

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

In the Matter of:

OTTAWA AREA INTERMEDIATE SCHOOL DISTRICT,
Public Employer-Respondent,

Case No. C09 G-132

-and-

PATRICIA MEYER,
An Individual-Charging Party.

APPEARANCES:

Patricia Meyer, *In Propria Persona*

DECISION AND ORDER

On October 9, 2009, Administrative Law Judge Julia C. Stern issued her Decision and Recommended Order in the above matter finding that Respondent did not violate Section 10 of the Public Employment Relations Act, 1965 PA 379, as amended, and recommending that the Commission dismiss the charges and complaint.

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

Christine A. Derdarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

OTTAWA AREA INTERMEDIATE SCHOOL DISTRICT,
Public Employer-Respondent,

Case No. C09 G-132

-and-

PATRICIA MEYER,
An Individual-Charging Party.

APPEARANCES:

Patricia Meyer, appearing on her own behalf

**DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE
SUMMARY DISPOSITION**

On July 16, 2009, Patricia Meyer, who describes herself as a taxpayer advocate, filed the above charge with the Michigan Employment Relations Commission against the Ottawa Area Intermediate School District alleging that the Respondent violated Section 10 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210. Six employees or ex-employees of Respondent also filed charges against Respondent on this same date. The employees filing charges and the case numbers assigned to these charges are as follows: Phil Breuker (Case No. C09 G-131); Thomas K. Jekel (Case No. C09 G-133); Sandra Ratledge (Case No. C09 G-134); Guy Flom (Case No. C09 G-135); Barbara Schepel (Case No. C09 G-136); and Steven Osburn (Case No. C09 G-137). On September 28, 2009, an eighth charge against Respondent, Case No. C09 I-170, was filed by Diane Butler, a cosmetology instructor. These charges and the charge filed by Meyer were consolidated and assigned to Julia C. Stern, administrative law for the State Office of Administrative Hearings and Rules.

Meyer asserts that in March 2009, she learned that Respondent planned to change the curriculum at its Careerline Tech Center (CTC) and eliminate certain programs. On March 24, she attended a meeting held by Respondent to explain these changes. Although Meyer was led to believe that no immediate changes were planned, on April 1, 2009, she learned that programs were to be eliminated and employees laid off at the end of the 2008-2009 school year. On April 2, Meyer and another nonemployee, Kimon Kotos, visited the CTC with the intention of speaking to its director, Dale Henderson, about the planned changes. Henderson was not available. Before being told to leave the building, Meyer and Kotos taped remarks made by one CTC staff member, Sandra Ratledge, about the proposed changes. They also attempted to speak to other staff members about the changes. According to Meyer, she learned later that some

employees had been put on administrative leave because they spoke to her or because they allegedly encouraged other employees to do so. After April 2, Meyer continued to communicate her concerns about the changes in programs at the CTC and their effect on employees at the CTC by sponsoring public meetings and writing letters to newspapers and citizens with an interest in the issue. Meyer asserts that since April 2, 2009, Respondent representatives have attacked her integrity and spread untruths about her to members of the community.

On September 8, 2009, I issued orders to Meyer, Breuker, Jekel, Ratledge, Flom, Schepel and Osburn directing them to show cause why their charges should not be dismissed without a hearing for failure to allege violations of PERA. In Meyer's case, I noted that she was not Respondent's employee and had not alleged that Respondent had violated her rights as an employee under PERA.

On September 28, 2009, Meyer, along with Breuker, Ratledge, Flom, Schepel and Osburn filed responses to my orders. Jekel did not file a timely response. As my order specifically stated that if he did not respond to the order I would assume he no longer wished to proceed with his charge, Jekel's charge has been administratively closed.

Section 9 of PERA, MCL 423.209 reads as follows:

It shall be lawful for *public employees* to organize together or to form, join or assist in labor organizations, *to engage in lawful concerted activities* for the purpose of collective negotiation or bargaining *or other mutual aid and protection*, or to negotiate or bargain collectively with the public employer through representatives of their own free choice. [Emphasis added]

Section 16 of PERA, MCL 423.210, states that "violations of the provisions of Section 10 [of PERA] shall be deemed to be unfair labor practices." Unfair labor practices by public employers are set out in Section 10(1), which reads as follows:

It shall be unlawful for a public employer or an officer or agent of a public employer (a) to interfere with, restrain or coerce *public employees* in the exercise of their rights guaranteed in section 9; (b) to initiate, create, dominate, contribute to, or interfere with the formation or administration of any labor organization: Provided, That a public employer shall not be prohibited from permitting employees to confer with it during working hours without loss of time or pay; (c) to discriminate in regard to hire, terms or other conditions of employment in order to encourage or discourage membership in a labor organization: Provided further, That nothing in this act or in any law of this state shall preclude a public employer from making an agreement with an exclusive bargaining representative as defined in section 11 to require as a condition of employment that all employees in the bargaining unit pay to the exclusive bargaining representative a service fee equivalent to the amount of dues uniformly required of members of the exclusive bargaining representative; (d) to discriminate against a *public employee* because he has given testimony or instituted proceedings under this act; or (e) to refuse to

bargain collectively with the representatives of its *public employees*, subject to the provisions of section 11. [Emphasis added]

Section 10(1) (a) makes it unlawful for a public employer to discipline or otherwise discriminate against its employees because two or more of them, acting together, protest changes in their working conditions. In this case, Osburn, Flom, and Schepel are currently employees of Respondent. Ratledge was an employee of Respondent until her position was eliminated, allegedly for discriminatory reasons, on July 1, 2009. Breuker retired at the end of the 2009-2009 school year when his position was reduced to half-time; he alleges that he then applied for the half-time position but was not hired for discriminatory reasons. All five of these employees assert that after February 2009 they either publicly complained about Respondent's decision to alter the CTC's curriculum and eliminate jobs or were perceived by Respondent as being part of a group of employees allied with Meyer to oppose these changes. All five assert that they were disciplined and, in some cases, otherwise discriminated against because of their activities or Respondent's perception of their activities. Since the charges filed by these employees allege that they were discriminated against because of their concerted protected activities in violation of Section 10(1) (a), summary disposition of their claims is not appropriate. However, Meyer's claim that Respondent's representatives damaged her reputation by spreading untruths about her to members of her community does not state a claim upon which relief can be granted under PERA. I recommend, therefore, that the Commission issue the following order with respect to her charge.

RECOMMENDED ORDER

The charge in Case No. C09 G-132 is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Julia C. Stern
Administrative Law Judge
State Office of Administrative Hearings and Rules

Dated: _____