



CHARGE OF UNFAIR PRACTICE(S) UNDER THE PUBLIC EMPLOYE RELATIONS ACT

Dr. Mary Ann Dailey

COMPLAINANT

v.

Association of Pennsylvania State College and
University Faculties

RESPONDENT

DO NOT WRITE IN THIS SPACE

CASE NO.

DATE FILED

TO THE HONORABLE, THE MEMBERS OF THE PENNSYLVANIA LABOR RELATIONS BOARD:

COMPLAINANT INFORMATION

Dr. Mary Ann Dailey		
Public Employee, Employee Organization or Public Employer		
Nathan R. Bohlander		Asst. G.C.
Name of Person filing charge on behalf of Complainant		Title
The Fairness Center, 1060 First Avenue, Suite 420		
Address		
King of Prussia	PA	19406
City	State	Zip
(570) 574-9289		
Telephone		

HEREBY CHARGES THAT:

RESPONDENT INFORMATION

Association of Pennsylvania State College and University Faculties		
Public Employer, Employee Organization or Public Employee alleged to have committed unfair practice(s)		
319 North Front Street		
Address		
Harrisburg	PA	17101
City	State	Zip
(717) 236-7486		
Telephone		

**HAS ENGAGED IN UNFAIR PRACTICE(S) CONTRARY TO THE PROVISIONS OF THE
PUBLIC EMPLOYE RELATIONS ACT, SECTION 1201 AS FOLLOWS:**

Choose one:

- subsection (a)
- subsection (b)

Choose all that apply:

- | | | |
|--|-------------------------------------|-------------------------------------|
| <input checked="" type="checkbox"/> clause (1) | <input type="checkbox"/> clause (4) | <input type="checkbox"/> clause (7) |
| <input type="checkbox"/> clause (2) | <input type="checkbox"/> clause (5) | <input type="checkbox"/> clause (8) |
| <input type="checkbox"/> clause (3) | <input type="checkbox"/> clause (6) | <input type="checkbox"/> clause (9) |

- Check here if more than one respondent and list on separate sheet.
- Check here if a grievance relating to this issue has been filed and enclose three (3) copies of the grievance and one (1) copy of the Collective Bargaining Agreement to assist in review of this charge.

FAILURE TO ENCLOSE THESE DOCUMENTS WILL CAUSE A DELAY IN PROCESSING.

SPECIFICATION OF CHARGES

Set forth all of the events alleged to constitute the unfair practice(s). Include specific facts, dates, names, addresses, place of occurrence, and other relevant facts. If additional space is needed, please continue on additional sheet(s).

Please see attached.

WHEREFORE, the Complainant respectfully requests the Pennsylvania Labor Relations Board to enter the charge upon the Docket of the said Board and to issue and cause to be served upon the Respondent above named a Complaint stating the charge(s) of unfair practice(s).

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Philadelphia

:
:
: ss
:

On this 15th day of May, 20 15, before me, a Notary Public, in and for said County and State, personally appeared Nathan R. Bohlender who being duly sworn according to law, deposes and says that he/she is the person filing the foregoing CHARGE OF UNFAIR PRACTICE(S) and is aware of the contents hereof and that the matters and facts set forth herein are true and correct to the best of his or her knowledge, information and belief.

SWORN AND SUBSCRIBED TO before me the day and year first aforesaid.

COMMONWEALTH OF PENNSYLVANIA, Signature of Notary Public

Signature of Complainant or Representative

NOTARIAL SEAL
HIEN TU, Notary Public
City of Philadelphia, Phila. County
My Commission Expires April 25, 2016

FAILURE TO FILE AN ORIGINAL AND THREE (3) COPIES OF THE CHARGE AND ALL ACCOMPANYING EXHIBITS MAY CAUSE A DELAY IN PROCESSING.

Commonwealth of Pennsylvania | Pennsylvania Labor Relations Board | 651 Boas Street, Room 418 | Harrisburg, PA 17121-0750
717.787.1091 | Fax 717.783.2974 | www.dli.state.pa.us

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SUMMARY

The Association of Pennsylvania State College and University Faculties (“APSCUF”) engages in an “unfair labor practice” by conducting its annual “Dues Rebate Campaign.” Under sections 401 and 1201(b)(1) of the Public Employee Relations Act (“PERA”), it is an "unfair labor practice" for a public employee union to "restrain or coerce" employees into "assisting" the union or into "engaging in . . . activities for the purpose of . . . mutual aid and protection."

Therefore, I respectfully request that the Pennsylvania Labor Relations Board (“PLRB”) finds evidence of APSCUF's violation of sections 401 and 1201(b)(1) of PERA and takes any actions it deems appropriate to stop this practice.

BACKGROUND

I am an Associate Professor of nursing at Slippery Rock University and a member of the Pennsylvania State System of Higher Education (“PASSHE”). I have been an APSCUF union member since 2006, and I pay dues to APSCUF each year (Exh. A). Payment of dues is a condition of my employment, and my dues payments are automatically-deducted throughout the academic year. (Exh. B). The percentage of my salary paid in dues is determined by APSCUF and is currently set at 1.15%. (Exh. C).

Each year since at least 1997, APSCUF conducts a “Dues Rebate Campaign” (sometimes referred to as the “March Madness: Dues Rebate Campaign”). In the materials about the campaign, APSCUF urges members like me to donate \$25.00 of my dues money—already collected and withheld from us over the course of the year—to APSCUF’s political action committee, Committee for Action through Politics (“CAP”). (Exh. D).

This year, APSCUF included two items in my school mailbox: a brochure (Exh. E) and a “dues rebate designation” card. (Exh. F). APSCUF uses these and various other outlets—including newsletters, emails, brochures, websites, and other media—to encourage members to send their dues rebate to CAP. (Exhs. G – J). Its March 2015 dues rebate campaign concluded on April 1, 2015. (Exh. K).

The “dues rebate designation card” gave me two options in addition to donating to CAP. I could either leave the “rebate” in the APSCUF treasury or have the “rebate” paid to me. The “dues rebate designation” card must reach APSCUF by the deadline—and in the manner—prescribed by APSCUF in order to have the “rebate” paid to me. (Exh. F). Otherwise, APSCUF’s default rule—when it fails to hear from members regarding this “rebate” offer—is that it retains the \$25 it overcharges from each member. (Exh. L).

I had to specifically request the “dues rebate designation” card in 2014, and by the time I received it from APSCUF, the deadline to respond had passed. Likewise, I did not receive the “dues rebate designation” card until after APSCUF’s deadline in 2015. At no point during either year did I receive notice that this “dues rebate designation” card had been mailed to me. Since

APSCUF's default rule is to keep my "rebate" if APSCUF fails to hear from me by the deadline, APSCUF kept my \$25.00 on both April 1, 2014 and on April 1, 2015.

APSCUF appears to have conducted the same dues rebate campaign annually for at least 18 years, and a "rebate" now appears to be an expected event for APSCUF. (Exhs. M – P). Ultimately, the campaign depends on an artificial inflation of the dues amount in order to offer a "rebate" to members. Because APSCUF represents roughly 5,300 members and asks for a \$25.00 donation from each, its calculations are annually inflated by at least \$132,000 necessary to declare an annual "rebate" option to members and potentially absorb a loss when members choose to retain their funds. (Exhs. C, F).

UNFAIR LABOR PRACTICE

APSCUF's dues rebate campaign constitutes an "unfair labor practice" under sections 401 and 1201(b)(1) of PERA, because it "restrain[s] or coerce[s]" employees into "assisting" the union or into "engaging in . . . activities for the purpose of . . . mutual aid and protection."

Specifically, APSCUF uses its power as the exclusive bargaining representative for PASSHE faculty members to force them into contributing more in membership dues than necessary. APSCUF deliberately overcharges members by \$25, essentially compelling them to provide APSCUF with additional aid in support of its objectives. APSCUF's objectives are achieved both through a default rule that allows it to retain the "rebate" when members fail to respond within the timeframe—and in the manner—that APSCUF prescribes and through the benefit inherent in soliciting CAP donations from members who have already surrendered their money to APSCUF.

Each of the last two years, I have failed to receive meaningful notice of the dues rebate campaign and have been unable to receive my so-called "rebate." This year, I did not even receive a dues rebate designation form until after April 1. Thus, over the past two years, APSCUF has retained \$50.00 of my money that it overcharged me in the first place. APSCUF's campaign compelled my assistance through this default rule.

Accordingly, the PLRB should find evidence that APSCUF's violation of sections 401 and 1201(b)(1) of PERA constitute an unfair labor practice and take any actions it deems appropriate to stop this "Dues Rebate Campaign."