

**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. 2002-11
	)	Opinion No. 12
Coppin State College,	)	
	)	
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 Coppin State College (Coppin). AFSCME alleges that Coppin 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 Coppin 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).

Coppin filed a response to the ULP charges on July 10, 2002, raising certain affirmative defenses.<sup>1</sup> On August 15, 2002, Coppin State College filed a "Motion to Dismiss" pursuant to Board regulations, to which AFSCME responded on August 26, 2002. In its Motion, Coppin, among other things, raised the claim that the ULP was untimely filed by

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<sup>1/</sup> Specifically, Coppin's defenses were as follows: (1) lack of subject matter jurisdiction; (2) the parking permit fee increase is *de minimus*, and therefore is not a mandatory subject of bargaining; and (3) AFSCME waived its right to bargain.

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AFSCME. In its response dated August 26, 2002, AFSCME argued that Coppin's failing to provide the union with prior notice of its intent to increase parking fees negates the waiver by inaction claim raised Coppin's Motion to Dismiss.

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.

Board regulation §14.30.07.04(A) requires that a ULP charging petition be filed within thirty (30) days after an aggrieved party becomes aware of the occurrence(s) that generated the charge. In its charging documents, AFSCME makes the Board aware of the Board of Regents (BOR) memorandum of March 14, 2002 in which the BOR Committee on Finance recommended that parking fee increases go into effect at a variety of University System of Maryland (USM) institutions, including Coppin.

It is the Board's understanding that AFSCME has raised the issue of notice provided to the union. AFSCME states in its response to Coppin's Motion to Dismiss, that "[b]y presenting its proposal directly to the Board of Regents before notifying the Union, there was no opportunity for meaningful negotiation thereby significantly undermining the Union's negotiating role.... AFSCME only learned of the *proposed* change fortuitously and only after the increase was a *fait accompli* which hardly satisfies the special notice requirement pertaining to changes in terms and conditions of employment."

In its reference to "proposed change," however, it is clear that AFSCME did have notice sometime after Coppin made its request to the Board of Regents and before the Board of Regents approved the fee increase. Additionally, the Board notes that the instant case is among four that have been filed with the SHELRB that reference this same Board of Regents decision to allow certain of the USM institutions to increase parking fees. Indeed, in March 2002, AFSCME filed a ULP petition challenging the proposed fee increase affecting employees at the University of

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Maryland, College Park. It therefore cannot be claimed that AFSCME did not have notice of proposals for fee increases and the BOR action on said proposed increases that occurred in March and April of 2002. AFSCME's argument about the type of notice it was or was not provided does not speak to the point of actual notice required for the filing of a ULP petition.

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>2/</sup>

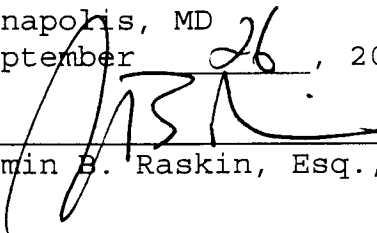
**ORDER**

**IT IS HEREBY ORDERED THAT:**

The Unfair Labor Practice Petition in Board Case No. 2002-11 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

<sup>2/</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.