

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

In the Matter of:

SAGINAW INTERMEDIATE SCHOOL DISTRICT,  
Public Employer-Respondent in Case No. C15 C-040; Docket No. 15-021411-MERC,

-and-

UNITED STEELWORKERS, LOCAL 9521,  
Labor Organization-Respondent in Case No. CU15 C-008; Docket No. 15-021412-MERC,

and-

JAMES ORMSBY,  
An Individual Charging Party.

\_\_\_\_\_ /

**APPEARANCES:**

Masud Labor Law Group, by Joshua J. Leadford, for the Public Employer-Respondent

James Ormsby, appearing on his own behalf

**DECISION AND ORDER**

On July 2, 2015, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order in the above matter finding that Respondents 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

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

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

\_\_\_\_\_  
/s/  
Natalie P. Yaw, Commission Member

Dated: August 25, 2015

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

In the Matter of:

WAYNE STATE UNIVERSITY,  
Public Employer-Respondent,

-and-

Case No. C15 C-037  
Docket No. 15-021096-MERC

INTERNATIONAL UNION, UAW REGION 1,  
Labor Organization-Charging Party.

---

**APPEARANCES:**

John Cunningham, International Representative, for Charging Party

**DECISION AND ORDER**

On June 29, 2015, Administrative Law Judge David M. Peltz (ALJ) issued his Decision and Recommended Order on Summary Disposition in the above matter finding that Charging Party failed to state a claim upon which relief can be granted under the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.201 – 423.217. The ALJ recommended that the Commission dismiss the charge in its entirety. The Decision and Recommended Order was served on the interested parties in accord with § 16 of PERA.

Charging Party's exceptions to the Decision and Recommended Order were due to be filed by July 22, 2015. Charging Party requested and was granted an extension of time for filing until August 6, 2015. On August 6, 2015, Charging Party filed several documents: the Order Extending Time to File Exceptions; the ALJ's Order to Show Cause why the Charge Should not be Dismissed Without a Hearing; a copy of the Charge filed previously with the Commission; and a letter that accompanied the Charge; along with several exhibits. Charging Party did not include exceptions with those documents, and he failed to file a statement of service. The following day, Charging Party filed three copies of a letter, which we will treat as its exceptions, although it did not identify the letter as such. Since Charging Party's "exceptions" were untimely and did not include a statement of service, its filing did not comply with the Commission's General Rules. As explained below, its "exceptions" will not be considered by the Commission.

**Discussion and Conclusions of Law:**

Rule 176(3) of the Commission's General Rules, Mich Admin Code, R 423.176(3), provides that "[e]xceptions and the supporting documents ... shall be filed with the commission ... within 20 days of service of the decision and recommended order." The Order granting Charging Party's

extension of time to file exceptions clearly stated “[a]ll exceptions to the Administrative Law Judge's Decision and Recommended Order must be received at a Commission office by the close of business on August 6, 2015.” It is well established that exceptions that are not received at the Commission’s office by the close of business on the date they were due will not be considered. *City of Detroit (AFSCME Council 25 and Local 542)*, 25 MPER 17 (2011); *Police Officers Association of Michigan*, 18 MPER 14 (2005); *City of Detroit (Fire Department)*, 2001 MERC Lab Op 359.

In addition, Rule 176(2) contains several requirements for the filing of exceptions. These requirements include: filing an original and four copies of the exceptions and brief, two copies of any exhibits, two copies of each party’s post-hearing briefs, any motion that resulted in a ruling by the ALJ dismissing or sustaining the ULP charge in whole or part, any brief in support of the motion, the response to the motion filed, as well as a statement of service. As noted above, Charging Party failed to file a statement of service with its filing. Rule 182(5) provides that the Commission may decline to consider any document or pleading not served in accordance with the rules. Indeed, this Commission has declined to consider timely exceptions filed without a statement of service. *Wayne State University (Kirkland)*, 23 MPER 53 (2010); *Tuscola County Medical Care Facility*, 27 MPER 9 (2013).

Aside from the deficiencies mentioned above, Charging Party failed to set forth specifically the question of procedure, fact, law, or policy to which exceptions are taken nor did it identify the part of the ALJ’s decision and recommended order to which an objection is made or state the grounds for the exceptions or provide a citation of authorities. All of these are requirements set forth in Commission Rule 176(4)(a), (b), & (d). The purpose of this rule is to provide the Commission with a basis for determining the ALJ’s rulings that a party believes were made in error and the reasons supporting such a belief. As provided in Rule 176(7), an exception that fails to comply with the rules may be disregarded. Yet, where a charging party’s timely exceptions fail to comply with the requirements of Rule 176(4), we may nevertheless consider them to the extent we are able to discern the issues on which the charging party has requested our review. *Detroit Transportation Corp.*, 28 MPER 64 (2015). Even if we do so in this case, those exceptions must be dismissed for failure to state a claim under PERA, as explained below.

Based upon the assertion that Respondent “showed no regard for the contract,” Charging Party appears to believe Respondent repudiated the agreement by reclassifying a bargaining unit position following an audit, which resulted in the position being moved to a different local union. However, such a conclusory allegation, without more, fails to establish a violation of PERA. *Detroit Federation of Teachers*, 21 MPER 3 (2008).

We will find an unfair labor practice based on an alleged breach of contract only where the charging party is able to show that the respondent has repudiated the agreement. *University of Michigan*, 1988 MERC Lab Op 204; *City of Detroit*, 22 MPER 11 (2009). Repudiation exists only when: (1) the contract breach is substantial and has a significant impact on the bargaining unit; and (2) no bona fide dispute over interpretation of the contract is involved. *Wayne County*, 29 MPER 1 (2015). Repudiation warranting Commission action can be found only when the actions of a party amount to a rewriting of the contract or a complete disregard for the contract as written. See *Gibraltar Sch Dist*, 16 MPER 36 (2003). Charging Party has failed to allege facts that establish a claim of repudiation. For these reasons, we agree with the ALJ that Charging Party failed to state a claim upon which relief could be granted under PERA.

In summary, Charging Party's exceptions were untimely; Charging Party failed to submit a statement of service; and it has failed to state a cognizable PERA claim. We, therefore, adopt the recommended order of the Administrative Law Judge as our final order and dismiss the charge.

**ORDER**

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

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

---

Edward D. Callaghan, Commission Chair

---

Robert S. LaBrant, Commission Member

---

Natalie P. Yaw, Commission Member

Dated: July 2, 2015