

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

In the Matter of:

DETROIT PUBLIC SCHOOLS,
Respondent-Public Employer in Case No. C02 G-155,

- and -

AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES, LOCAL 345,
Respondent – Labor Organization in Case No. CU02 G-042,

- and –

VERONICA WILLIAMS,
An Individual Charging Party.

APPEARANCES:

Gordon Anderson, Esq., for the Public Employer

Veronica Williams, In Pro Per

DECISION AND ORDER

On January 16, 2003, Administrative Law Judge Roy L. Roulhac issued his Decision and Recommended Order in the above matter finding that Respondents have not engaged in and were 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

Maris Stella Swift, Commission Chair

Harry W. Bishop, Commission Member

C. Barry Ott, Commission Member

Dated:

STATE OF MICHIGAN
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APPEARANCES:

Gordon Anderson, Esq., for the Public Employer

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DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE

This case was heard in Detroit, Michigan on November 14, 2002, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 *et seq.* The proceeding was based upon unfair labor practice charges filed on July 8, 2002, by Veronica Williams, an individual Charging Party, against the Detroit Public Schools, a public employer, and the American Federation of State, County and Municipal Employees, Local 345, a labor organization. The labor organization did not send a representative to the hearing. The postal officials did not return the complaint and notice of hearing that was served upon the labor organization, and no request for a postponement was made. The hearing, therefore, was held in accordance with provisions of Section 72(1) of the Michigan Administrative Procedures Act that provides for a hearing in the absence of a party. Based upon the record, I make the following findings of fact, conclusions of law, and recommended order pursuant to Section 16(b) of PERA.

The Unfair Labor Practice Charges:

Charging Party claims that Respondent Detroit Public Schools violated PERA by failing to make retroactive payments pursuant to a grievance settlement and failed to provide a copy of the written contract to special education aides. At the onset of the hearing, Respondent Detroit Public Schools made a motion for summary disposition. It claimed that the charge failed to state a claim for which relief could be granted under PERA, and moreover, since July 2002, when the charge was filed, Charging Party has been paid. Charging Party did not oppose Respondent Detroit Public School's motion for summary disposition, and the motion was granted.

The only issue to be decided is Charging Party's claim that Local 345 failed to address issues that concerned her rights as a special education aide and never came to her school to properly represent her and four other aides.

Findings of Fact and Conclusions of Law:

Charging Party is employed by Respondent Detroit Public Schools as a school aide and is a member of AFSCME, Local 345. Her responsibilities include assisting special education students and teachers. Charging Party testified that in March or April 2002, she complained to Local 345 that she was being required by school officials to act as a security guard and search students' bags. According to Charging Party, after a Union representative called a school official, she was relieved of her security guard duties and that issue was resolved. Charging Party also claimed that on occasion, when help was needed in the office, she was required by school officials to perform clerical duties. She testified that after she complained to the Union, she was advised to accept the assignments.

I conclude that AFSCME Local 345 did not violate its duty to fairly represent Charging Party. A union's duty of fair representation under PERA consists of three 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, 177 (1967); *Goolsby v Detroit*, 419 Mich 651, 679 (1984). I find that Local 345 did not abuse its discretion by advising Charging Party to accept the school administration's occasional requests to provide clerical assistance. I, therefore, recommend that the Commission issue the order set forth below:

RECOMMENDED ORDER

The unfair labor practice charges filed by Charging Party Veronica Williams against the Detroit Public Schools and the American Federation of State, County and Municipal Employees, Local 345 are dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Roy L. Roulhac
Administrative Law Judge

Dated: _____