STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

GRAND RAPIDS COMMUNITY SCHOOLS,
Public Employer-Respondent,

MERC Case No. C15 D-052
-and- Hearing Docket No. 15-029682

ANDRES SANTIAGO,
An Individual-Charging Party.
_____/

APPEARANCES:

Sharron M. Pitts, Asst. Superintendent of HR and General Counsel, for Respondent

Andres Santiago, appearing on his own behalf

DECISION AND ORDER

On October 29, 2015, Administrative Law Judge (ALJ) Travis Calderwood issued his Decision and Recommended Order on Summary Disposition in the above matter finding that Respondent, Grand Rapids Community Schools (Employer), did not violate § 10 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210. Specifically, the ALJ concluded that Charging Party failed to state a claim upon which relief can be granted under PERA. The ALJ's Decision and Recommended Order on Summary Disposition was served on the interested parties in accordance with § 16 of PERA.

On November 23, 2015, Charging Party filed exceptions to the ALJ's Decision and Recommended Order. Pursuant to Rule 176 of the General Rules of the Michigan Employment Relations Commission, R 423.176, the response to Charging Party's exceptions was due within 10 days after service of the exceptions. Respondent, however, timely requested an extension until December 11, 2015 to file its response to Charging Party's exceptions and, pursuant to Rule 176a, Respondent's request was granted. The order granting the request stated: "IT IS ORDERED that the time for Respondent to file cross exceptions or a brief in support of the Administrative Law Judge's Decision and Recommended Order is hereby extended to Friday, December 11, 2015. The response must be received at a Commission office by the close of business on that date." Pursuant to Rule 181, filing is considered complete on the date the filing is delivered to any office of the Commission. See *City of East Grand Rapids*, 20 MPER 41 (2007).

On December 14, 2015, the Commission received Respondent's cross exceptions in an envelope postmarked December 10, 2015. The Commission will not consider untimely cross exceptions absent a showing of good cause. See *Detroit Police Officers Ass'n (Merriewether)*, 1999 MERC Lab Op 78; 12 MPER 30023; *Frenchtown Charter Township*, 1998 MERC Lab Op 106; 11

MPER 29053. In the present case, Respondent did not show good cause for the untimely filing of its cross exceptions. Consequently, they will not be considered by the Commission.

In his exceptions, Charging Party does not raise any specific exceptions to the ALJ's conclusions. Instead, he expands on his earlier complaints regarding the Employer's decision to terminate his employment. After carefully reviewing Charging Party's exceptions and other pleadings, we find them to be without merit and affirm the ALJ's Decision and Recommended Order dismissing this charge on summary disposition.

Factual Summary:

We adopt the facts set forth in the ALJ's Decision and Recommended Order and will not repeat them here, except where necessary. For the purpose of reviewing the ALJ's conclusions, we accept as true Charging Party's allegations as contained in the record.

Charging Party was hired by Respondent Grand Rapids Public Schools on August 27, 2014, and assigned as a Kindergarten teacher to Respondent's Southwest Community Campus (SCC).

On December 2, 2014, SCC Principal Carmen Fernandez gave Charging Party a letter from the Employer's Director of Human Resources, Micky Savage. The letter notified Charging Party that Respondent's Human Resource Office was conducting an investigation into allegations that he had engaged in certain unprofessional conduct while employed as a teacher at the SCC. Charging Party was also notified that an investigatory meeting would be scheduled regarding this matter at which he had the right to union representation and that he would be placed on paid administrative leave, effective the next day. According to Charging Party, he requested a union representative after he was given the letter on December 2, but was not granted one by Fernandez.

On December 18, 2014, Charging Party was notified, in writing, that the investigatory meeting to which the December 2, 2015 letter referred was scheduled for Monday, January 5, 2015. The December 18 letter provided:

> This meeting is considered an investigatory interview which could lead to discipline up to and including discharge. You have the right to request and arrange for association representation to be present during the meeting. Pursuant to the Master Agreement, we are obligated to tell you that anything you may say may be used against you in relation to your employment. However, you are expected to answer all of our questions fully and honestly.

Charging Party attended the January 5 investigatory meeting and was accompanied by his Union Representative, Michigan Education Association (MEA) Uniserv Director Chad Williams. According to Charging Party, during the January 5, 2015 meeting, the Employer provided him with a document titled "Summary of Allegations of Inappropriate conduct" that set forth the following four incidents:

> September 25, 2014 - the Principal indicated that she witness [sic] you yelling at Kindergartners on two separate occasions. Two (2) older students also reported that

they heard you yell to the point that kids are crying and you are picking them up by their arms and forcing them in the directions that you want them to go.

December 1, 2014 – we have a witness statement that you grabbed a student C aggressively and made him cry.

December 2, 2014 – we have a witness statement reporting that you lost student D. You did not even know that the child was in art class.

December 2, 2014 – we have a witness statement reporting that upon the entering the building from recess you were yelling at a child. You took the child by the coat sleeve/arm and pulled the child toward you while flinging the child's body. When the child attempted to move back toward his locker you grabbed the child again and swung his body toward you again.

After being provided this list, Charging Party left the meeting without responding. Charging Party contends that he did so because he needed to follow up on medical care he had received on January 3, 2015, and because he wanted to review the written allegations with his attorney.

On March 11, 2015, the Respondent notified Charging Party that the District's Board of Education would be presented with charges seeking his dismissal from employment. Respondent further advised Charging Party of his right to submit a written response to the charges and to request a closed session consideration of the charges. Charging Party has not alleged that he submitted a written response to the charges or requested a closed session.

On March 16, 2015, the Board of Education met and passed a resolution terminating Charging Party's contract effective that same day due to his violation of "Board Policy and Rules #8300--Student Discipline (Corporal Punishment) and unprofessional conduct."

On March 20, 2015, Respondent notified Charging Party that a local television network had requested a copy of his personnel file pursuant to the state's Freedom of Information Act. According to Charging Party, Respondent provided the television network with a copy of his personnel file on April 2, 2015.

On April 9, 2015, Charging Party filed the instant unfair labor practice charge against Respondent Grand Rapids Community Schools alleging that he was terminated in violation of his collective bargaining agreement.

On April 14, 2015, Charging Party filed an unfair labor practice charge against his former bargaining representative, the Grand Rapids Education Association, MEA/NEA (Union). In the charge filed against the Union (Case no. CU15 D-012), Charging Party alleges that the Union breached its duty of fair representation in connection with the Employer's actions involved the instant unfair labor practice charge.

On April 24, 2015, the ALJ notified Respondent and the Union that the two cases were consolidated. On May 4, 2015, the Employer filed a Motion for Summary Disposition, in which it

argued that the charge against it failed to state a claim upon which relief could be granted. The ALJ then issued an order, on May 20, 2015, directing Charging Party to file a written response and show cause in writing why his charge against the Employer should not be dismissed without hearing. Charging Party filed a response to the order on June 23, 2015.

Subsequent to this, the ALJ severed the consolidated ULP charges and granted Respondent's Motion for Summary Disposition. The charge against the Union remains pending.

Discussion and Conclusions of Law:

We concur with the ALJ that dismissal is proper because the charge fails to state a cognizable claim under PERA. As the ALJ correctly notes, PERA does not forbid all types of discrimination or unfair treatment by public employers. *City of Detroit*, 23 MPER 71 (2010), *Detroit Pub Sch*, 22 MPER 16 (2009). Instead, it seeks to prohibit an employer's "unfair" actions that interfere with or restrain an employee's right to engage in lawful concerted activities set forth in Section 9. *MERC v Reeths-Puffer Sch Dist*, 391 Mich 253, 259 (1974). Although Charging Party alleges in his exceptions that he was not provided the due process required by Article 13(G) of the collective bargaining agreement (CBA) prior to his termination and that Respondent violated Article 13(I) of the CBA, he does not provide any factually based allegations to establish that any adverse treatment stemmed from his involvement in protected activity. Charging Party's allegations of contract violations, including the release of his personnel file to a local television network, are insufficient grounds for establishing an unfair labor practice charge against a public employer. *Ann Arbor Pub Sch*, 16 MPER 15 (2003). Without a valid PERA claim, this Commission is foreclosed from examining the fairness of Respondent's actions. *Detroit Pub Sch*, supra.

Additionally, Charging Party's claim that he was unlawfully denied union representation during the December 2, 2014 meeting with Principal Carmen Fernandez is insufficient to establish a violation of PERA. It is well-established under both the National Labor Relations Act and PERA that an employee has the right, upon request, to the presence of a union representative at an investigatory interview when the employee reasonably believes that the interview may lead to discipline. *NLRB v Weingarten, Inc*., 420 US 251 (1975). See also *University of Michigan*, 1977 MERC Lab Op 496. In the instant case, however, it is clear that the meeting on December 2 was not convened for the purpose of interrogation or investigation. The principal only met with Charging Party to hand deliver a letter. In contrast, the meeting held on January 5, 2015 was investigatory in nature and was attended by both Charging Party and his union representative. Accordingly, we agree with the ALJ that Charging Party's assertion that Respondent violated his *Weingarten* rights fails to state a claim for which relief can be granted under PERA.

Finally, we have carefully examined the remaining issues raised by Charging Party and find that they would not change the results. Accordingly, we affirm the ALJ's Decision and Recommended Order dismissing this charge on summary disposition.

ORDER

The unfair labor practice charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

/s/
Edward D. Callaghan, Commission Chair

/s/
Robert S. LaBrant, Commission Member

/s/
Natalie P. Yaw, Commission Member

Dated: April 14, 2016

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

GRAND RAPIDS COMMUNITY SCHOOLS,
Respondent-Public Employer in Case No. C15 D-052; Docket No. 15-029682-MERC,

-and-

GRAND RAPIDS EDUCATION ASSOCIATION, MEA/NEA,
Respondent-Labor Organization in Case No. CU15 D-012; Docket No. 15-030221-MERC,

-and-

ANDRES SANTIAGO,
An Individual-Charging Party.
_____/

APPEARANCES:

Sharron M. Pitts, Asst. Superintendent of HR and General Counsel, for the Respondent-Public Employer.

Kalniz, Iorio & Feldstein Co., L.P.A., by Fil Iorio, for the Respondent-Labor Organization.

Andres Santiago, Charging Party appearing for himself.

DECISION AND RECOMMENDED ORDER OF ADMINISTRATIVE LAW JUDGE ON MOTION FOR 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 Administrative Law Judge, Travis Calderwood, of the Michigan Administrative Hearing System, acting on behalf of the Michigan Employment Relations Commission (Commission).

Procedural History:

On April 9, 2015, and April 14, 2015, respectively, Charging Party, Andres Santiago, filed the above captioned unfair labor practices against his former employer, the Grand Rapids Public Schools ("Employer" or the "District") and his bargaining representative, the Grand Rapids Education Association, MEA/NEA ("Association" or "Union").

In the charge filed against the Employer, Santiago alleges the he was terminated in violation of the contract. More specifically, Charging Party claims that the Employer violated two contractual provisions; the first entitled "Complaint About an Employee"; and the second entitled "Staff Reprimand."

In the charge filed against the Association, Santiago alleges that the Association breached its duty of fair representation with respect to the Employer's actions complained of in the aforementioned charge. On April 24, 2015, all parties were notified that the two cases were consolidated and that an evidentiary hearing was scheduled for May, 29, 2015.

On May 4, 2015, the Employer filed a Motion for Summary Disposition, in which it argues that Santiago failed to state a claim upon which relief could be granted under PERA. On May 13, 2015, the Association requested, with the concurrence from the other parties, that the May 29, 2015, hearing be adjourned until sometime after June 2015. That response was granted and the hearing was adjourned to July 10, 2015.

Following my review of the Employer's motion I issued an order on May 20, 2015, directing Charging Party to file a written response and show cause in writing why his charge against the Employer should not be dismissed without hearing; that response was filed on June 23, 2015.

On June 25, 2015, both Respondents joined together to request an adjournment of the July 10, 2015, hearing until sometime after school resumed in the fall. Charging Party agreed to the request and the hearing was adjourned without date.

On October 6, 2015, a pre-hearing telephone conference was held with the parties. Prior to that call, I received a Notice of Appearance by Justin D. English, indicating that he had been retained by Charging Party. During the conference call I informed the parties that I had reviewed both the Employer's motion seeking dismissal as well as Charging Party's response and was prepared to issue a written decision and recommended order granting said motion. After explaining that with the dismissal of the charge against the Employer, the relief available to Charging Party would be limited to a cease and desist order and possible notice posting should he prevail in his charge against the Association, Charging Party's counsel indicated that he would confer with his client and determine whether he would proceed with his remaining charge. Charging Party's counsel agreed to inform my office and both Respondents of his client's decision by October 16, 2015.[1]

On October 19, 2015, I received a "Notice of Withdrawal" from Charging Party's counsel indicating that both English and Charging Party were stipulating to the withdrawal of English and that Charging Party would proceed with all claims.

Because MAHS Rule 792(2), 2015 MR 1, R 792.10107, provides that an attorney, who has entered an appearance on behalf of a party, may withdraw only by order of the administrative law

1 The Union's counsel agreed that if Charging Party chose to proceed with the charge against it, it would file a motion seeking dismissal of the claim by November 6, 2015. However, as set forth in my Order to Show Cause in Case No CU15 D-012, Docket No. 15-030221-MERC, issued this same day, such action by the Union is not needed at this time.

judge, I informed the parties by email on October 20, 2015, that I was treating the Notice of Withdrawal as a request to withdraw, which I would grant.[2]

Claim against the Employer:

As stated above, Charging Party claims he was terminated from his employment in violation of two separate contractual provisions. The first provision allegedly violated by the Employer is identified by Charging Party as Article 13, G, entitled "Complaint About an Employee." That provision states, as alleged by Charging Party in his charge, the following:

> Any complaint directed toward an employee which is to become part of that employee's permanent personnel record and other legitimate complaint shall promptly be called to that employee's attention.

The second contractual provision Charging Party alleges the Employer violated is Article 13, I(2) entitled "Staff Reprimand." The portions of that provision which Charging Party restates in his charge appear to require that the employer, prior to placing the reprimand in an employee's file, provide a copy of the reprimand to the employee, allow the employee the opportunity for a Union representative to hear the reasons for the reprimand, and finally to require the employee to sign the reprimand, indicating only that the employee had the opportunity to read the reprimand.

Respondent-Employer's Motion:

The Employer's motion very simply asserts that Charging Party's allegation against it do not state a valid claim under PERA. The Employer asserts that Charging Party has only alleged possible contractual violations as opposed to alleging that it had interfered with, restrained, and/or coerced him with respect to his right to engage in union or other protected concerted activity.

Facts:

The following facts are derived from the unfair labor practice charges, along with all attachments thereto, filed by Charging Party against both Respondents, and Charging Party's response to Employer's motion, with all factual allegations set forth by Charging Party accepted as true for purposes of determining whether summary disposition is appropriate.

Sometime in late August of 2014, Charging Party accepted a Kindergarten teaching position with the Grand Rapids Public School system at the Southwest Community Campus.

Between October 9, 2014, and October 28, 2014, Charging Party was on leave. On October 29, 2014, Charging Party contacted MEA Uniserv Director Chad Williams, by email in which he addressed several issues, some of which included; whether as a teacher he could be considered for an administrator position, whether he was being asked to perform certain work in excess of what was contractually required of him; and, whether he could be disciplined if he chose to disobey a directive because he believed to follow it would not be in the best interest of his students.

2 An Order of Withdrawal was issued on October 22, 2015.

Charging Party once again was on leave from November 6, 2014, through November 19, 2014, following the death of his father.

On December 2, 2014, the Southwest Community Campus Principal, Carmen Fernandez, provided Charging Party a letter from Micky Savage, Employer's Director of Human Resources.[3] That letter provided notice to Charging Party that the District had become aware of alleged unprofessional conduct and would be conducting an investigation into those allegations; the exact nature of the alleged misconduct was not provided in that letter. The letter went on to state that the district would schedule an investigatory meeting with Charging Party that could lead to discipline, up to and including discharge. The letter also indicated that Charging Party had the right to have union representation present at that meeting. Lastly, the letter indicated that, effective December 3, 2014, Charging Party would be placed on paid administrative leave pending completion of the district's investigation. Charging Party claims, in his response to the motion, that after being given the letter he requested a union representative and that Fernandez "did not grant one."

On December 18, 2014, the Employer notified Charging Party by letter, that same date and delivered by email, that an investigatory meeting was scheduled for Monday, January 5, 2015. That letter contained the following statement:

> This meeting is considered an investigatory interview which could lead to discipline up to and including discharge. You have the right to request and arrange for association representation to be present during the meeting. Pursuant to the Master Agreement, we are obligated to tell you that anything you may say may be used against you in relation to your employment. However, you are expected to answer all of our questions fully and honestly.

By letter, dated December 23, 2014, Attorney Sandra Hanshaw Burink, contacted the Employer and requested that Charging Party be provided information regarding the substance of the allegations against him so that he could prepare for the January 5, 2015, meeting. That letter did not indicate that Attorney Burink would be representing Charging Party at the January 5, 2015, meeting. There is no indication that the Employer replied to this request or provided any information to Charging Party other than the December 2, 2014, and December 18, 2014, letters prior to the January 5, 2015, meeting.

Charging Party's charge against the Union indicates that he was accompanied by his Union Representative Chad Williams, his (Santiago's) fiancé and future mother-in-law. Santiago alleges that during the January 5, 2015, meeting, the Employer spent twenty minutes typing up a document titled "Summary of Allegations of Inappropriate conduct." That document, as provided by Charging Party in his response to the motion, lists the following four incidents:

> September 25, 2014, - the Principal indicated that she witness [sic] you yelling at Kindergartners on two separate occasion. Two (2) older students also reported that

3 A copy of that letter was not provided with the original unfair labor practice charge filing; it was provided with Charging Party's June 23, 2015, response to the motion.

> they heard you yell to the point that kids are crying and you are picking them up by their arms and forcing them in the directions that you want them to go.
>
> December 1, 2014 – we have a witness statement that you grabbed a student C aggressively and made him cry.
>
> December 2, 2014 – we have a witness statement reporting that you lost student D. You did not even know that the child was in art class.
>
> December 2, 2014 – we have a witness statement reporting that upon the entering the building from recess you were yelling at a child. You took the child by the coat sleeve/arm and pulled the child toward you while flinging the child's body. When the child attempted to move back toward his locker you grabbed the child again and swung his body toward you again.

Charging Party left the meeting soon after being provided the above typed list. Charging Party claims he left the meeting because he needed to follow up on medical care he had received previously on January 3, 2015, and because he wanted to review the written allegations with his attorney.

By letter, dated March 11, 2015, the Employer provided Charging Party notice that the District's Board of Education would be presented with charges seeking his dismissal from employment; the letter indicated that a copy of charges as well as a proposed Board resolution were attached to the letter. MEA Uniserv Director, Paul Helder, was copied on the letter. The letter went on to advise Charging Party of his right to submit a written response and the right to request a closed session consideration of the charges; Charging Party did not allege that he did either.

The charges presented at the March 16, 2015, Board meeting included the four allegations provided at the January 5, 2015, meeting, as well as two additional allegations. The first new allegation claimed that a parent witnessed Charging Party several times screaming at students. The second new allegation referenced the January 5, 2015, meeting, and stated:

> On or about January 5, 2015, Mr. Santiago was required to come to Human Resources to provide responses to questions about his conduct on or about December 2, 2014.
> Mr. Santiago arrived but refused to stay to answer questions, yelled so loud that he could be heard in the hallway and stormed out claiming that he was going to the doctor and that he would only put his responses in writing. This behavior is also an example of unprofessional conduct and is insubordinate in that he refused to answer questions in a disciplinary investigation into his conduct.

At the March 16, 2015, meeting, the Board passed a resolution terminating Charging Party's contract effective that same day due to violation of Board Policy and Rules #8300, entitled "Student Discipline (Corporal Punishment)" and unprofessional conduct including violation of "professional norms."

On March 20, 2015, Charging Party was notified, via email from Tina Rachal, Legal Executive Assistant to the Assistant Superintendent of HR and General Counsel, that a local television network, WoodTV, had requested a copy of his personnel file under the state's Freedom of Information Act (FOIA). Charging Party responded by requesting his own copy of the personnel file. On March 25, 2015, received an email from Rachal which stated "[p]lease find attached your personnel file" and which indicated that a document entitled "20150325105638206_2.pdf" was attached.

By letter, dated March 26, 2015, Attorney Burnick requested that Charging Party be provided a copy of his personnel file pursuant to the Bullard-Plawecki Employee Right to Know Act, MCL 423.501 et seq. Charging Party does not indicate what problem, if any, there was with the copy of his personnel file provided to him by email on March 25, 2015. On April 2, 2015, Rachal sent Charging Party a copy of investigative file. Charging Party asserts that also on April 2, 2015, Respondent-Employer provided WoodTV with a copy of his personnel file as they had requested.

Discussion and Conclusions of Law:

Charging Party's allegations against the Employer conclude with the following statement outlining the relief sought:

> Nevertheless, in conclusion, I asked for the inappropriate records to be removed from my personal [sic] file; my teaching position with the GRPS should be reinstated; a letter should be written to the media (Wood TV 8, Dani Carlson) indicating the inappropriate procedures followed; a new resolution should be enacted which states that I did not "violate Board Policy and Rules #8300 and violated professional norm" opposite of what was quoted in GRPS March 18, 2015 letter; last but not least, back pay should be obtained since the date of termination.

The Commission administers and enforces PERA. Section 9 of PERA protects the rights of public employees to form, join, or assist labor organizations, to negotiate or bargain with their public employers through representatives of their own free choice, to engage in lawful concerted activities for mutual aid or protection, and to refrain from any or all of these activities.

Lawful concerted activities for mutual aid and protection include complaining with other employees about working conditions and taking other kinds of actions with other employees to protest or change working conditions.

With respect to public employers, Section 10(1)(a) of PERA prohibits public employers from engaging in "unfair" actions that seek to interfere with an employee's free exercise of the specific rights contained in Section 9 of the Act. *MERC v Reeths-Puffer Sch Dist*, 391 Mich 253, 259 (1974). PERA does not prohibit all types of discrimination or unfair treatment. *Detroit Pub Sch*, 22 MPER 16 (2009). Absent a valid claim under PERA, the Commission lacks jurisdiction to address the fairness of an employer's actions. *Id*.

In order to establish a prima facie case of unlawful discrimination under PERA that resulted in an adverse employment action, a charging party must allege: (1) union or other protected

concerted activity; (2) employer knowledge of that activity; (3) anti-union animus or hostility to the employees' protected rights; and (4) suspicious timing or other evidence that the protected activity was a motivating cause of the allegedly discriminatory action. *Waterford Sch Dist*, 19 MPER 60 (2006). If the charging party has alleged that the employer's unlawful discrimination is motivated by anti-union animus, that party bears the burden of demonstrating that protected conduct was a motivating or substantial factor in the employer' s decision. *MESPA v Evart Pub Sch*, 125 Mich App 71, 74 (1983); *Southfield Pub Schs*, 25 MPER 36 (2011). Only after a charging party establishes a prima facie case of unlawful discrimination does the burden shift to the respondent to demonstrate with credible evidence that the same action would have taken place even in the absence of the protected conduct. *Michigan Educational Support Personnel Ass'n v. Evart Public Schools*, 125 Mich. App. 71, 74 (1983).

Throughout his pleadings and attachments thereto, Charging Party creates a narrative expressing his displeasure with how he was treated by the Employer, however, none of which is an actionable claim under PERA. General statements and conclusory allegations that Respondent committed an unfair labor practice will not withstand a summary motion. The evidence presented by Charging Party does not include details sufficient to support a violation of any sub-section of Section 10(1) of PERA. See *AFSCME Council 25*, 1992 MERC Lab Op 166; *Zeeland Public Schs*, 1999 MERC Lab Op 505. Here, Charging Party has failed to offer any factual allegation that, if proven true, could establish that he had engaged in any protected activity for which he was subjected to unlawful discrimination or retaliation.

With respect to the claimed contractual violations committed by the Employer, including the release of his personnel file to a media outlet, none rise to the level of an actionable claim under PERA.

Additionally, while Charging Party's response to the motion includes the allegation that the Employer denied his December 2, 2014, request for union representation, on its face appears to lay the foundation for a possible actionable claim, his allegations do not assert facts, that if proven true, could establish a claim under PERA, i.e., that after the request was denied the Employer proceeded to ask investigatory questions.[4]

Accordingly, I recommend that the Commission issue the following order:

4 Prior Commission case law has consistently held that an employer does not violate Section 10(1)(a) of PERA by refusing to provide the employee with a union representative at a meeting called solely to inform an employee of a disciplinary decision. *Walled Lake Con Schs*, 1985 MERC Lab Op 448 (no exceptions); *City of Wyoming*, 1983 MERC

RECOMMENDED ORDER

It is hereby ordered that the unfair labor practice charge against Grand Rapids Community School, Case No. C15 D-052; Docket No. 15-029682-MERC, be dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

_____

Travis Calderwood
Administrative Law Judge
Michigan Administrative Hearing System

Dated: October 29, 2015

Lab Op 1024 (no exceptions); *City of Detroit (Law Department)*, 1981 *MERC Lab Op 282*, (no exceptions); *City of Detroit (DOT)*, 1991 MERC Lab Op 390 (no exceptions).