

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

In the Matter of:

LANSING SCHOOLS EDUCATION ASSOCIATION,  
Labor Organization-Respondent

Case No. CU11 B-006

-and-

MARY P. COBB,  
An Individual-Charging Party.

APPEARANCES:

Mary P. Cobb, *In Propria Persona*

**DECISION AND ORDER**

On June 2, 2011, Administrative Law Judge David M. Peltz issued his 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

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Edward D. Callaghan, Commission Chair

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Nino E. Green, Commission Member

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Christine A. Derdarian, Commission Member

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

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

Case No. CU11 B-006

LANSING SCHOOLS EDUCATION ASSOCIATION,  
Labor Organization-Respondent,

-and-

MARY P. COBB,  
An Individual Charging Party.

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APPEARANCES:

Mary P. Cobb, appearing on her own behalf

**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 David M. Peltz, Administrative Law Judge (ALJ) of the Michigan Administrative Hearing System, acting on behalf of the Michigan Employment Relations Commission (MERC).

The Unfair Labor Practice Charge and Procedural Background:

Mary P. Cobb is an employee of the Lansing School District and a member of a bargaining unit represented by the Lansing Schools Education Association (“the Union”). On February 23, 2011, Cobb filed an unfair labor practice charge alleging that the Union violated PERA by failing to provide information regarding the status of various grievances which Cobb filed against her employer. According to the charge, Cobb filed the grievances on January 4, 2011 and January 5, 2011.

In an order issued on March 17, 2011, I directed Cobb to show cause why the charge should not be dismissed for failure to state a claim upon which relief can be granted under PERA. Charging Party was cautioned that a timely response to the Order must be filed to avoid dismissal of the charge without a hearing. Charging Party did not file a response to the order

## Discussion and Conclusions of Law:

The failure to respond to an order to show cause may, in itself, warrants dismissal of an unfair labor practice charge. *Detroit Federation of Teachers*, 21 MPER 3 (2008). In any event, I conclude that the charge, as written, fails to raise any issue cognizable under PERA. A union's duty of fair representation is comprised of three distinct responsibilities: (1) to serve the interests of all members without hostility or discrimination toward any; (2) to exercise its discretion in complete good faith and honesty, and (3) to avoid arbitrary conduct. *Vaca v Sipes*, 386 US 171 (1967); *Goolsby v Detroit*, 419 Mich 651 (1984). Within these boundaries, a union has considerable discretion to decide how or whether to proceed with a grievance, and must be permitted to assess each grievance with a view to its individual merit. *Lowe v Hotel Employees*, 389 Mich 123 (1973); *International Alliance of Theatrical Stage Employees, Local 274*, 2001 MERC Lab Op 1. The union's ultimate duty is toward the membership as a whole, rather than solely to any individual. The union is not required to follow the dictates of any individual employee, but rather it may investigate and handle the case in the manner it determines to be best. *Detroit Police Lts and Sgts*, 1993 MERC Lab Op 729.

The Commission has "steadfastly refused to interject itself in judgments" over grievances and other decisions by unions despite frequent challenges by employees who perceive themselves as adversely affected. *City of Flint*, 1996 MERC Lab Op 1, 11. The Union's decision on how to proceed is not unlawful as long as it is not so far outside a wide range of reasonableness as to be irrational. *Air Line Pilots Ass'n v O'Neill*, 499 US 65, 67 (1991); *City of Detroit (Fire Dep't)*, 1997 MERC Lab Op 31, 34-35. To prevail on a claim of unfair representation, a charging party must establish not only a breach of the union's duty of fair representation, but also a breach of the collective bargaining agreement by the employer. *Goolsby v Detroit*, 211 Mich App 214, 223 (1995); *Knoke v East Jackson Public School District*, 201 Mich App 480, 488 (1993).

Despite having been given a full and fair opportunity to do so, Charging Party has failed to set forth any factually supported allegation which, if true, would establish that the Union acted arbitrarily, discriminatorily or in bad faith in connection with this matter. Charging Party has asserted no facts which would establish that the Union failed to properly investigate or handle the grievances pertaining to Cobb, nor is there any contention that the grievances have been denied as a result of the Union's alleged failure to communicate with Charging Party. The Commission has repeatedly held that a lack of communication alone is insufficient to establish a breach of the duty of fair representation. See e.g. *Detroit Ass'n of Educational Office Employees, AFT Local 4168*, 1997 MERC Lab Op 475; *Technical, Professional and Officeworkers Ass'n of Michigan*, 1992 MERC Lab Op 117; *Southfield Schools Employees Ass'n*, 1981 MERC Lab Op 710. Accordingly, I conclude that the charge must be dismissed for failure to state a claim upon which relief can be granted under PERA.

For the above reasons, I hereby recommend that the Commission issue the following order.

RECOMMENDED ORDER

The unfair labor practice charge is hereby dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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David M. Peltz  
Administrative Law Judge  
Michigan Administrative Hearing System

Dated: June 2, 2011