

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

In the Matter of:

UNIVERSITY OF MICHIGAN,  
Public Employer-Respondent in MERC Case No. 21-C-0693-CE,

-and-

AFSCME COUNCIL 25, LOCAL 1583,  
Labor Organization-Respondent in MERC Case No. 20-C-0650-CU,

-and-

ADINA EDDINS,  
An Individual Charging Party.

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Appearances:

David J. Masson, Office of the Vice President and General Counsel, for the Public Employer

Carlotta Jones, Staff Attorney, AFSCME Council 25, for the Labor Organization

Adina Eddins, appearing on her own behalf

**DECISION AND ORDER**

On June 9, 2021, Administrative Law Judge Travis Calderwood issued his Decision and Recommended Order<sup>1</sup> 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

  
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Tinamarie Pappas, Commission Chair

  
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William F. Young, Commission Member

Issued: August 13, 2021

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<sup>1</sup> MOAHR Hearing Docket Nos. 21-007436 & 21-007436

**STATE OF MICHIGAN  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

UNIVERSITY OF MICHIGAN,  
Employer-Respondent in Case No. 21-C-0693-CE; Docket No. 21-007436-MERC,

-and-

AFSCME COUNCIL 25, LOCAL 1583,  
Labor Organization-Respondent in Case No. 20-C-0650-CU; Docket No. 21-006558-  
MERC,

-and-

ADINA EDDINS,  
An Individual Charging Party.

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Appearances:

David J. Masson, for the Public Employer, University of Michigan, Office of the Vice President and General Counsel

Carlotta Jones, Staff Attorney, AFSCME Council 25, for the Labor Organization

Adina Eddins appearing on her own behalf

**DECISION AND RECOMMENDED ORDER**  
**OF ADMINISTRATIVE LAW JUDGE**  
**ON ORDER TO SHOW CAUSE**

On March 24 and March 26, 2021, Adina Eddins, (Charging Party) filed the above captioned unfair labor practice charges with the Michigan Employment Relations Commission (Commission) against AFSCME Council 25, Local 1583 (Union) and the University of Michigan (Employer or University), respectively. The charges were assigned to Administrative Law Judge Travis Calderwood of the Michigan Office of Administrative Hearings and Rules, acting on behalf of the Commission. Pursuant to Rule 164 of the General Rules of the Employment Relations Commission, R 423.164, 2002 AACCS; 2014 AACCS, these cases are hereby consolidated.

The impetus of Charging Party's complaints against her Union and Employer appear to stem from the University's decision not to allow her and other hospital operators to work remotely during the COVID-19 pandemic. According to Charging Party's filings, beginning in

March of 2020, at the onset of the COVID-19 pandemic, the University implemented a telework program for some of its employees but not Charging Party or her fellow operators. Since that time Charging Party has had to maintain a physical presence at her worksite and work alongside other operators. Charging Party claims that she has made several complaints regarding the above to both her Union as well as the University. More specifically, with respect to the Union, Charging Party appears to complain that the Union has not negotiated an addendum to the labor contract to address the issues regarding COVID-19 and/or has not fought hard enough to allow Charging Party and/or her colleagues to work remotely. With respect to the University, it is difficult for the undersigned to ascertain what actions Charging Party is alleging were in violation of PERA.<sup>1</sup>

Upon initial review of the charges, it appeared likely that dismissal of the same without a hearing is warranted under Rule 165(2)(d) because the charges failed to state a claim. See R. 423.165(2)(d). On May 18, 2021, I issued an Order to Show Cause to the Charging Party directing her to respond in writing as to why her charges should not be dismissed without a hearing because they failed to state a claim under PERA. Pursuant to that order, Charging Party's response was due on or before June 1, 2021. As of the issuance of this Decision and Recommended Order, Charging Party has not filed a response to my order, nor has she sought to obtain an extension of time in which to file such a response.

#### Discussion and Conclusions of Law:

Charging Party's failure to respond to my May 18, 2021, order, by itself, is cause for dismissal in favor of Respondents. The failure of a charging party to respond to an order to show cause may warrant dismissal of the charge. See R 423.165(h); See also *Detroit Federation of Teachers*, 21 MPER 3 (2008). Charging Party's failure to respond notwithstanding, it is clear from review of the allegations as filed that dismissal of the charges is required under Rule 423.165(2)(d), because Charging Party has failed to state a claim under PERA where relief could be granted.

The Commission does not investigate charges filed with it. Charges filed with the Commission must comply with the Commission's General Rules. More specifically, Rule 151(2)(c), of the Commission's General Rules, 2002 AACRS; 2014 MR 24, R 423.151(2)(c), requires that an unfair labor practice charge filed with the Commission include, "[a] clear and complete statement of the facts which allege a violation of [the Act]..." Only charges that are timely and properly allege a violation of PERA are set for hearing before an administrative law judge.<sup>2</sup>

PERA does not prohibit all types of discrimination or unfair treatment. Addressing first the charge against the Union, it is well established law that a union's obligation to its members is comprised of three responsibilities: (1) to serve the interest of all members without

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<sup>1</sup> Charging Party's filings in Case No. 21-C-0693-CE comprised of several emails and other documents but did not contain a statement or summary outlining Charging Party's allegations.

<sup>2</sup> Section 16 of PERA requires that charges be filed with six months of the alleged unfair labor practice. MCL 423.216(a).

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 City of Detroit*, 419 Mich 651 (1984). The *Goolsby* Court described “arbitrary” conduct by a union as: (a) impulsive, irrational or unreasoned conduct; (b) inept conduct undertaken with little care or with indifference to the interests of those affected; (c) the failure to exercise discretion; and (d) extreme recklessness or gross negligence. *Id.* at 679. Furthermore, a union's actions are lawful as long as they are not so far outside a wide range of reasonableness as to be irrational. *Airline Pilots Ass'n v O'Neill*, 499 US 65, 67 (1991).

Although a union owes a duty of fair representation to every employee it represents, the primary duty is to its bargaining unit's entire membership as a whole. *Lowe v Hotel Employees*, 389 Mich 123 (1973). In this regard, a union is not required to follow the dictates of any individual employee, but rather it may investigate and handle the situation and/or issue in the manner it determines to be best. See *Detroit Police Lts and Sgts*, 1993 MERC Lab Op 729. In other words, a union possesses the legal discretion to make judgments about the general good of the membership and to proceed on such judgments, despite the fact that they may conflict with the desires or interests of certain employees. *Lansing Sch Dist*, 1989 MERC Lab Op 210, 218, citing *Lowe*, supra. The Commission will not find an unfair labor practice on the mere fact that a member is dissatisfied with their union's efforts. *Eaton Rapids Ed Ass'n*, 2001 MERC Lab Op 131. Here, Charging Party's filings fail to provide any allegation that, if proven true, could establish that the Union acted in a manner that was arbitrary under *Goolsby*, supra, or otherwise engaged in discriminatory and/or unlawful conduct as defined within *Vaca*, supra.

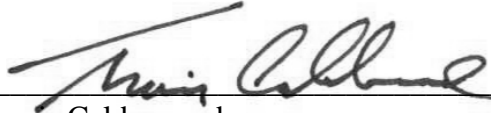
The Commission's jurisdiction with respect to claims brought by individual employees against their employers is limited to determining whether the employer interfered with, restrained, and/or coerced a public employee with respect to his or her right to engage in union or other protected concerted activities as guaranteed under Section 9 of PERA. Paramount to understanding the Commission's jurisdiction, one must remain cognizant that not all unfair, or even unlawful, treatment of its employees by an employer violates PERA. Absent a factually supported allegation that the employer interfered with, restrained, and/or coerced an employee in the exercise of the rights guaranteed under PERA's Section 9, or otherwise retaliated against the employee for engaging in, or refusing to engage in, union or other activities of the type protected by the Act, the Commission has no jurisdiction to make a judgment on the fairness of the employer's actions. See, e.g., *City of Detroit (Fire Dep't)*, 1988 MERC Lab Op 561, 563-564; *Detroit Bd of Ed*, 1987 MERC Lab Op 523, 524. Charging Party's filing against her Employer does not allege any facts that, if proven true, could establish that she was restrained, coerced, and/or retaliated against with respect to the rights guaranteed to her under PERA.

Despite having been given a fair and full opportunity to do so, Charging Party has failed to set forth any factually supported allegations which would state a claim for which relief could be available under PERA. For this reason, and based upon the fact that Charging Party did not file a response to my Order to Show Cause, I recommend that the Commission issue the following order:

RECOMMENDED ORDER

The unfair labor practice charges filed by Adina Eddins against the University of Michigan and AFSCME Council 25, Local 1583 are hereby dismissed in their entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Travis Calderwood", is written over a horizontal line.

Travis Calderwood  
Administrative Law Judge  
Michigan Office of Administrative Hearings and Rules

Dated: June 9, 2021