

**State of Maryland**  
**State Higher Education Labor Relations Board**

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In the matter of:	)	
	)	
	)	
American Federation of State,	)	
County and Municipal Employees,	)	
	)	
Complainant/Petitioner,	)	
	)	
v.	)	SHELRB ULP Case No. 2002-09
	)	Opinion No. 11
University of Maryland,	)	
Baltimore County,	)	
	)	
Respondent.	)	
	)	
	)	

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**DECISION AND ORDER**

On June 17, 2002, the American Federation of State, County & Municipal Employees (AFSCME), filed with this office an Unfair Labor Practice Petition (ULP) against the University of Maryland, Baltimore County (UMBC). AFSCME alleges that UMBC has been and is currently refusing to bargain over a parking permit fee increase that applies to bargaining unit employees, as well as others. By such actions, AFSCME asserts that UMBC has failed to bargain in good faith as prescribed under Title 3 of the State Personnel and Pensions Article, Annotated Code of Maryland, Section 3-501(b) and 3-502, and thereby has committed unfair labor practices as defined under the Board's regulations, i.e., COMAR 14.30.07.01(A) & (I).

UMBC filed a response to the ULP charges on July 3, 2002, raising certain affirmative defenses.<sup>1/</sup> AFSCME filed a reply to the UMBC response on July 12, 2002, disputing UMBC's affirmative defenses.<sup>2/</sup> Additionally, AFSCME filed

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<sup>1/</sup> Specifically, UMBC's defenses were as follows: (1) lack of subject matter jurisdiction; (2) lack of jurisdiction over the Board of Regents; and (3) the establishment of parking fees is not a mandatory subject of bargaining.

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supplemental information with the Board on September 5, 2002, as additional evidence of UMBC's allegedly committing unilateral action on parking fee issues without bargaining such with AFSCME.

We find that the disposition of the ULP petition turns on a threshold issue of timeliness. For the reasons that follow, we find the ULP petition was not timely filed and, therefore, must be dismissed.

In its ULP petition, AFSCME asserts that UMBC unilaterally decided and undertook steps to increase fees for campus parking permits. According to AFSCME, the UMBC finally achieved this objective when the USM Board of Regents (BOR) approved the increase at its April 12, 2002 meeting. Board regulation §14.30.07.04(A) prescribes that a party aggrieved by an ULP can request relief from the Board by filing a ULP petition within thirty (30) days after knowledge of the occurrence of the ULP. This Board's regulations make timely filing a required element of all ULP petitions.

AFSCME filed its ULP petition on June 17, 2002, 65 days from the occurrence of the alleged last act of the ULP. AFSCME's ULP petition, supplemental filings and supporting materials fail to state when it gained actual knowledge of the alleged final act, i.e., the BOR's April 12 approval of UMBC's parking permit increase. Given the alleged facts of the ULP and the absence of any assertion or evidence by AFSCME to the contrary, the Board finds that the ULP petition, on its face, is untimely.<sup>3/</sup>

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<sup>2/</sup> AFSCME filed supplemental information with the Board on September 5, 2002 in support of its contention that UMBC acted unilaterally on parking fee issues with out bargaining with AFSCME.

<sup>3/</sup> The Board takes notice of the fact that this case is one of four cases concerning parking fees that have been filed with us, the first filed in March 2002, against the University of Maryland, College Park (UMCP). In that case, i.e., ULP Case No. 2002-02, AFSCME submitted a April 18, 2002 letter sent from its chief negotiator to UMCP concerning efforts to negotiate over the parking fees. In the letter, AFSCME chief negotiator inquires whether UMCP intended "to ask the BOR and its Finance Committee to stop discussions on any increases in parking fees affecting bargaining unit employees until the College and AFSCME had an opportunity to negotiate on the matter." The BOR Finance Committee jointly and concurrently handled USM constituent universities' efforts to increase parking permit fees. If AFSCME had actual knowledge of the BOR Finance Committee efforts with respect to UMCP's parking fee increases, it reasonably can be inferred that AFSCME was aware as early as April 18, 2002, of the other

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In view of the above, we dismiss the ULP petition as untimely. However, we dismiss without prejudice for AFSCME to re-file the ULP petition with any evidence it may have that would establish its actual knowledge of the occurrence of the alleged ULP as being within 30 days of the filing of this ULP Petition, i.e., June 17, 2002.<sup>4/</sup>

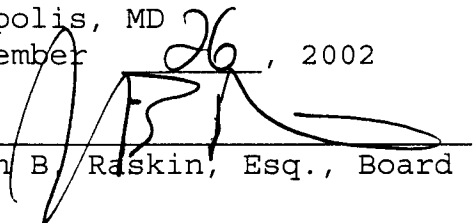
**ORDER**

**IT IS HEREBY ORDERED THAT:**

The Unfair Labor Practice Petition in Board Case No. 2002-09 is dismissed.

**BY ORDER OF THE STATE HIGHER EDUCATION LABOR RELATIONS BOARD**

Annapolis, MD  
September 26, 2002

  
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Jamin B. Raskin, Esq., Board Chairman

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constituent universities (including UMBC) that were jointly and concurrently seeking parking permit increases through the BOR Finance Committee. In the instant ULP, AFSCME acknowledges a BOR Finance Committee memorandum dated March 14, 2002, in which the BOR Committee on Finance recommended that parking fee increases go into effect at certain listed University System of Maryland (USM) institutions, including UMBC.

<sup>4/</sup> The Board acknowledges the additional arguments from both AFSCME and UMBC which indicate a disagreement as to whether parking fee increases constitute a mandatory subject of bargaining, and also the supplemental question that arises as to when bargaining should commence over such fee increases. However, before the Board may decide upon such matters, a valid complaint is necessary, one that is timely filed pursuant to Board regulations.

**Appeal Rights**

Any party aggrieved by this action of the Board may seek review in accordance with Board Regulation 14.30.11.24C and as prescribed under Title 10 of the State Government Article, Annotated Code of Maryland, Section 10-222.