Maryland Public Employee Relations Board

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Wes Moore,
Governor

Membership

Lafe E. Solomon, *Chair*
Harriet E. Cooperman
Judith E. Rivlin
Jennifer Epps

In the Matter of:	*	
AFSCME, Maryland Council 3,	*	
Charging Party,	*	**PERB ULP 2026-21**
v.	*	
Maryland Department of Budget & Management,	*	
	*	
Respondent		

Decision & Order

I. Procedural History

On December 23, 2025, AFSCME Maryland Council 3 ("AFSCME" or "the Union") filed an unfair labor practice charge with the Public Employee Relations Board ("PERB" or "the Board") against the Maryland Department of Budget and Management ("DBM" or "the Employer").

AFSCME alleged that DBM violated the Public Employee Relations Act ("PERA"), Md. Code, State Gov't §§ 22-101 et seq., by making a unilateral change to the terms and conditions of employment of bargaining-unit employees concerning shift differential pay.

Specifically, AFSCME alleged that DBM changed the eligibility criteria for shift differential pay by limiting payment to employees in classifications designated as eligible for that pay, rather than paying shift differential to any bargaining-unit employee who worked a qualifying shift under the parties' Memorandum of Understanding ("MOU"). AFSCME argued that this conduct constituted a refusal to bargain in good faith in violation of Md. Code, State Gov't § 22-206(a)(8).

DBM submitted its response to the charge on January 9, 2026. DBM denied that it had made any unilateral change. DBM asserted that, consistent with longstanding law, regulation, and practice, shift differential pay has been available only to employees in positions or classifications designated as eligible by the appropriate appointing authority or agency.

Following investigation, the Deputy Director issued a Report and Recommendation concluding that probable cause existed to believe that DBM had made a unilateral change to a mandatory subject of bargaining. On March 18, 2026, the Board issued a complaint alleging that DBM made a unilateral change to a mandatory subject of bargaining relating to shift differential pay. The complaint stated that the alleged conduct could lead the Board to find that DBM committed the unfair labor practice of refusing to bargain in good faith under Md. Code, State Gov't § 22-206(a)(8).

On May 11, 2026, AFSCME filed a Motion for Summary Decision. That same day, DBM filed its Motion for Summary Decision.

On June 1, 2026, AFSCME filed its response in further support of its motion and in opposition to DBM's motion. That same day, DBM filed its response in opposition to AFSCME's motion.

The Board now considers the parties' cross-motions for summary decision. For the reasons set forth below, the Board concludes that AFSCME's charge is untimely under Md. Code, State Gov't § 22-307(b). Accordingly, the Board withdraws the complaint and dismisses the charge.

II. Factual Background and Positions of the Parties

AFSCME is the exclusive representative for certain State employees in bargaining units A, B, C, D, F, and H. AFSCME and the State are parties to a Memorandum of Understanding effective January 1, 2024, through December 31, 2026. The MOU contains a provision addressing shift differential pay, which provides that the Employer shall pay shift differential to an employee who works a qualifying shift. A qualifying shift is defined as a full-time or permanent part-time shift that starts at or after 2:00 p.m. and at or before 1:00 a.m.

AFSCME alleges that DBM unilaterally changed the terms and conditions of employment by limiting shift differential pay to employees in classifications designated as eligible for that pay. AFSCME contends that, before DBM's December 2025 communications, the MOU and the parties' practice required shift differential pay for any bargaining-unit employee who worked a qualifying shift, regardless of classification.

DBM denies that it made any unilateral change. DBM asserts that State law, regulation, and longstanding practice have required employees to be in positions or job profiles designated as shift eligible by the appointing authority or agency in order to receive shift differential pay.

The dispute arose after Correctional Case Managers and Correctional Case Management Specialists employed by the Department of Public Safety and Correctional Services alleged that they worked voluntary overtime shifts performing Correctional Officer duties during hours that qualified for shift differential pay, but did not receive the differential. The lead grievance was filed on August 28, 2024, through the employee's union representative.

The grievances were consolidated and referred to the Office of Administrative Hearings. On August 19 and 20, 2025, Administrative Law Judge Michael R. Osborn conducted a hearing. AFSCME representatives participated in that proceeding. At the conclusion of the grievants' presentation of evidence, DPSCS moved for judgment.

In support of its Motion for Judgment, DPSCS argued that the grievants had not shown that an appointing authority had designated them as eligible for shift differential pay. The grievants argued that the MOU entitled employees to shift differential pay when they worked qualifying shifts and did not require a separate designation of eligibility.

On September 5, 2025, the ALJ granted DPSCS's Motion for Judgment and dismissed the consolidated grievances. The ALJ concluded that the grievants failed to establish that they had been designated by an appointing authority as eligible for shift differential pay.

After the OAH decision, AFSCME raised the shift differential issue with DBM. On December 11, 2025, DBM advised AFSCME that it would follow the OAH decision and would pay shift differential only to employees in classifications designated by an agency as eligible. On December 16, 2025, DBM provided AFSCME with a list of classifications recorded in Workday as eligible for shift differential pay.

AFSCME filed this unfair labor practice charge on December 23, 2025.

III. Analysis

A. Law

Section 22-307(b) of the State Government Article provides that a claim of an unfair labor practice must be submitted to the Board within six months after the unfair labor practice occurred. The statute establishes a limitations period for unfair labor practice charges and requires dismissal where the charge is filed outside that period.

The Board applies that limitations period by identifying when the alleged unfair labor practice occurred. Where the charge challenges an alleged unilateral change, the relevant date is not necessarily the date on which the charging party later receives additional confirmation, detail, or consequences of the alleged change. Rather, the limitations period begins when the charging party knew or reasonably should have known of the conduct alleged to violate PERA. COMAR 14.30.09C.

A public employer commits an unfair labor practice if it refuses to bargain in good faith with the exclusive representative. Md. Code, State Gov't § 22-206(a)(8). AFSCME's theory is that DBM refused to bargain in good faith by unilaterally changing the terms and conditions of employment concerning shift differential pay. Specifically, AFSCME alleges that DBM changed the practice governing shift differential eligibility by limiting payment to employees in classifications designated as eligible for that pay.

B. Timeliness

In its cross-motion for summary decision, DBM raises, for the first time, that the unfair labor practice charge filed by AFSCME on December 23, 2025, was untimely, as AFSCME knew of the designation requirement more than 6 months before the filing of the charge. As Md. Code, State Gov't Section 22-307(b) requires that a claim of an unfair labor practice must be submitted to the Board within 6 months after the unfair labor practice occurred, the Board must first determine when AFSCME knew or reasonably should have known that DBM and/or its agencies was applying the designation-based eligibility requirement that AFSCME now challenges as an unlawful unilateral change.

C. Application to Facts

AFSCME filed this unfair labor practice charge on December 23, 2025. To be timely under Md. Code, State Gov't § 22-307(b), the alleged unfair labor practice must have occurred within six months before that date, unless the record establishes a later date on which AFSCME reasonably discovered the alleged violation.

AFSCME identifies DBM's December 2025 communications as the operative unilateral change. AFSCME alleges that, on December 11, 2025, DBM announced that it would follow the OAH decision and pay shift differential only to employees in classifications designated by an agency as eligible, and that, on December 16, 2025, DBM provided a list of classifications recorded in Workday as eligible for shift differential pay.

The Board does not agree that the December 2025 communications first triggered the limitations period. Those communications did not first place AFSCME on notice that the State was applying shift differential eligibility based on whether an employee's position or classification had been designated as eligible by the appointing authority or agency. The record establishes that AFSCME was already aware of that application before December 2025.

The ALJ Ruling on DPSCS's Motion for Judgment is particularly significant. In that grievance proceeding, AFSCME represented employees who alleged that they had worked voluntary overtime shifts performing Correctional Officer duties during hours that qualified for shift differential pay, but had not received the differential. The lead grievance was filed on August 28, 2024, and the grievants sought shift differential for hours worked beginning March 1, 2024.

The ALJ Ruling shows that the dispute was not merely whether the grievants worked during the qualifying-shift hours. DPSCS moved for judgment on the ground that the grievants had not presented evidence that an appointing authority had designated them as eligible for shift differential pay. AFSCME opposed that position by arguing that the MOU entitled employees to shift differential pay when they worked qualifying shifts and did not require a separate designation.

The ALJ accepted DPSCS's designation-based argument. The ALJ read the MOU together with State Personnel and Pensions Article and concluded that the MOU could not be read without the statutory and regulatory requirement that the employee be in a position designated as eligible for shift differential pay. The ALJ granted judgment because the grievants failed to establish that they had been designated by an appointing authority as eligible for that pay.

That ruling confirms that, at least by the OAH proceeding, AFSCME was aware that the State was applying shift differential eligibility through the designation of eligible positions or classifications. AFSCME participated in the OAH proceeding, opposed DPSCS's designation-based position, and then petitioned for judicial review after the ALJ dismissed the grievances. The same designation-based application that AFSCME challenged in the grievance proceeding is the basis for AFSCME's unfair labor practice charge here.

The record also establishes that AFSCME's awareness predated the OAH hearing and decision. In December 2024, AFSCME received Step 2 grievance decisions from DPSCS stating that the grievants were not employed in positions designated as shift differential pay eligible positions and were not eligible to receive shift differential pay for qualifying overtime shifts worked as Correctional Officers. Those decisions further stated that a formal request would be required to designate Correctional Case Managers and Correctional Case Management Specialists as shift eligible when performing custody duties, and that such a request would have to come from DPSCS to DBM.

Those December 2024 grievance decisions are dispositive for timeliness. By that point, AFSCME knew or reasonably should have known that the State was denying shift differential pay based on the absence of a designation and that the State viewed agency designation as a prerequisite to payment. AFSCME's unfair labor practice charge challenges that same designation-based application of shift differential eligibility.

AFSCME's December 2025 request for a list of shift-differential-eligible classifications, and DBM's response to that request, did not create a new unfair labor practice for limitations purposes. The list may have provided AFSCME with additional information about which classifications were recorded in Workday as eligible, but it did not first reveal the practice that AFSCME challenges. AFSCME already knew that the State was applying a designation-based eligibility requirement to shift differential pay.

Nor does AFSCME avoid the limitations period by characterizing DBM's December 2025 statement as an announcement that DBM would "follow the OAH decision." That statement confirmed DBM's position following the grievance ruling. It did not reset the six-month limitations period where AFSCME had already been placed on notice, through the grievance denials and the OAH proceeding, that the State applied shift differential eligibility based on agency designation.

Because AFSCME filed the charge on December 23, 2025, the six-month limitations period reaches back only to June 23, 2025. AFSCME was aware of the challenged designation-based application no later than December 2024, when it received the Step 2 grievance decisions denying shift differential pay on designation-based grounds. That date is outside the six-month limitations period.

Accordingly, the Board concludes that the alleged unfair labor practice occurred more than six months before AFSCME filed its charge with the Board. Although the complaint was issued after the initial investigation, the issue of timeliness was not raised during that investigation, and the Board did not learn of the related OAH proceeding until the parties filed their motions for summary decision. On the record now before it, the Board concludes that AFSCME's charge is untimely. The complaint is therefore withdrawn, and the charge is dismissed.

IV. Conclusions of Law

1. The Public Employee Relations Board has jurisdiction over unfair labor practice charges filed under the Public Employee Relations Act, Md. Code, State Gov't §§ 22-101 et seq.
2. Under Md. Code, State Gov't § 22-307(b), a claim of an unfair labor practice must be submitted to the Board within six months after the unfair labor practice occurred.
3. The six-month limitations period in Md. Code, State Gov't § 22-307(b) begins to run when the charging party knew or reasonably should have known of the conduct alleged to constitute the unfair labor practice.
4. AFSCME's unfair labor practice charge was not submitted within the limitations period required by Md. Code, State Gov't § 22-307(b).
5. Because the charge is untimely, the complaint must be withdrawn and the charge dismissed.

V. Order

For the reasons set forth above, the Board concludes that AFSCME's unfair labor practice charge is untimely under Md. Code, State Gov't § 22-307(b).

Accordingly, it is this **16th** day of **July, 2026**, by the Public Employee Relations Board, hereby:

ORDERED that the Complaint issued in PERB ULP Case No. 2026-21 is WITHDRAWN; and it is further

ORDERED that the unfair labor practice charge filed by AFSCME Maryland Council 3 in PERB ULP Case No. 2026-21 is DISMISSED.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Lafe E. Solomon

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Lafe E. Solomon, Chair

Harriet E. Cooperman

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Harriet E. Cooperman, Member

Judith E. Rivlin

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Judith E. Rivlin, Member

Jennifer Epps, Member

ISSUE DATE: July 16, 2026

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, § 10-222 (Administrative Procedure Act—Contested Cases) and Maryland Rules, Title 7, Chapter 200 (Judicial Review of Administrative Agency Decisions).