

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF: *

TEACHERS ASSOCIATION *

OF ANNE ARUNDEL COUNTY, *

Employee Organization, * PSLRB Case No. SV 2023-01

and *

BOARD OF EDUCATION OF *

ANNE ARUNDEL COUNTY, *

Public School Employer. *

* * * * *

OPINION OF MEMBER CHANIN CONCURRING IN RESULT

On August 15, 2022, the Teachers Association of Anne Arundel County (“TAAAC”) filed a CHARGE OF VIOLATION OF TITLE 6, SUBTITLE 4 OR SUBTITLE 5, of the EDUCATION ARTICLE (“TAAAC Charge”) with the Public School Labor Relations Board (“PSLRB”). COMAR 14.34.04.03(A)(2) states that in order to be timely, a charge “must be filed with the Executive Director of the [PSLRB] within 60 days after the charging party knew, or reasonably should have known, of the statutory violation alleged.” The statutory violation alleged in the TAAAC Charge is the refusal of the Board of Education of Anne Arundel County (“Board of Education”) to comply with the August 8, 2022, request of the TAAAC to enter into negotiations with it regarding the hours, wages, and other working conditions of the “employees” provided to the Board of Education by the StaffEZ of Maryland. The PSLRB concludes that the Board of Education’s Motion to Dismiss the TAAAC’s Charge should be granted on the ground that it was untimely filed. For the reasons set forth below, I believe that the PSLRB erred in this

regard.

Section 6-407(a) of the MD Education Code provides that:

An employee organization designated as an exclusive representative shall be the negotiating agent of all public school employees in the unit in the county. (Emphasis added)

If and when the individuals provided to the Board of Education by StaffEZ became “employees” of the Board of Education they would be included in the negotiating unit for which the TAAAC is designated as the Exclusive Representative.

Section 6-408(c)(1) of the MD Education Code provides that:

On request a public school employer...shall meet and negotiate with...the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on all matters that relate to salaries, wages, hours, and other working conditions.... (Emphasis added)

As the foregoing statutory provisions make clear, the right of an employee organization (such as the TAAAC) to function as a negotiating representative and to request a public school employer (such as the Board of Education) to enter into negotiations, and the obligation of a public school employer (such as the Board of Education) to comply with that request apply only to the “public school employees in a unit of the county.” For purposes of timeliness, the dispositive question in the case is when the individuals provided to the Board of Education by StaffEZ became “public school employees,” and it is at that point that the 60-day period for filing a charge began to run.

The PSLRB’s reference to December 6, 2021, when the Board of Education’s “solicitations for bids for the contracting out of staff [were] posted publically on its website”, when the Board of Education “publically posted (online) an agenda of its upcoming May 18, 2022 meeting, in which it indicated that Anne Arundel County Public Schools intended to :

‘procure a pool of qualified staffing companies to supplement staffing levels for the Special Education Office and the Department of Student Services’”, or any of the other preparatory actions that the Board of Education may have taken before the individuals in question became “public school employees in the unit in the county” is misdirected.

The earliest point at which the individuals provided to the Board of Education by StaffEZ might even arguably be considered “public school employees in a unit of the county”—thus triggering the statutory right of the TAAAC to request the Board of Education to enter into negotiations with it on their behalf, and the statutory obligation of the Board of Education to enter into such negotiations—is when the contract between the Board of Education and StaffEZ was finalized on August 2, 2022, and the funds to implement that contract were appropriated, and, indeed, even that may fall short of a literal reading of the statutory trigger date, which is when the individuals actually become “public school employees”.¹ On August 8, 2022, the TAAAC requested the Board of Education to enter into negotiations and the Board refused to do so. The TAAAC’s Charge, which cites that refusal as a statutory violation, was filed with the PSLRB on August 15, 2022, and is therefore timely.

Because, as the PSLRB indicates in its Decision, further negotiations in this matter resulted in “the adoption and implementation of a final agreement between the parties on August 31, 2022,” this case is moot, and the TAAAC’s Charge should be dismissed solely on that ground. I write this concurring opinion to make clear my position with regard to the timeliness of the TAAAC’s Charge in this case, and the position that I intend to take with regard to such charges filed in future cases.

¹ See, TAAAC’s Response Memorandum to County Board’s Motion to Dismiss/Motion for Summary Affirmance, at page 8, citing an article in the September 13, 2022 edition of the Baltimore Sun which quotes County Board President Joanna Tobin’s statement that “contractors still have to be interviewed by the system and only the most qualified will be hired.”

Robert H. Chanin, Member

Date