

STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

Maria Ramos,)	
)	
Charging Party)	
)	
and)	Case No. 2021-CA-0084-C
)	
City Colleges of Chicago, District 508,)	
)	
Respondent)	

OPINION AND ORDER

I. Statement of the Case

On May 6, 2021, Maria Ramos (Ramos or Charging Party) filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (Board or IELRB) alleging that City Colleges of Chicago, District 508 (City Colleges or Respondent) violated Section 14(a)(1) of the Illinois Educational Labor Relations Act (Act or IELRA), 115 ILCS 5/1 *et seq.*, by its course assignments and failure to follow procedures set forth in its collective bargaining agreement (CBA) with City Colleges Contingent Labor Organizing Committee, IEA-NEA (Union). On May 31, 2022, the IELRB’s Executive Director issued a Recommended Decision and Order (EDRDO) dismissing a portion of the charge as untimely filed and dismissing the remainder of the charge because Ramos failed to submit evidence of a causal connection between her protected activity and any adverse action taken against her by City Colleges. This case is before the Board on Ramos’ timely exceptions to the EDRDO. City Colleges did not file a response to the exceptions. For the reasons discussed below, we affirm the dismissal of the charge.

II. Factual Background

We adopt the facts as set forth in the underlying EDRDO. Because the EDRDO comprehensively set forth the factual background for the case, we will not repeat the facts herein.

III. Discussion

In her exceptions, Ramos requests the Board defer her charge to arbitration. Where a case raises statutory and contractual issues arising out of the same factual context, the Board may

defer the matter to arbitration but retain jurisdiction to ensure that any statutory rights at stake are protected. *West Chicago School District No. 33*, 5 PERI 1091, Case Nos. 86-CA-0061-C, 87-CA-0002-C (IELRB Opinion and Order, May 2, 1989). Deferral to arbitration is not appropriate here for two reasons. First, the charge does not raise any statutory issues. As the Executive Director determined, Ramos failed to show in the timely portion of her charge the requisite adverse action and causation elements to warrant a hearing. Second, the Board has held that only alleged violations of Section 14(a)(5) may be deferred to arbitration, and alleged violations of other subsections of Section 14(a) may not. *Chicago Board of Education*, 29 PERI 32, Case Nos. 2009-CA-0032-C and 2009-CA-0047-C (IELRB Opinion and Order, April 13, 2010); *University of Illinois*, 15 PERI 1053, Case No. 97-CA-0034-C (IELRB Opinion and Order, May 14, 1998). The charge here alleged City Colleges violated Section 14(a)(1). Even if Ramos' charge had alleged a 14(a)(5) violation, it would still be dismissed. Ramos, as an individual employee, does not have standing to allege a violation of Section 14(a)(5) because Section 14(a)(5) involves the rights of the exclusive representative under the Act. *Forest Park SD 91*, 38 PERI 49, Case Nos. 2019-CA-0065-C & 2020-CA-0055-C (IELRB Opinion and Order, October 21, 2021); *Thornton Community Unit School District No. 4*, 4 PERI 1010, Case Nos. 87-CA-0017-C et al. (IELRB Opinion and Order, December 1, 1987). Only a labor organization has standing to allege a violation of Section 14(a)(5). *Thornton*, 4 PERI 1010.

Ramos complains in her exceptions that the EDRDO does not accurately represent all the supporting evidence and documents she submitted to support her charge. Just because the EDRDOs do not recite all the details contained in the documents that Ramos submitted does not demonstrate that the Executive Director failed to consider her evidence. The Executive Director properly distilled what was relevant from those documents. The charge was dismissed because there was no evidence that City Colleges violated the Act.

Likewise, Ramos's argument that the Board agent's failure to ask her for clarification or additional information on unclear issues during the investigation warrants the Board overturning the EDRDO is without merit. The Board's Rules provide that "[t]he charging party shall submit to the Executive Director all evidence relevant to or in support of the charge." 80 Ill. Admin. Code 1120.30(b)(1). Ramos failed to make any showing in support of a violation of the Act and nothing in her exceptions challenges that determination.

IV. Order

For the reasons discussed above, IT IS HEREBY ORDERED that the Executive Director's Recommended Decision and Order is affirmed.

V. Right to Appeal

This is a final order of the Illinois Educational Labor Relations Board. Aggrieved parties may seek judicial review of this Order in accordance with the provisions of the Administrative Review Law, except that, pursuant to Section 16(a) of the Act, such review must be taken directly to the Appellate Court of the judicial district in which the IELRB maintains an office (Chicago or Springfield). Petitions for review of this Order must be filed within 35 days from the date that the Order issued, which is set forth below. 115 ILCS 5/16(a). The IELRB does not have a rule requiring any motion or request for reconsideration.

Decided: **September 21, 2022**

Issued: **September 22, 2022**

/s/ Lara D. Shayne

Lara D. Shayne, Chairman

/s/ Steve Grossman

Steve Grossman, Member

/s/ Chad D. Hays

Chad D. Hays, Member

/s/ Michelle Ishmael

Michelle Ishmael, Member

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Maria Ramos,

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and

City Colleges of Chicago, District 508,

Respondent

Case No. 2021-CA-0084-C

EXECUTIVE DIRECTOR'S RECOMMENDED DECISION AND ORDER

I. THE UNFAIR LABOR PRACTICE CHARGE

On May 6, 2021, Charging Party, Maria Ramos, filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (IELRB or Board) in the above-captioned case, alleging Respondent, City Colleges of Chicago, District 508, violated Section 14(a) of the Illinois Educational Labor Relations Act (Act), 115 ILCS 5/1, *et seq.* After an investigation conducted in accordance with Section 15 of the Act, the Executive Director issues this dismissal for the reasons set forth below.

II. INVESTIGATORY FACTS

A. Jurisdictional Facts

City Colleges of Chicago, District 508 (College) is an educational employer within the meaning of Section 2(a) of the Act and subject to the jurisdiction of the Board. At all times material, Ramos was an educational employee within the meaning of Section 2(b) of the Act, employed part-time by Respondent in the title or classification of Lecturer. At all times material, City Colleges Contingent Labor Organizing Committee, IEA-NEA (Union), was the exclusive representative within the meaning of Section 2(d) of the Act, of a bargaining unit comprised of librarians and faculty employed part-time by the College, including those in the title or classification of Lecturer. As relevant, the Union and College are parties to a collective bargaining agreement (CBA), which provides for a grievance procedure culminating in arbitration, for the bargaining unit to which Ramos belongs. At all times material, Ramos was a member of the Union's bargaining unit.

B. Facts relevant to the unfair labor practice charge

The College hired Ramos in or about 2004. On or about October 25, 2020, without the assistance of the Union, Ramos filed a 25-page grievance with the president and vice-president of Harold Washington College (HWC), the college where she is employed. Therein, Ramos listed eight issues of concern to her, most of which she had been aware of since the 2017-2018 school year, including the following: discrimination against non-HWC faculty (although it is unclear why, Ramos is considered a faculty member of Harry S. Truman College); the manner in which courses are assigned to faculty; the failure to properly use seniority in assigning courses to faculty; the prevalence of favoritism in assigning courses to faculty; the failure of course assigners and other college administrators to promptly return her emails; and the requirement faculty, generally within 24-48 hours, respond to emails from students and college administrators. Ramos further argued therein, each of these issues constituted violations of the CBA.

On February 23, 2021, the president of HWC denied Ramos' October 25 grievance at the first step of the process set out in the CBA, and so notified her. Two days later, on February 25, 2021, Ramos filed a thirteen-page appeal of the first step decision, by email, with the City Colleges' chancellor. The chancellor's designee, Carol Dunning, who was also City College's chief talent officer, responded on March 2, 2021, confirming Ramos had filed an appeal of the first step decision and explaining she would send Ramos a form to complete to schedule her second step hearing. Therein, because Ramos, in her October 25 grievance, had at certain points phrased her claims as being on behalf of all non-HWC faculty employed at HWC, Dunning explained since the Union was the exclusive representative of the College's part-time faculty, and since Ramos had filed the grievance on her own, without the Union's assistance, she could not represent other employees on her grievance. As a result, Dunning further explained, at the second step, the only claims in the grievance which would be considered were those which solely related to her.

On March 3, 2021, Ramos replied to Dunning's March 2 email, asking why she termed the second step a "hearing" when in the CBA, it is referred to as a "meeting", and other related questions. Dunning responded later that same day by email, explaining the terms "hearing" and "meeting" in the context of her email, were interchangeable, and providing answers to Ramos' other questions. Therein, to Ramos' question asking whether her grievance would be discussed at the second step meeting, Dunning simply replied "yes."

Later on, March 3, again by email, Dunning apologized for simply replying "yes" to Ramos' question about what would occur at the second step meeting and explained the second step conference in detail as follows: "[t]he hearing officer will hold the meeting/grievance hearing, Thomas Lindsay [(a representative from the College's department of human resources)] will be present to represent HWC. You would represent yourself. The hearing officer will write a report making a finding of the outcome of the meeting/grievance hearing to which I will approve/deny."

On March 12, 2021, Ramos emailed the City Colleges' chancellor, noting the time limit outlined in the CBA for conducting the second step conference on her grievance had expired, and requesting he assist her with this issue. No one from the College responded to Ramos' March 12 email. A few day later, on March 15, 2021, Micki Yolich, an implementation specialist in the College's department of labor and employee relations, emailed Ramos, offering her possible dates for the second step conference and checking on her availability. On March 16, 2021, Ramos again emailed the City Colleges' chancellor, regarding "matters of concern" about the step two process, and again, no one from the College responded to Ramos' email. Also on March 16, 2021, Ramos responded to Yolich's March 15 email, indicating she was waiting to schedule the second step conference until she had heard back from the City Colleges' chancellor regarding her concerns. Ramos emailed both Yolich and the City Colleges' chancellor on March 25, 2021. Ramos' email to the City Colleges' chancellor was simply a follow-up to her March 16 email, looking for a response, and her email to Yolich was to again explain her inability to schedule the second step conference until she had first heard back from the City Colleges' chancellor. Yolich responded to Ramos' March 25 email, indicating she was ready to proceed with scheduling the second step conference whenever Ramos so advised her.

On April 6, 2021, Ramos sent the City Colleges' chancellor a second follow-up to her March 16 email, and on April 15, 2021, Dunning responded by email, disputing the College had missed the time limit outlined in the CBA, for conducting the second step conference on her grievance, and noting the College was waiting on her to schedule it. Ramos responded to Dunning on April 15, by email, in a three-page letter, expressing concerns her grievance was being mishandled. The next day, Emily Chu, the director of the College's department of labor and employee relations, emailed Ramos, directing her to provide her

availability to conduct the second step conference by no later than April 23, 2021, and noting if she failed to comply, the College would consider her grievance closed.

Ramos' responded to Chu's April 16 email on April 20, by email, attaching thereto a three-page letter consisting of various questions about the structure of the second step conference and a request for a formal response from the College about its mismanagement of the grievance process. Chu responded by email the same day, directing Ramos to raise her concerns about the process during her second step conference and reminding her of the April 23 deadline. On the evening of April 20, 2021, Ramos emailed Chu to ask if she was planning to provide the information requested in her April 20 letter. The next morning, Chu replied by email, pointing out Dunning had previously answered several of the questions she posed, and attached Dunning's earlier replies. Therein, Chu again directed Ramos to raise her remaining questions and concerns during her second step conference and reminded her of the April 23 deadline. On April 23, Ramos sent Chu an email with her availability, and on April 28, the College's department of labor and employee relations sent Ramos a notice setting the conference for May 26, 2021, one of the dates Ramos indicated she was available. Subsequently, the College heard Ramos' grievance at the second step and ultimately, denied it.

III. THE PARTIES' POSITIONS

Ramos contends the College breached the CBA in that it discriminated, and continues to discriminate, against non-HWC part-time faculty, ignored the role of seniority in the distribution of teaching assignments, imposed an ultimatum on her in relation to the scheduling of the second step conference, failed to guide her through the grievance process, and disregarded the timelines for processing her grievance. Ramos additionally contends the College interfered with her bargaining rights under the Act, in that it used the terms "hearing" and "meeting" interchangeably in referring to the second step grievance conference, ignored the CBA's timelines for processing her grievance, and caused a conflict of interest and bias at her second step conference by allowing Thomas Lindsay to attend it and represent HWC.

The College denies it retaliated or discriminated against Ramos in any manner whatsoever, denies it violated the Act, and contends her charge should be deferred to the contractual grievance process. In addition, the College asserts Ramos' charge was not timely filed.

IV. DISCUSSION AND ANALYSIS

To the extent, through the instant charge, Ramos is challenging any actions of the College which occurred prior to November 6, 2020, it is untimely filed. Pursuant to Section 15 of the Act, no order shall issue based upon any unfair labor practice occurring more than six months prior to the filing with the Board, of the charge alleging the unfair labor practice. The six-month limitations period begins to run when the person aggrieved by the alleged unlawful conduct either has knowledge of it, or reasonably should have known of it. Jones v. IELRB, 272 Ill. App. 3d 612, 650 N.E.2d 1092 (1st Dist. 1995); Charleston Community Unit School District No. 1 v. IELRB, 203 Ill. App. 3d 619, 561 N.E.2d 331, 7 PERI ¶4001 (4th Dist. 1990); Wapella Education Association v. IELRB, 177 Ill. App. 3d 153, 531 N.E.2d 1371 (4th Dist. 1988).

Herein, Ramos filed her charge on May 6, 2021, and therefore, the date six months prior to her filing was November 6, 2020. Accordingly, alleged unlawful conduct she knew of before November 6, 2020, or reasonably should have known of by that date, cannot be the subject of a timely charge. Thus, assertions Ramos made in her October 25 grievance regarding conduct or actions she knew of since the 2017-2018 school year, including discrimination against non-HWC faculty, failure to properly consider seniority in the distribution of teaching assignments, and issues with administrators and others failing to promptly return her emails, are untimely filed and must be dismissed.

Even if Ramos' claim was timely filed, the ultimate outcome as to her allegations the College breached the CBA, would be unchanged, as a charge in which the complainant solely alleges a breach of a collective bargaining agreement will be dismissed. Elementary Teachers' Ass'n of West Chicago, IEA-NEA/West Chicago School District 33, 5 PERI ¶1091, 1989 WL 1700730 (IL ELRB 1989), *aff'd sub nom*, West Chicago School District 33 v. Illinois Educational Labor Relations Board, 218 Ill. App. 3d 304, 578 N.E.2d 232 (1st Dist. 1991) (it is not the Board's function to police collective bargaining agreements, or to otherwise allow parties to use the Board's processes to remedy breaches or to enforce terms). Herein, Ramos alleges the College violated the Act in that it breached the CBA by discriminating, and continuing to discriminate, against non-HWC part-time faculty, ignoring the role of seniority in the distribution of teaching assignments, imposing an ultimatum on her in relation to the scheduling of the second step

conference, failing to guide her through the grievance process, and disregarding the timelines for processing her grievance, and as a result, her charge is insufficient to warrant a complaint for hearing. Instead, the avenue to compel compliance with the CBA generally is the grievance arbitration process. Based on the foregoing, Ramos' allegations the College breached the CBA fail to raise an issue of law or fact sufficient to warrant a hearing.

Ramos' assertions the College violated the Act in connection with the handling of her October 25 grievance are timely filed, as the unlawful conduct alleged regarding those matters occurred after November 6, 2020. Despite being timely filed, however, this portion of Ramos' charge is also without merit.

In order for the Board to issue a complaint for hearing on allegations of a violation of Section 14(a)(1), the charging party, Ramos in this case, must at least be able to make some showing she engaged in protected activity, Respondent knew of that activity, and Respondent took adverse action against her as a result of her involvement in that activity. Neponset Community Unit School District No. 307, 13 PERI ¶1089, 1997 WL 34820232 (IELRB 1997).

The evidence indicates Ramos engaged in protected activity through the filing of her October 25, 2020 grievance. Likewise, the College necessarily knew of Ramos' protected activity, given it had to respond to her grievance. The adverse action element is absent. Using the terms "hearing" and "meeting" interchangeably in referring to the second step grievance conference, ignoring the CBA's timelines for processing her grievance, and causing a conflict of interest and bias at her second step conference by allowing Lindsay to attend it and represent HWC, assuming the College in fact ignored the CBA's timelines for grievance processing and caused a conflict of interest and bias at her second step conference by allowing Lindsay to attend it and represent HWC, are not adverse employment actions. Nonetheless, even if they were adverse employment actions, Ramos' claim fails, as the investigatory facts do not indicate the complained-of conduct occurred because of, or in retaliation for, the exercise of rights protected under the Act.

Regarding the causation element, as the Illinois Supreme Court noted in City of Burbank, the existence of such a causal link is a fact based inquiry and may be inferred from various factors, including: an employer's expressed hostility towards unionization or grievance filing, together with knowledge of the

employee's protected activities; proximity in time between the employee's protected activities and the disciplinary action; inconsistencies between the proffered reason for discipline and other actions of the employer; shifting explanations for the discipline or discharge of the employee; and disparate treatment of employees or a pattern of conduct which targets union supporters for adverse employment action. City of Burbank v. ISLRB, 128 Ill. 2d 335, 538 N.E.2d 1146, 5 PERI ¶4013 (1989) (citations omitted). The evidence in this matter, however, does not reveal a causal connection between Ramos' protected activity and the alleged adverse action.

There was no evidence herein of hostility by the College toward Ramos with regard to her protected activity. Likewise, there was no evidence of inconsistencies in the College's explanations or conduct, and no allegation or evidence of disparate treatment in this matter. Similarly, there was no evidence the College targeted employees who engaged in protected activity for adverse employment actions, as might be expected if in fact a causal connection existed. Nothing in the timing of the College's actions supports Ramos' claim either. Without some showing Ramos' protected activity caused Respondent to take the complained-of actions against her, her claim fails to raise an issue of law or fact sufficient to warrant a hearing.

V. ORDER

Accordingly, the instant charge is hereby dismissed in its entirety.

VI. RIGHT TO EXCEPTIONS

In accordance with Section 1120.30(c) of the Board's Rules and Regulations (Rules), 80 Ill. Admin. Code §§1100-1135, parties may file written exceptions to this Recommended Decision and Order together with briefs in support of those exceptions, not later than 14 days after service hereof. Parties may file responses to exceptions and briefs in support of the responses not later than 14 days after service of the exceptions. Exceptions and responses must be filed, if at all, at ELRB.mail@illinois.gov and with the Board's General Counsel, 160 North LaSalle Street, Suite N-400, Chicago, Illinois 60601-3103. Pursuant to Section 1100.20(e) of the Rules, the exceptions sent to the Board must contain a certificate of service, that is, **"a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service."** If any party fails to send a copy of its exceptions to the other

party or parties to the case, or fails to include a certificate of service, that party's appeal will not be considered, and that party's appeal rights with the Board will immediately end. See Sections 1100.20 and 1120.30(c) of the Rules, concerning service of exceptions. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions, and unless the Board decides on its own motion to review this matter, this Recommended Decision and Order will become final and binding on the parties.

Issued in Chicago, Illinois, this 31st day of May, 2022.

**STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD**

**Victor E. Blackwell
Executive Director**

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