

**STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION**

In the Matter of:

DETROIT PUBLIC SCHOOLS,  
Public Employer-Respondent,

Case No. C07 J-236

-and-

JOANN BARNES,  
An Individual-Charging Party.

APPEARANCES:

Joann Barnes, *In Propria Persona*

**DECISION AND ORDER**

On November 20, 2007, Administrative Law Judge Julia C. Stern issued her Decision and Recommended Order in the above matter finding that Respondent has not engaged in and was not engaging in certain unfair labor practices, and recommending that the Commission dismiss the charges and complaint as being without merit.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties.

**ORDER**

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Christine A. Derdarian, Commission Chair

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Nino E. Green, Commission Member

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Eugene Lumberg, Commission Member

Dated: \_\_\_\_\_

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Joann Barnes, in propria persona

DECISION AND RECOMMENDED ORDER  
OF ADMINISTRATIVE LAW JUDGE ON SUMMARY DISPOSITION

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, this case was assigned to Julia C. Stern, Administrative Law Judge for the Michigan Employment Relations Commission.

On October 19, 2007, Joann Barnes filed an unfair labor practice charge against her employer, the Detroit Public Schools. On October 29, 2007, Barnes was ordered, pursuant to Rules 165(1), (2) (d) and (3) of the Commission's General Rules, 2002 AACCS, R 423.165, to show cause why her charge should not be dismissed for failure to state a claim upon which relief could be granted under PERA. On November 15, 2007, Barnes filed a response to this order.

The Unfair Labor Practice Charge:

Barnes is employed by Respondent as a school secretary. In her charge, Barnes asserts that between August 2005 and August 2006, the principal of the elementary school to which she was assigned as payroll clerk added relatives who were not employed by the school district to the school payroll. According to Barnes, after she accused the principal of padding the payroll and refused to sign false payroll sheets, she was transferred from her payroll clerk assignment. Barnes asserts that sometime in 2007, in retaliation for her complaints, the principal began bullying her. According to Barnes, the bullying included locking her out of the bathroom, changing her job assignments and moving her work area, accusing her of untrustworthiness in front of her co-workers, and withholding her salary. Barnes asserts that in August 2007, she filed internal charges against the principal with Respondent's human relations department. These charges were still being investigated when Barnes filed this unfair labor practice charge, although Barnes had been told by a Respondent investigator that the principal had been cleared of padding the payroll.

Discussion and Conclusions of Law:

Section 9 of PERA protects the rights of public employees to form, join, or assist labor organizations and to negotiate or bargain with their public employers through representatives of their own free choice. It also protects the rights of public employees to engage in lawful concerted activities for mutual aid or protection. Section 10 of PERA prohibits an employer from interfering with the Section 9 rights of its employees and from discharging or otherwise discriminating against employees because of their union activities or other concerted activities. However, PERA does not prohibit all types of discrimination or unfair treatment, and the Commission's jurisdiction is limited to determining whether the employer engaged in conduct that violated PERA. Absent an allegation that the employer interfered with, restrained, coerced, restrained or retaliated against the employee for engaging in *union or other protected activities*, the Commission has no jurisdiction to make a judgment on the fairness of the employer's actions. See, e.g., *City of Detroit (Fire Dep't)*, 1988 MERC Lab Op 561, 563-564; *Detroit Bd of Ed*, 1987 MERC Lab Op 523, 524. The Michigan Whistleblower's Protection Act, MCL15.561 *et seq*, prohibits an employer from discriminating against an employee "because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false." The Commission, however, has no jurisdiction to enforce this statute, which requires employees seeking relief to file a civil action. The Commission also has no authority to enforce the Michigan Payment of Wages and Fringe Benefits Act. MCL 480.4711

Barnes does not allege that Respondent has discriminated against her because of her union activities or because she engaged in any other activity protected by Section 9 of PERA. I conclude that her charge does not state a claim upon which relief could be granted under PERA. Accordingly, I recommend that the Commission issue the order set forth below.

RECOMMENDED ORDER

The unfair labor practice charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Julia C. Stern  
Administrative Law Judge

Dated: \_\_\_\_\_

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<sup>1</sup> This statute is administered by the Wage and Hour Division of the Michigan Department of Labor and Economic Growth.