exhibits, the Board determined that material factual disputes existed and that summary decision was inappropriate.

PERB conducted a limited evidentiary hearing on December 15, 2025. The hearing was limited to testimony from two witnesses – one presented by AFSCME and one presented by BCCC – and the admission of documentary evidence, including the stipulated exhibits. Following the hearing, the parties submitted post-hearing briefs.

The Board has reviewed the entire record, including the Deputy Director's Report and Recommendation, the pleadings, the motions for summary decision and related filings, the joint stipulations and exhibits, the hearing testimony, and the post-hearing briefs. The Board now issues this Decision and Order on the merits.

II. Factual Background

AFSCME Maryland Council 3 and AFSCME Local 1870 are the certified exclusive representatives of exempt and non-exempt employees employed by BCCC. BCCC is a public employer within the meaning of PERA. The parties are signatories to three memoranda of understanding (“MOUs”) covering exempt employees, non-exempt employees, and sworn police officers. Those MOUs expired on July 13, 2024, but remained in effect during the period relevant to this dispute.

By email dated November 14, 2023, AFSCME notified BCCC of its intent to bargain successor agreements. AFSCME reiterated that request by letter dated January 12, 2024. The parties corresponded in early 2024 regarding bargaining and information requests.

In the summer of 2024, the parties negotiated bargaining ground rules. The ground rules were executed on September 20 and September 26, 2024. The ground rules do not establish any required sequencing of bargaining subjects and permit proposals and counter proposals to be made during negotiations.

In July 2024, while bargaining had been requested but before negotiations commenced, BCCC implemented wage adjustments that were directed and funded by the Maryland General Assembly. Those wage adjustments were not negotiated with AFSCME.

On September 20, 2024, at the first bargaining session following execution of the ground rules, AFSCME submitted proposals addressing both non-economic and economic matters. AFSCME's economic proposals included proposed wage increases of \$1,500 effective July 1, 2025, July 1, 2026, and July 1, 2027. BCCC did not submit a counterproposal to those wage proposals at that time.

The parties met for bargaining sessions on multiple dates between September 2024 and August 2025, including September 20, September 26, November 21, and December 9, 2024; January 29, March 7, March 21, May 28, June 3, June 25, July 2, July 23, and August 7, 2025. During these sessions, the parties exchanged proposals and counterproposals on non-economic subjects. BCCC did not submit a wage proposal or counterproposal during this period.

At various bargaining sessions in 2025, AFSCME raised the lack of a response to its wage proposal and requested that economic matters be addressed. At the July 23, 2025 session, AFSCME asserted that BCCC's failure to engage on wages constituted a failure to bargain in good faith. At the

August 7, 2025 session, BCCC referenced wage increases implemented pursuant to State budget actions for FY25 and FY26 but did not submit a wage counterproposal.

BCCC did not submit a wage proposal or counterproposal addressing AFSCME's September 2024 wage proposal prior to the filing of the instant charge on September 17, 2025.

III. Positions of the Parties

AFSCME contends that BCCC violated PERA § 22-206(a)(8) by refusing to bargain over wages. AFSCME asserts that wages are a mandatory subject of bargaining; that it submitted a wage proposal at the outset of negotiations; and that BCCC's continued failure to make a counterproposal or engage in wage negotiations constitutes a refusal to bargain in good faith.

BCCC denies committing an unfair labor practice. BCCC contends that the parties followed a "traditional" bargaining approach under which non-economic matters were addressed before economic matters, and that it acted consistently with that understanding. BCCC further argues that its conduct must be evaluated under the totality of the circumstances and does not demonstrate bad-faith bargaining.

IV. Analysis

A. Applicable Law

PERA, codified at Title 22 of the State Government Article, governs collective bargaining between public employers and their employees and vests PERB with authority to adjudicate unfair labor practice disputes. PERA makes it an unfair labor practice for a public employer to refuse to bargain collectively in good faith with an exclusive representative. PERA § 22-206(a)(8). That duty applies during negotiations for successor collective bargaining agreements and continues while an existing collective bargaining agreement remains in effect.

PERA must be read in conjunction with Title 3, Subtitle 5 of the State Personnel and Pensions Article ("SPP"), which sets forth the substantive collective bargaining obligations applicable to covered public employers. Under SPP § 3-501, a public employer is required to meet at reasonable times, bargain in good faith, and "make every reasonable effort to conclude negotiations in a timely manner for inclusion by the principal unit in its budget request." Wages are expressly identified as a mandatory subject of bargaining. SPP § 3-502(a)(1).

The duty to bargain in good faith requires more than participation in bargaining sessions. The duty requires meaningful engagement over mandatory subjects and conduct that reflects a present intention to reach agreement. In evaluating alleged refusals to bargain, PERB applies a totality-of-the-circumstances standard, examining whether an employer's conduct, viewed objectively, demonstrates good-faith bargaining or instead frustrates the collective bargaining process. *Hagerstown Community College v. AFT-Maryland*, PERB ULP No. 2025-45 (Aug. 8, 2025).

PERB is the successor to, and is bound by, the decisions of its predecessor boards, which include the Public School Labor Relations Board ("PSLRB"). In interpreting materially similar statutory duties to

bargain in good faith, the PSLRB has recognized that meaningful bargaining requires substantive engagement over mandatory subjects and conduct directed toward reaching agreement, rather than mere attendance at bargaining sessions or adherence to unilateral bargaining strategies.

More specifically, in *Prince George's County Educators' Association v. Board of Education of Prince George's County*, PSLRB Case SV 2017-06 (Nov. 17, 2017), the PSLRB held that an employer violated its statutory duty to bargain where it declined to make a compensation proposal and refused to negotiate salaries despite repeated union requests. The Board concluded that such conduct amounted to a *de facto* refusal to bargain, notwithstanding the employer's continued participation in bargaining sessions on other subjects. The PSLRB further rejected the employer's contention that wage negotiations could be deferred based on bargaining strategy or budgetary considerations, explaining that the duty to bargain in good faith requires negotiation over compensation upon request and does not permit an employer to condition bargaining over mandatory subjects on the resolution of other matters.

Finally, although PERB is not bound by federal labor law, PERA expressly permits the Board to look to the National Labor Relations Act ("NLRA") and decisions of the National Labor Relations Board ("NLRB") for persuasive guidance. SG § 22-103. Federal labor law has long recognized that the duty to bargain in good faith requires parties "to participate actively in the deliberations so as to indicate a present intention to find a basis for agreement." *NLRB v. Montgomery Ward & Co.*, 133 F.2d 676, 686 (9th Cir. 1943). The Supreme Court has similarly recognized that whether a party has bargained in good faith depends upon the application of statutory standards to the particular facts of a case. *NLRB v. American National Insurance Co.*, 343 U.S. 395 (1952).

Consistent with those principles, the NLRB has held that an employer's refusal to make proposals or counterproposals on mandatory subjects, including wages, constitutes evidence of bad-faith bargaining. *United Technologies Corp.*, 296 NLRB 571 (1989). Federal precedent further establishes that an employer violates its duty to bargain in good faith where it refuses to negotiate economic issues until agreement is reached on non-economic matters, as such conduct reflects a refusal to bargain over mandatory subjects and unlawfully impedes the collective bargaining process. *John Wanamaker, Philadelphia*, 279 NLRB 1034 (1986). More recently, the NLRB has reaffirmed that bargaining conduct which delays or obstructs agreement, when viewed under the totality of the circumstances, may constitute a refusal to bargain in good faith. *Troubrook Co., LLC*, 372 NLRB No. 26 (2022).

B. Application of Law to the Facts

Based on the stipulated facts, the testimony presented at the hearing, and the documentary record, the Board finds that AFSCME has established that BCCC failed to bargain in good faith by refusing to engage in negotiations over wages, a mandatory subject of bargaining.

The record reflects that the parties were engaged in negotiations for a successor collective bargaining agreement during the period at issue. On September 20, 2024, AFSCME submitted a wage proposal to BCCC. It is undisputed that BCCC did not submit any wage proposal or counterproposal in response. The record further establishes that, for nearly one year following the submission of AFSCME's wage proposal – and prior to the filing of the unfair labor practice charge – BCCC did not engage in substantive negotiations regarding wages.

During that period, AFSCME raised the absence of a wage response at multiple bargaining sessions and requested that economic matters be addressed. The documentary evidence and hearing testimony confirm that AFSCME sought to move wage negotiations forward and expressed concern regarding the lack of progress on that mandatory subject. BCCC did not dispute that it declined to make a wage counterproposal during this time and maintained its position that economic matters would not be negotiated until non-economic proposals were resolved.

Under the standards set forth above, the Board finds that BCCC's conduct constitutes a refusal to bargain in good faith. While BCCC participated in bargaining sessions and engaged in negotiations over non-economic issues, the duty to bargain in good faith requires meaningful engagement over all mandatory subjects. A complete failure to respond to a union's wage proposal over an extended period, coupled with a refusal to engage in substantive discussion of wages, reflects conduct that frustrates the collective bargaining process when viewed under the totality of the circumstances.

BCCC asserts that the parties agreed to defer bargaining over economic matters until non-economic proposals were resolved. The record does not support that assertion. The bargaining ground rules negotiated and executed by the parties contain no provision requiring the resolution of non-economic issues before economic bargaining may occur. Nor does the record contain any written agreement, contemporaneous correspondence, or stipulated fact demonstrating that AFSCME agreed to postpone bargaining over wages.

The sole evidence relied upon by BCCC in support of its contention is the testimony of BCCC's chief negotiator, Mark Swerdlin. According to Mr. Swerdlin, during a bargaining session he stated that the parties would address non-economic matters first, and AFSCME's chief negotiator "nodded" in response. AFSCME's chief negotiator, Stuart Katzenberg, disputed that testimony and denied that any agreement to defer bargaining over wages was reached.

Critically, even accepting Mr. Swerdlin's testimony as true, the Board finds that a nod in response to a unilateral statement regarding bargaining order is insufficient to establish an express, clear, and unmistakable agreement to waive the Union's right to bargain over economic matters. As with any asserted waiver of bargaining over a mandatory subject, an agreement to defer wage negotiations must be clearly and affirmatively established; it cannot be inferred from ambiguous conduct or silence. The Board therefore finds that BCCC failed to establish the existence of a clear and mutual agreement to defer economic bargaining.

The Board further finds that BCCC's reliance on an asserted "traditional" or customary bargaining approach does not excuse its refusal to engage in wage negotiations. An employer may not unilaterally determine the sequencing of negotiations in a manner that effectively forecloses bargaining over a mandatory subject, particularly where the union has repeatedly requested negotiations on that subject. The absence of a wage counterproposal, in the face of repeated union requests and over a prolonged period, cannot be reconciled with the statutory obligation to bargain in good faith.

Considering the totality of the circumstances – including the submission of AFSCME's wage proposal on September 20, 2024; BCCC's nearly year-long failure to respond or counter-propose; AFSCME's repeated efforts to engage in wage negotiations; and the absence of any mutual agreement to

defer economic bargaining – the Board concludes that BCCC failed to bargain in good faith. Accordingly, the Board finds that BCCC violated PERA § 22-206(a)(8).

V. Conclusions of Law

1. Baltimore City Community College is subject to the collective bargaining and unfair labor practice provisions of the Public Employee Relations Act, Title 22 of the State Government Article.
2. AFSCME Maryland Council 3 and AFSCME Local 1870 are employee organizations entitled to bargain collectively with Baltimore City Community College under applicable law.
3. Wages constitute a mandatory subject of bargaining under Title 3, Subtitle 5 of the State Personnel and Pensions Article.
4. A public employer's refusal to engage in bargaining over a mandatory subject constitutes a refusal to bargain collectively in good faith within the meaning of § 22-206(a)(8) of the State Government Article.
5. An employer may not lawfully condition bargaining over mandatory subjects on the prior resolution of non-economic issues absent a clear and mutual agreement to do so.
6. Baltimore City Community College's conduct, as found by the Board, constitutes a refusal to bargain collectively in good faith in violation of § 22-206(a)(8) of the State Government Article.

VI. Order

For the reasons set forth above, it is hereby **ORDERED** that:

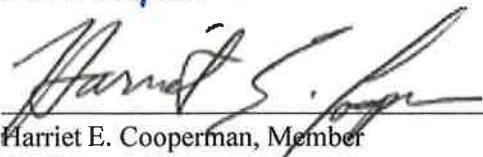
1. **Baltimore City Community College shall cease and desist** from refusing to bargain collectively in good faith with AFSCME Maryland Council 3 and AFSCME Local 1870 in violation of § 22-206(a)(8) of the State Government Article.
2. **Baltimore City Community College shall immediately bargain in good faith** with AFSCME Maryland Council 3 and AFSCME Local 1870 over wages and all other mandatory subjects of bargaining, consistent with its obligations under the Public Employee Relations Act.
3. **Baltimore City Community College shall post and electronically distribute a notice** advising bargaining unit employees of this Order and of the Employer's obligation to bargain in good faith. The notice shall be posted in conspicuous places where notices to employees are customarily posted and shall remain posted for a period of sixty (60) consecutive days.
4. **Baltimore City Community College shall notify the Public Employee Relations Board**, in writing and within ten (10) days, of the steps taken to comply with this Order.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD



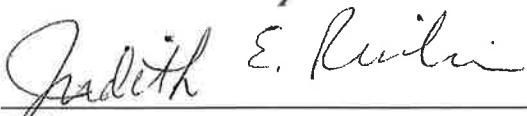
Lafe E. Solomon

Lafe E. Solomon, Chair



Harriet E. Cooperman

Harriet E. Cooperman, Member



Judith E. Rivlin

Judith E. Rivlin, Member



Jennifer Epps

Jennifer Epps, Member

ISSUE DATE: December 31, 2025

APPEAL RIGHTS

Any party aggrieved by this action of the PERB 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).

**NOTICE TO EMPLOYEES
OF BALTIMORE CITY COMMUNITY COLLEGE**

**POSTED BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
An Agency of Maryland State Government**

The Public Employee Relations Board has found that we violated state labor law and has ordered us to post and obey this notice.

**STATE LAW, SPECIFICALLY THE PUBLIC EMPLOYEE RELATIONS ACT, MD.
CODE ANN., STATE GOV'T § 22-101 – 601, GIVES YOU THE RIGHT TO:**

- Form, join or assist a union;
- Choose representatives to bargain with us on your behalf;
- Act together with other employees for your mutual aid, benefit, or protection; and
- Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain with the American Federation of State, County, and Municipal Employees (AFSCME), Council 3 & AFSCME Local 1870 over the wages of bargaining unit employees and all other mandatory subjects of bargaining.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed to you by §22-206(a) of the Public Employee Relations Act.

WE WILL NOT otherwise, or in any way, restrict or limit any of the rights bestowed upon employees by the Public Employee Relations Act.

WE WILL immediately bargain in good faith with AFSCME, Council 3 & AFSCME Local 1870 over wages and all other mandatory subjects of bargaining, consistent with our obligations under the Public Employee Relations Act.

BY BALTIMORE CITY COMMUNITY COLLEGE:

Dated: _____ By: _____

This is an official notice and must not be defaced by anyone. This Notice will remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. If you believe your rights under the Public Employee Relations Act have been violated, you should contact the Public Employee Relations Board: laborboard.maryland.gov