

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

In the Matter of:

AMERICAN ASSOCIATION OF UNIVERSITY  
PROFESSORS (AAUP),  
Labor Organization - Respondent,

Case No. CU13 C-010  
Docket No. 13-000440-MERC

-and-

DANIEL LORENCE,  
An Individual Charging Party.

APPEARANCES:

Daniel Lorence, *In Propria Persona*

**DECISION AND ORDER**

On May 2, 2013, Administrative Law Judge Julia C. Stern issued a 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

\_\_\_\_\_  
Edward D. Callaghan, Commission Chair

\_\_\_\_\_  
Nino E. Green, Commission Member

\_\_\_\_\_  
Robert S. LaBrant, Commission Member

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

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

In the Matter of:

AMERICAN ASSOCIATION OF UNIVERSITY  
PROFESSORS (AAUP),  
Respondent-Labor Organization,

-and-

Case No.: CU13 C-010  
Docket No.: 13-000440-MERC

DANIEL LORENCE,  
Individual Charging Party.

---

**APPEARANCES:**

Daniel Lorence, Charging Party appearing personally

**DECISION AND RECOMMENDED ORDER  
OF ADMINISTRATIVE LAW JUDGE  
ON SUMMARY JUDGMENT**

Pursuant to the Public Employment Relations Act (PERA), 1965 PA 379, MCL 423.201, *et seq*, as amended, this case was assigned to Doyle O'Connor, Administrative Law Judge (ALJ) of the Michigan Administrative Hearing System, acting on behalf of the Michigan Employment Relations Commission (MERC). The following findings of fact, conclusions of law, and recommended order are based upon the entire record:

**The Unfair Labor Practice Charge:**

On March 21, 2013, a Charge was filed in this matter by Daniel Lorence against the national office of the American Association of University Professors (AAUP) in Washington, DC. The Charge alleges that the AAUP national office refused to provide an unspecified accommodation under the Federal Americans with Disabilities Act (ADA). Such allegations seemingly failed to state a claim under PERA, which is the only statute enforced by this agency. Further, it appeared unlikely that the national office of the AAUP was a labor organization over which this agency has jurisdiction. The allegations in the Charge failed to meet the minimum pleading requirements set forth in R 423.151(2). The allegations in the Charge were supplemented by an attached "Facts" sheet which suggested a possible claim of a breach of the duty of fair representation by the Eastern Michigan University Chapter of the AAUP, which was not named as a party in the Charge, and which regardless related to events well outside the

statute of limitations. Again, the factual claims appeared to arise from an ADA related disability claim over which this agency seemingly lacked jurisdiction and many of the claims fell outside the six-month statute of limitations governing PERA claims.

An order for more definite statement of the claim and to show cause why the matter should not be dismissed for failure to state a claim was issued on April 2, 2013. Charging Party was directed to file a written response by no later than April 23, 2103. The Charging Party was expressly cautioned that to avoid dismissal of the Charge, the written response to this Order must assert facts that establish a violation of PERA. Charging Party was advised that his response must describe who did what and when they did it, and explain why such actions constitute a violation of PERA. Finally, Charging Party was warned that if the Charge and his response to the Order do not state a valid claim, or if the Charge was not timely filed, or if he did not timely respond to the Order, a decision recommending that the Charge be dismissed without a hearing would be issued. Charging Party did not file a response to the order.

**Discussion and Conclusions of Law:**

Where a charge fails to state a claim under the Act, it is subject to dismissal pursuant to an order to show cause issued under R423.165. The failure to respond to such an order may, in itself, warrant dismissal. *Detroit Federation of Teachers*, 21 MPER 3 (2008). Regardless, PERA does not prohibit all types of discrimination or unfair treatment. Absent a factually supported allegation that the complained of conduct violated PERA, the Commission is foreclosed from making a judgment on the merits or fairness of the actions complained of by Charging Party in this matter. See e.g. *City of Detroit (Fire Department)*, 1988 MERC Lab Op 561, 563-564; *Detroit Board of Education*, 1987 MERC Lab Op 523, 524. Because there is no allegation in the Charge suggesting that the Respondent Union had in anyway violated PERA, and because no response was filed to the order to show cause, the charge against the Respondent Union must be dismissed as it fails to state a claim upon which relief can be granted.

**RECOMMENDED ORDER**

The unfair labor practice charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

---

Doyle O'Connor  
Administrative Law Judge  
Michigan Administrative Hearing System

Dated: May 2, 2013