Maryland Public Employee Relations Board
45 Calvert Street, Room 102
Annapolis, MD 21401
(410) 260-7291

In the Matter of:	*	
Catherine Nguyen,	*	
Charging Party,	*	
v.	*	**PERB ULP 2026-47**
Prince George's County Educators' Association,	*	
Respondent.	*	

DECISION AND ORDER

Procedural Background

On April 16, 2026, Ms. Catherine Nguyen (Charging Party or Nguyen) filed an unfair labor practice with the Public Employee Relations Board (PERB or the Board) against the Prince George's County Educators' Association (PGCEA, the Union, or the Respondent). PGCEA filed its response to the charge on May 4, 2026.

Factual Background

Nguyen is employed by Prince George's County Public Schools (PGCPS) as a Pre-K Classroom Teacher at Magnolia Elementary School. PGCEA is the exclusive bargaining representative for certificated individuals employed by PGCPS, a bargaining unit which includes Nguyen. PGCEA and PGCPS are parties to a Negotiated Agreement, effective July 1, 2025, through June 30, 2028.

Maryland State Regulations provide that local school systems shall, in regards to Pre-K programs, "…maintain an average staff to student ratio of 1:10 with an average of 20 students per classroom." COMAR 13A.06.02.05(A)(8). These regulations also state that school systems shall

provide staffing for "each session of prekindergarten to include a teacher…and a para-professional…or a [child development associate]." COMAR 13A.06.02.05(A)(6).

Nguyen claims her classroom operated in repeated violations of this regulation as she often oversaw a classroom of twenty students without a paraprofessional or other adult employee present, documented as follows:

- October 21, 2024 – April 4, 2025: 89.5 days out of compliance as a substitute paraprofessional was present only 9 days within this span;
- August 25, 2025 – December 2, 2025: 19 days out of compliance; and
- March 3, 2025 – March 4, 2025: 2 days out of compliance.

According to Nguyen, this amounts to 828.75 hours for which she performed the duties of two employees. Nguyen contacted multiple individuals within PGCPS at different administrative levels in effort to resolve this issue but did not reach a resolution. Specifically, Nguyen discussed the issue with the following individuals: her Principal on October 12, 2025, who suggested she discuss the issue with her Union as it was her belief Nguyen was due additional compensation; a school-based Union representative, who informed Nguyen on October 21, 2025, after internal Union consultation, she was not due additional compensation; the PGCPS Human Resources department, where no resolution was reached; and a PGCPS Instructional Supervisor within the Department of Early Learning, who directed her to a school principal or PGCPS Human Resources, as her office did not oversee staffing or compensation matters.

On October 27, 2025, Nguyen emailed PGCEA Uniserv Director, Devin Nixon, to raise her staffing concern and inquire about compensation under the Negotiated Agreement. Nixon responded the same day by stating there is no "contractual language that guarantees a paraprofessional must always be present or that entitles the teacher of record to additional compensation when one is not assigned." Nguyen responded to request referral to an attorney or otherwise be sent guidance relating to her options, to which Dixon directed her to the PGCPS Office of Early Learning, with whom Nguyen had already been in contact.

On December 15, 2025, Nguyen emailed Nixon again to request either an attorney referral or further guidance on the situation. Nixon responded on January 7, 2026, stating that Nguyen would only be entitled to compensation if a co-teacher, not a paraprofessional, is absent, pursuant to the Negotiated Agreement, affirming the information the PGCPS HR department had earlier provided Nguyen. Nixon made reference to an attorney list and reiterated her belief that a paraprofessional being absent is not a violation of the Negotiated Agreement.

Nguyen followed up again on February 2, 2026, reiterating her concerns about compensation and what she perceived to be discrepancies between the Union's interpretation or application of the Negotiated Agreement and the aforementioned State regulation. Dixon responded on February 4, 2026, stating that the Maryland State Department of Education (MSDE) investigates complaints alleging violations of state or federal education requirements and informed Nguyen of her right to submit a formal complaint to MSDE regarding this issue. Nixon further

stated that from a Union and contract perspective, compensation is governed by the Negotiated Agreement, and again informed Nguyen of her belief that additional compensation is warranted only when a co-teacher is absent. Thus, Dixon explained that the Negotiated Agreement does not provide compensation for periods when a paraprofessional is unavailable and accordingly, this situation did not constitute a violation of the Negotiated Agreement.

On March 18, 2026, Nguyen submitted a formal written request to PGCEA Executive Director, Yahnae Easton, requesting: a written explanation of the Union's interpretation of the Negotiated Agreement; Union support in filing a grievance for compensation during the periods of alleged non-compliance; and Union action to address and prevent alleged ongoing staffing violations in Pre-K classrooms. Easton replied on March 24, 2026, agreeing with Nixon's prior interpretation that the Union does not represent paraprofessionals and that this matter should be raised with school administration and PGCPS HR.

Positions of the Parties

Charging Party

Nguyen argues that PGCEA's handling of this matter rises to the level of a breach of the duty of fair representation, in violation of Md. Code, State Gov't § 22-206(b)(6), as such conduct from her Union was perfunctory, ignored the impact on her working conditions, created a "protection gap," ignored contractual implications, and ignored the PGCPS' alleged recognition of paraprofessionals as "bargaining unit members." Specifically, Nguyen asserts that the Union's actions were perfunctory as it did not thoroughly investigate her complaint, but rather summarily rejected her claim based on a categorical rule without examining the specific circumstances giving rise to the claim, responding only with conclusory statements without analysis. Additionally, Nguyen asserts that the absence of a second employee in her classroom materially altered her working conditions in ways the Negotiated Agreement did not contemplate and that the Union's failure to consider this dimension of her claim demonstrates that its evaluation was not reasoned or thorough.

According to Nguyen, PGCEA's interpretation of the Negotiated Agreement means that a teacher receives contractual protection only "when a voluntary second adult is absent, but not when a legally required second adult is absent – leaving the teacher solely responsible for a classroom that is out of compliance with state law." Nguyen believes this interpretation withholds protection when working conditions are most burdensome and legally non-compliant and ultimately lacks reasoned basis when applied to state-mandated two-adult classrooms. Nguyen additionally claims that Nixon's "direction" to file a complaint with the MSDE is an implicit concession that the underlying condition implicates a state law violation, all while the Union refused to examine whether that same condition had any bearing on her rights under the Negotiated Agreement, establishing an internal inconsistency that is incompatible with good-faith, reasoned consideration of her claim.

Nguyen further notes that PGCPS is party to two collective bargaining agreements: one covering certificated teachers (represented by PGCEA) and one covering paraprofessionals and other employees, who are in a bargaining unit represented by ACE/AFSCME Local 2250. According to Nguyen, this AFSCME collective bargaining agreement explicitly and repeatedly designates paraprofessionals as "bargaining unit members." With this in mind, Nguyen argues that PGCEA's interpretation that the term "unit member" – as utilized within the PGCEA-PGCPS

Negotiated Agreement – applies only to PGCEA represented employees is inconsistent with the broader PGCPS labor relations framework. Nguyen asserts this failure to consider the cross-contract context on behalf of PGCEA is further indication of perfunctory and unreasoned handling of her claim.

Relating to the underlying staffing issue, Nguyen asserts that state regulation requires a Pre-K classroom to maintain a minimum of two adults, which is a mandatory childcare licensing requirement that was unambiguously triggered by her classroom of 20 students. The absence of a second adult materially altered her working conditions, according to Nguyen, including an increase in her supervisory responsibility, safety risk, and workload as it left her solely responsible for the supervision, instruction, safety, and care of 20 Pre-K children in a classroom that state law requires two adults to operate. Nguyen makes reference to Article 6.2(E)(3) of the Negotiated Agreement in support of her argument, which provides the following:

> "When a Unit I Member assigned to a co-taught class is absent and no substitute teacher is available the remaining co-teacher shall be compensated in addition to their regular par at the hourly rate of thirty-four ($34.00) per each student instruction hour in no less than half hour increments."

Nguyen claims the term "unit member" is not exclusive to PGCEA-represented employees as the agreement between PGCPS and AFSCME (mentioned above) utilizes the term "bargaining unit members" to describe paraprofessionals employed by PGCPS. Thus, Nguyen argues that PGCPS has recognized paraprofessionals as "unit members" in that collective bargaining agreement. Accordingly, Nguyen argues PGCEA's interpretation that "unit members," as used within the PGCEA Negotiated Agreement, applies only to PGCEA Unit I members is a narrow, self-serving reading that ignores the broader labor relations context within the PGCPS system.

Nguyen maintains she presented a non-frivolous, evidence-supported grievance that she performed the work of two adults for 828.75 hours, and that her assertion that such circumstances fall within Article 6.2(E)(3) of the Negotiated Agreement is a plausible, good-faith reading of the contract that warranted genuine evaluation, not summary dismissal, by the Union. In sum, Nguyen argues the Union breached its duty of fair representation when it processed her grievance in a perfunctory manner without adequate investigation, applied its contractual interpretation in a way that lacks reasoned basis when applied to state regulation, refused to pursue her non-frivolous, evidence-supported grievance, and directed her back to PGCPS administration and HR without offering additional relief.

Respondent

PGCEA primarily argues that the assertions advanced by Nguyen do not concern any alleged failure by the Union to pursue a valid grievance on her behalf and thus do not implicate the duty of fair representation. PGCEA claims the cited provision of the Negotiated Agreement at issue here applies only in circumstances where another teacher or Unit I member is absent and therefore does not extend to situations involving the absence of a paraprofessional, who is not a member of the same bargaining unit as certificated teachers.

In support of its argument, the Union cites to a recent PERB matter, *Crawford v. PGCEA*, where the PERB stated that "a union's duty of fair representation applies only to matters within its exclusive authority under a collective bargaining agreement." Crawford v. PGCEA, PERB ULP

2025-12 (2025). Given that the issues Nguyen raised pertain to alleged violations of Maryland law and/or regulatory provisions, they are outside the purview of any collective bargaining agreement, and, according to the Union, "[o]ne would assume that any appeal to contest the application of state laws or regulations would arise under the state law or regulation at issue. Therefore, any appeal would be statutory and not based on the collective bargaining agreement."

Given that Nguyen has failed to show that PGCEA negotiated any contractual language granting it exclusive authority over circumstances in which PGCPS fails to provide a paraprofessional, the Union argues that its duty of fair representation has not been implicated or breached. Accordingly, PGCEA argues that Nguyen's charge lacks merit and must be dismissed.

Analysis

PGCEA is a certified exclusive representative subject to the Public Employee Relations Act (PERA), pursuant to Md. Code, State Gov't § 22-101(e). Nguyen is a public employee subject to PERA, pursuant to Md. Code, State Gov't § 22-101(h) and Md. Code, Education § 6-401(e)(1).

PERA provides that employee organizations and their representatives are prohibited from engaging in any unfair labor practice, including not fairly representing employees in collective bargaining or in any other matter in which the employee organization has the duty of fair representation. Md. Code, State Gov't § 22-206(b)(6). PERB has held that "the duty of fair representation stems from the union's grant of exclusive authority to negotiate and administer collective bargaining agreements covering bargaining unit employees…[and] attaches only in matters over which the union exercises this exclusive grant of authority." Hinton v. Frederick County Teachers' Assoc., PERB ULP 2025-20 (2025) (quoting McConnell v. AFSCME, Local 1693, PSLRB Case No. DV 2013-07 (2013)).

In expanding upon the above, the PERB has recently reaffirmed this principle by positively citing a previous PSLRB case, stating that "the duty of fair representation stems from a union's exclusive authority to negotiate and administer the collective bargaining agreement and attaches only to matters in which the union exercises exclusive grant of authority. [The PSLRB] has further explained that the duty does not apply to statutory appeals because the union does not act as an employee's exclusive representative in such appeals, and an employee may even elect to be represented by private counsel." Crawford, *supra*. In *Crawford*, as the union had not negotiated any contractual provision granting it exclusive authority over the matter at issue, which was instead governed by state law, the PERB held that the duty of fair representation did not apply. *Id*.

Regarding the duty itself, the Supreme Court of the United States has held that a union breaches its duty of fair representation only if its actions are either arbitrary, discriminatory, or in bad faith. Vaca v. Sipes, 386 U.S. 171 (1967). The Supreme Court has also held a union's actions are in bad faith only if the complainant presents "substantial evidence of fraud, deceitful action or dishonest conduct by the union." Humphrey v. Moore, 375 U.S. 335 (1964). Further, for matters which involve individual bargaining unit representatives, unions have wide discretion in settling such matters, so long as the union acts in good faith. Hinton, *supra* (citing Offut v. Montogmery County Education Association, 285 Md.557 (1979)). In regards to the duty of fair representation owed by unions to constituents, the Supreme Court stated "we are not ready to find a breach of the collective bargaining agent's duty of fair representation in taking a good faith position contrary to that of some individuals whom it represents…" Humphrey, *supra* at 349.

In considering the "arbitrary" prong of the duty of fair representation analysis, the U.S. Supreme Court has held that the duty is not breached even if the Union's decision is "ultimately wrong." Marquez v. Screen Actors, 525 U.S. 33, 46 (1998). Specifically, the Court stated that under the arbitrary prong, "a union's actions breach the duty of fair representation 'only if [the union's conduct] can be fairly characterized as so far outside a 'wide range of reasonableness' that it is wholly 'irrational' or 'arbitrary.' This 'wide range of reasonableness' gives the union room to make discretionary decisions and choices, even if those judgments are ultimately wrong.'" *Id.* (*quoting* Ford Motor Co. v. Huffman, 345 U.S. 330 (1953) (internal citations omitted)). Continuing, the Court stated that a union's conduct can be classified as arbitrary "only when it is irrational, when it is without a rational basis or explanation." *Id*. (*citing* Air Line Pilots v. O'Neill, 499 U.S. 65 (1991) (internal citations omitted)). Additionally, Maryland Courts have held that although a union may refuse to process a grievance or handle the grievance in a particular manner, "it may not do so without reason, merely at the whim of someone exercising union authority." Neal v. Potomac Edison Co., 48 Md. App. 353, 358 (1981).

As it relates to the grievance process, specifically, the U.S. Supreme Court has held that while it "accept[s] the proposition that a union may not arbitrarily ignore a meritorious grievance or process it in a perfunctory fashion, we do not agree that the individual employee has an absolute right to have his grievance taken to arbitration regardless of the provisions of the applicable collective bargaining agreement." Vaca v. Sipes, *supra*. The Court has since reaffirmed this principle, stating that "union discretion is essential to the proper functioning of the collective bargaining system." Electrical Workers v. Foust, 442 U.S. 42 (1979). This Board has positively reaffirmed these principles as it relates to contract administration as well, making reference to a Fourth Circuit Court of Appeals case which stated that "[t]he duty to avoid arbitrary conduct does not require a union to take every employee grievance to arbitration, and it has considerable discretion in sifting out grievances which it regards as lacking merit." Fox, et al. v. Montgomery County Education Association, et al., PERB ULP 2025-04 thru -17 (2025) (citing Buchanan v. NLRB, 597 F.2d 388 (4th Cir. 1979)). The Fourth Circuit went on to say "[t]hat a grievance was meritorious or the union was negligent in not taking the grievance to arbitration does not, Per se, constitute a showing that the union engaged in arbitrary conduct." Buchanan v. NLRB, *supra*.

As stated above, the referenced Maryland State Regulations provide that local school systems shall, in regards to Pre-K programs, "…maintain an average staff to student ratio of 1:10 with an average of 20 students per classroom." COMAR 13A.06.02.05(A)(8). These regulations further state that school systems shall provide staffing for "each session of prekindergarten to include a teacher…and a para-professional…or a [child development associate]." COMAR 13A.06.02.05(A)(6). The Negotiated Agreement defines a Unit I member as "[a]ll 10, 11, and 12 month certificated professional employees of the Board of Education of Prince George's County…" Article 6.2(E)(3) of the Negotiated Agreement provides the following:

> "When a Unit I Member assigned to a co-taught class is absent and no substitute teacher is available the remaining co-teacher shall be compensated in addition to their regular par at the hourly rate of thirty-four ($34.00) per each student instruction hour in no less than half hour increments."

Here, probable cause does not exist that PGCEA breached its duty of fair representation owed to Nguyen because its duty was not implicated for this matter, given that the situation brought to its attention by Nguyen concerned an alleged breach of Maryland State Regulations, rather than

a provision arising under the Negotiated Agreement. PGCEA informed Nguyen as much and explained why, in its view, the Negotiated Agreement was not implicated as paraprofessionals were not within its bargaining unit and the relevant contractual provision only entitled a teacher to compensation if a fellow Unit I member was absent. Given these facts, and the fact that alleged breaches of state or federal education requirements are investigated by the MSDE, we find that the complained of conduct falls outside the purview of the parties Negotiated Agreement and, accordingly, the duty of fair representation does not apply.

Relating to Nguyen's allegation that the Union inadequately investigated her complaint, insufficient evidence has been produced to establish a breach of the duty of fair representation as the Union has not acted arbitrarily, discriminatorily, or in bad faith. Rather, the Union responded to Nguyen's complaints, investigated the matter internally, and explained to Nguyen why it did not believe a breach of the Negotiated Agreement had occurred. Courts have consistently given unions wide latitude in determining what grievances to pursue, assuming that such a determination is made free from arbitrariness, discrimination, or bad faith. There is no showing here that the Union acted in such a way or otherwise acted in a way so outside the range of reasonableness to be considered irrational. Accordingly, we find probable cause does not exist that PGCEA breached its duty of fair representation owed to Nguyen in its investigation of her complaint.

Given the above, we find that Nguyen's charge must be dismissed as insufficient evidence exists to establish that PGCEA committed an unfair labor practice by breaching its duty of fair representation in accordance with Md. Code, State Gov't § 22-206(b)(6) or otherwise violated a separate provision of PERA. As the complained of conduct falls outside the purview of the Negotiated Agreement, the Union's duty of fair representation has not been implicated. Relating to its investigation of Nguyen's complaint, the Union did not breach its duty of fair representation as it did not act arbitrarily, discriminatorily, or in bad faith. Accordingly, Nguyen's charge is dismissed.

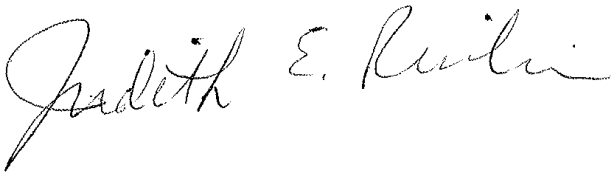
Order

IT IS HEREBY ORDERED THAT THE CHARGE IN PERB ULP 2026-47 IS DISMISSED.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD:

Lafe E. Solomon, Chair

Harriet E. Cooperman, Member



Judith E. Rivlin, Member

Jennifer Epps, Member

Annapolis, MD

Issue Date: July 1, 2026

Appeal Rights

Any party aggrieved by this action of the Board may seek judicial review in accordance with Title 10 of the State Government Article, Annotated Code of Maryland, Section 10-222, and Maryland Rules, 7-201 et. seq.