Maryland Public Employee Relations Board

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

In the Matter of:	*	
AFSCME Council 3 and AFSCME Local 1042,	*	
Charging Parties	*	
v.	*	**PERB Case Nos. ULP 2025-40 and 2026-01**
University of Maryland, College Park,	*	
Respondent.	*	
	*	

CONSOLIDATED DECISION AND ORDER

I. Procedural Background

On June 2, 2025, the American Federation of State, County and Municipal Employees Council 3 and AFSCME Local 1042 (collectively, "the Union") filed an unfair labor practice charge against the University of Maryland, College Park ("the University"), docketed as PERB ULP 2025-40, alleging that the University violated § 22-202(2) of the Maryland Public Employee Relations Act ("PERA"), Md. Code, State Gov't §§ 22-101 et seq., by failing to provide information necessary for the Union to perform its representational duties, including data related to telework eligibility and departmental policies.

On July 2, 2025, the Union filed a second charge against the University, docketed as PERB ULP 2026-01, alleging that the University unilaterally implemented a new telework policy during active negotiations, in violation of § 22-206(a)(8) of PERA.

Both matters were investigated by the Board's Deputy Director, who issued Reports and Recommendations on June 17 and July 22, 2025, respectively, finding probable cause that the

University had committed unfair labor practices. The Board issued a complaint in 2025-40 on June 28, 2025, and in 2026-01 on July 31, 2025. The University and the Union filed written responses. Because the two cases involve the same parties, overlapping timelines, and the same subject matter – telework – the Board consolidates them for decision.

II. Factual Background

AFSCME Council 3 and AFSCME Local 1042 are the certified exclusive representatives for the University's units of exempt and non-exempt employees. The University of Maryland, College Park is a constituent institution of the University System of Maryland and a "public employer" within the meaning of Md. Code, State Gov't § 22-101(i).

A. Background on Telework and Collective Bargaining

Following the COVID-19 pandemic, telework became a common practice throughout the University. Colleges, divisions, and departments developed their own telework procedures, many of which were modified or replaced over time. In 2021, the General Assembly enacted Senate Bill 9, codified at Md. Code, State Pers. & Pens. § 3-602, which consolidated collective bargaining within the University System of Maryland and required each institution president to bargain separately with the exclusive representative over seven enumerated subjects, including "teleworking," as set forth in § 3-602(b)(2)(i)(6).

B. The Union's Information Request (Case No. 2025-40)

In anticipation of bargaining over telework, the Union submitted a written information request to the University on February 21, 2025. The request sought:

1. A spreadsheet identifying all bargaining-unit employees, including information on telework eligibility, schedule, and justification for ineligibility;
2. A list of all departments that had changed telework policies since January 1, 2024, with copies of both prior and current versions; and
3. All current telework policies or guidance in effect at the campus, division, college, or departmental levels.

Under § 22-202(2) of PERA, the University was required to provide requested information "as soon as practicable, but not later than 30 days" after receiving the request – no later than March 23, 2025.

The University did not respond by that deadline. On May 20, 2025, nearly two months late, the University sent an "interim" email stating that telework eligibility depended on multiple factors and that no central repository of the requested data existed. No documents accompanied this message.

On May 22, 2025, the University sent a spreadsheet listing employee names, job titles, and supervisory organizations, with one column indicating whether a position "may include some portable work." This response did not include the detailed eligibility or justification information the Union had requested.

On June 10, 2025, the University sent a supplemental response containing nine attachments – departmental memoranda and telework policies – but did not indicate that the documents were exhaustive or identify which departments were included.

The Union followed up several times, including during a labor-management meeting on April 17, 2025, and by email on May 18, to inquire about the status of its request. The University did not provide additional materials or certify completion. The record reflects that UMCP uses a central human-resources system (Workday) that could generate reports related to telework eligibility and that departmental HR offices regularly coordinate policy updates with central administration. The University offered no evidence that producing the requested information would have been unduly burdensome or impossible.

C. Demand to Bargain and Subsequent Unilateral Change (Case No. 2026-01)

On the same date the information request was submitted, February 21, 2025, the Union also delivered a written demand to bargain over telework and expressly requested that the University "cease and desist in the implementation of changes to telework practices… until negotiations with the union are concluded."

The parties' most recent Memorandum of Understanding (effective April 1, 2018, through April 1, 2021) contained only a limited telework clause. It allowed individual employees to request telework subject to supervisory approval and stated that such arrangements would be considered on a case-by-case basis, depending on the nature of the employee's duties and operational needs. The provision did not establish any entitlement to telework, prescribe the number of in-office workdays, or grant the University authority to alter telework requirements on a department-wide basis. Consequently, the MOU did not address or authorize the type of institutional change that later occurred.

The parties held their first bargaining session on June 4, 2025, and agreed to additional sessions. Despite those ongoing negotiations, on June 17, 2025, the University's Division of Information Technology ("DIT") issued a department-wide email announcing a new telework policy, effective September 1, 2025. The new policy required staff to report to the office three days per week instead of two, designated Tuesday as a mandatory in-office day for all employees, and eliminated "hot-desking" in favor of permanent desk assignments.

The University did not provide notice to the Union of its intent to implement these changes, nor did it offer the Union an opportunity to bargain over them. At the time of the announcement, the parties were actively engaged in negotiations and had not reached impasse.

III. Legal Analysis

A. Failure to Provide Information (Case No. PERB ULP 2025-40)

Section 22-202(2) of PERA provides that an exclusive representative has the right to "information from a public employer relevant to the administration and negotiation of an agreement or the proper performance of the employee organization's duties as the public employees' representative," and further requires that such information "be made available as soon as practicable, but not later than 30 days after the public employer receives the request."

This statutory duty parallels the long-established principle under federal labor law that an employer must provide relevant information needed by a union to perform its statutory functions. *NLRB v. Acme Industrial Co.*, 385 U.S. 432 (1967); *Detroit Edison Co. v. NLRB*, 440 U.S. 301 (1979). Information requested by an exclusive representative that concerns mandatory subjects of bargaining, such as wages, hours, and working conditions, is presumptively relevant to collective bargaining. *Acme Industrial Co.* at 435–36. Once a union has shown that the information sought bears a reasonable relationship to the bargaining process, the burden shifts to the employer to demonstrate that production of the information would be unduly burdensome or that the requested data do not exist. *Martin Marietta Energy Systems, Inc.*, 316 NLRB 868 (1995). An employer may not refuse to furnish relevant information merely because it is not available in the precise form requested; the employer must provide the information that is available. *Trustees of Columbia University*, 298 NLRB 941 (1990).

The facts of this case satisfy every element of a violation under § 22-202(2). The Board first concludes that AFSCME's request concerned a mandatory subject of bargaining – telework. The General Assembly has explicitly identified telework as a subject requiring negotiation between system institutions and exclusive representatives. Because the request sought information about employee eligibility, schedules, and departmental policies directly bearing on that subject, the information was presumptively relevant. The University did not dispute that relevance.

Second, the University failed to meet the statutory deadline. AFSCME's request was made on February 21, 2025. The University's first response came on May 20, 58 days after the statutory deadline of March 23. The statute's 30-day requirement is clear and unambiguous. The University did not request an extension, did not communicate any specific difficulties within the 30-day window, and did not produce even partial data by the deadline. The delay therefore constituted a *per se* violation of the statute's timeliness requirement.

Third, even after the late response, the information provided was substantively inadequate. The May 22 spreadsheet contained only the most cursory indication of telework eligibility – whether a position "may include some portable work." The June 10 attachments, limited to 9 departments, were fragmentary and lacked effective dates or confirmation of completeness. These partial and vague submissions did not satisfy the obligation to provide the requested information "as soon as practicable." An employer must make a good-faith effort to compile and furnish all reasonably available information, and the record here shows none. The University's claim that it lacked a "central repository" for the information is unpersuasive. The evidence establishes that UMCP's Workday system could generate reports concerning employee assignments and that departmental HR offices could supply their telework policies. The University offered no credible explanation for its failure to use these existing resources.

Finally, the Board finds that the University did not act in good faith in attempting to comply with § 22-202(2). The pattern of inaction – no response for nearly two months, followed by partial data – demonstrates a lack of diligence inconsistent with the statute's requirement that information be provided "as soon as practicable." The purpose of § 22-202(2) is to ensure that an exclusive representative can bargain on an informed basis. By withholding basic information about telework practices, the University placed the Union at a disadvantage in preparing proposals and evaluating existing conditions. The statutory right to information would be

meaningless if employers could satisfy it with incomplete or generalized responses months after a lawful deadline.

Accordingly, the Board concludes that the University's conduct – its failure to timely respond and its provision of incomplete and non-exhaustive data – constitutes a violation of § 22-202(2) of PERA.

B. Unilateral Change to Telework Policy (Case No. PERB ULP 2026-01)

Section 22-206(a)(8) of PERA provides that it is an unfair labor practice for a public employer to refuse to bargain collectively in good faith with the exclusive representative. Section 3-602(b)(2)(i)(6) of the State Personnel and Pensions Article specifically identifies "teleworking" as one of the seven mandatory subjects over which each USM institution must bargain separately with the certified exclusive representative. The statutory mandate to bargain over telework leaves no doubt that the subject is within the scope of mandatory negotiations and may not be altered unilaterally by management.

The Board's analysis is guided by long-standing labor law principles established under the National Labor Relations Act and adopted by public-sector labor boards nationwide. In *NLRB v. Katz*, 369 U.S. 736, 743 (1962), the Supreme Court held that "an employer's unilateral change in conditions of employment under negotiation is a circumvention of the duty to negotiate which frustrates the objectives of § 8(a)(5) much as does a flat refusal." The Court further observed that such unilateral action "must of necessity obstruct bargaining," and "will rarely be justified by any reason of substance." Id. at 743–47. See also *Litton Fin. Printing Div. v. NLRB*, 501 U.S. 190, 198 (1991) (an employer commits an unfair labor practice "if, without bargaining to impasse, it effects a unilateral change of an existing term or condition of employment").

Public-sector labor authorities across the country have consistently applied these principles. In *AFSCME Council 57, Local 2428 v. East Bay Regional School District*, California PERB Decision No. 2969-M (2025), the California PERB found that a public employer violated its duty to bargain by unilaterally imposing new telework requirements while the parties were in negotiations over that same subject. The PERB observed that such action undermines the status quo and deprives the union of its lawful role in shaping employment conditions.

Similarly, in *King County Corrections Guild v. King County*, WA PERC Decision No. 13920-A (2024), the Examiner found that the employer committed an unfair labor practice when it unilaterally changed its practice of medically separating correctional officers who could no longer perform mandatory overtime and had exhausted their FMLA leave. The Examiner interpreted the union's complaint as alleging that this change in medical separation procedures itself constituted a mandatory subject of bargaining and concluded that the employer violated its duty to bargain by implementing the change without providing notice to the union or an opportunity to negotiate.

The Pennsylvania Labor Relations Board reached the same conclusion in cases involving unilateral changes to employee benefits during negotiations. *Douglass Township Police Officers v. Douglass Township*, PLRB Case No. PF-C-04-213-E (2005).

This principle has also been firmly established within Maryland's system of public-sector labor relations. In *AFSCME Maryland v. Calvert County Department of Social Services*, SLRB Case No. 12-U-03 (Mar. 13, 2012), the State Labor Relations Board found that the employer violated its duty to bargain in good faith when it implemented changes to its flex-time policy without first providing the union an opportunity to negotiate, concluding that unilateral changes to mandatory subjects are ordinarily per se refusals to bargain.

Likewise, in *FOP Lodge 129 v. University of Maryland, Baltimore County*, SHELRB ULP 2019-01, the State Higher Education Labor Relations Board relied on the Maryland Court of Appeals' decision in *Montgomery County Council of Supporting Services Employees, Inc. v. Board of Education of Montgomery County*, 277 Md. 343 (1976), which in turn adopted federal precedent under the National Labor Relations Act. The Court held that "[g]enerally, the unilateral institution by an employer of a change in conditions of employment under negotiation constitutes bad faith," citing *Labor Board v. Katz*, 369 U.S. 736 (1962), and *Labor Board v. Crompton Mills*, 337 U.S. 217 (1949), and explained that such conduct "is tantamount to a refusal to bargain since the bargaining process is, in effect, thereby abandoned." Id. at 355. The Court distinguished such conduct from lawful implementation following impasse, thereby reinforcing that unilateral changes prior to impasse violate the duty to bargain.

Under § 22-309 of PERA, this Board is bound by the prior opinions and decisions of the State Labor Relations Board and the State Higher Education Labor Relations Board. Collectively, those Boards – and the Maryland Court of Appeals – have adopted the consistent rule that unilateral changes to mandatory terms and conditions of employment before impasse are per se refusals to bargain.

Applying these principles here, the Board finds that the University violated § 22-206(a)(8) of PERA. Telework is a mandatory subject of bargaining, and the parties were actively negotiating over that subject when the University's Division of Information Technology announced a new policy. The parties held their first bargaining session on June 4, 2025, and there was no impasse. The unilateral implementation of new telework requirements, made while negotiations were ongoing and before impasse, materially altered the status quo and undermined the collective-bargaining process. Nothing in the parties' prior MOU or in § 3-603 of the State Personnel and Pensions Article authorized such unilateral action. The University's conduct therefore constitutes a refusal to bargain in good faith and an unfair labor practice under PERA.

IV. Conclusions of Law

1. The University of Maryland, College Park violated § 22-202(2) of the Public Employee Relations Act ("PERA") by failing to timely and adequately provide information requested by AFSCME Council 3 and AFSCME Local 1042 that was relevant to collective bargaining and contract administration.

2. The University further violated § 22-206(a)(8) of PERA by unilaterally implementing a new telework policy during active negotiations with AFSCME Council 3 and AFSCME Local 1042.

3. The University's actions in both cases constitute unfair labor practices under the Public Employee Relations Act.

V. Order

Accordingly, the University of Maryland, College Park shall:

1. Cease and desist from:
    a. Failing to timely and adequately provide information relevant to collective bargaining or contract administration[1]; and
    b. Unilaterally changing telework policies or other mandatory subjects of bargaining without first bargaining to agreement or lawful impasse with AFSCME Council 3 and AFSCME Local 1042.

2. Rescind the June 17, 2025, telework policy issued by the Division of Information Technology and restore the status quo ante pending completion of negotiations.

3. Engage in collective bargaining with AFSCME Council 3 and AFSCME Local 1042 regarding telework in accordance with § 3-602(b)(2)(i)(6).

4. Make whole any employees adversely affected by the unilateral change, including any loss of pay or benefits resulting from the implementation of the June 17, 2025, policy.

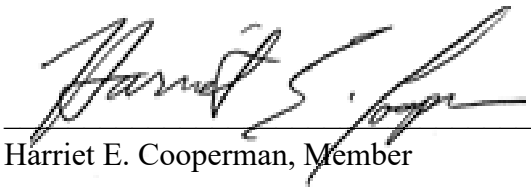
5. Post and electronically distribute a Notice to Employees in all customary locations affirming the University's obligations under PERA and this Decision for not less than sixty (60) consecutive days.

6. Notify the Board in writing within ten (10) days after completing the steps required by this Order.

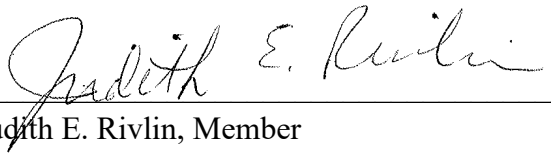
BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Lafe E. Solomon, Chair

[1] The Union informed the Board on October 3, 2025, that the University had furnished the requested information. We are therefore not including in our Order a requirement that the University furnish the requested information.



Harriet E. Cooperman, Member



Judith E. Rivlin, Member

Jennifer Epps, Member

ISSUE DATE: November 21, 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).