STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS & RULES
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

GRADUATE EMPLOYEES ORGANIZATION
LOCAL 3550,
Respondent-Labor Organization,

Case No. 23-C-0640-CU-1
Docket No. 23-014627-MERC

-and-

UNIVERSITY OF MICHIGAN,
Charging Party-Public Employer.
_______________________________________/

APPEARANCES:

Mark H. Cousens and Nathan Walker, American Federation of Teachers, for Respondent

Butzel Long, by Craig S. Schwartz, and Gloria Hage, Senior Associate General Counsel, for Charging Party

DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE
ON SUMMARY DISPOSITION

This case arises from an unfair labor practice charge filed on March 29, 2023, by the University of Michigan against the Graduate Employees Organization (GEO), Local 3550. Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, the charge was assigned to David M. Peltz, Administrative Law Judge for the Michigan Office of Administrative Hearings and Rules (MOAHR), acting on behalf of the Michigan Employment Relations Commission (the Commission).

Unfair Labor Practice Charge and Procedural History:

The GEO represents a bargaining unit comprised of Graduate Student Instructors and Graduate Staff Assistants of the University of Michigan. The University and the GEO are parties to a collective bargaining agreement which is scheduled to expire on May 1, 2023. Negotiations for a new contract began in November of 2022. On March 29, 2023, members of the GEO allegedly began a "job action" or, in more familiar terms, went out on strike.

The unfair labor practice charge filed by the University in Case No. 23-C-0640-CU; Docket No. 23-014627-MERC alleges, in part, that the GEO violated PERA by bargaining to

impasse over several non-mandatory subjects and/or illegal subjects of bargaining. In addition, the charge asserts that the Union breached its duty to bargain in good faith under the Act by repudiating the terms of Article III, a "no-strike" provision, in the collective bargaining agreement currently in effect between the parties.

On March 31, 2023, the University filed a motion for summary disposition in which it asserts that there is no material dispute of fact concerning whether the GEO's actions in connection with the strike violated Section 10(2)(d) of the Act. Attached to the motion were various documents supporting the University's arguments, including an excerpt from the collective bargaining agreement and the affidavit of Katherine DeLong, Associate Director of Human Resources. In the affidavit, DeLong describes the circumstances leading to the alleged strike and the actions of the parties in response to the work stoppage.

The GEO filed a timely response to the motion on April 7, 2023. In its response, the GEO does not specifically dispute that it organized, authorized, or implemented a strike or in any way contest the factual allegations set forth in the DeLong affidavit. Rather, the Union contends that the University's repudiation claim must be rejected because the parties agreed to contract language which sets forth specific remedies for a violation of the "no-strike" clause. In addition, the Union argues that the actions complained of in the charge were justified because the University violated its obligations under PERA and the contract to bargain in good faith. The Union also argues that the motion for summary disposition should be dismissed because the impending expiration of the collective bargaining agreement on May 1, 2023, will render the charge moot.

The allegations set forth in the instant charge are hereby bifurcated into two separate cases to avoid unnecessary delay on issues pertaining to the GEO's alleged repudiation of the "no-strike" clause. The bad faith bargaining allegations relating to the "no-strike" clause are hereby assigned Case No. 23-C-0640-CU-1 and will be addressed in this decision. The University's claim that the GEO violated PERA by bargaining to impasse over non-mandatory and/or illegal subjects of bargaining has been assigned Case No. 23-C-0640-CU-2 and will be heard at a later date along with other charges filed by the parties arising from the ongoing negotiations on a successor contract.[1]

Facts:

There are no material facts in dispute in this matter. Article III of the collective bargaining agreement is entitled "No Interference" and states, in pertinent part:

[1] On March 6, 2023, the GEO filed an unfair labor practice charge in Case No. 23-C-0294-CE; Docket No. 23-013153-MERC alleging that the University violated its duty to bargain in good faith by failing to respond to various information requests, and by refusing to negotiate over a mandatory subject of bargaining. Similarly, Case No. 23-C-0638-CE; Docket No. 014628-MERC, which was filed by the Union on March 29, 2023, alleges a failure by the Employer to bargain over various mandatory subjects. Finally, in Case No. 23-D-0662-CE; Docket No. 015292-MERC, the GEO alleges that the University unlawfully bargained to impasse on a permissive subject.

> The Union, through its officials, will not instigate, support or encourage, nor shall any Employee take part in, any concerted action against or any concerted interference with the operations of the University, such as the failure to report for duty, the absence from one's position, the stoppage of work, or the failure, in whole or in part, to fully, faithfully, and properly perform the duties of employment. Nothing in this paragraph shall be construed to limit participation of individuals in an activity that is unrelated to their employment relationship.
>
> In the event of any such action or interference, and on notice from the University, the Union, through its officials, will immediately disavow such action or interference. Further, the Union will instruct in writing (email will suffice) and in a timely manner (e.g., prior to the action or interference when notice from the University is provided prior to the interference) any and all Employees to cease their misconduct and inform them that this misconduct is a violation of the Agreement, which subjects them to disciplinary action, including discharge.
>
> If the Union, through its officials, performs its obligations as set forth in this Article, the University agrees that it will not file or prosecute any action for damages against the Union or its officials or pursue the remedy in the following paragraphs. Nothing herein, however, shall preclude the University from proceeding against any Employee involved in such action or interference.
>
> If the Union, through its officials, fails to perform its obligations as set forth in this Article to disavow such action or interference and/or to provide notice to all Employees in a timely manner to cease their misconduct and inform them that this misconduct is a violation of the Agreement, which subjects them to disciplinary action, including discharge, the University, in consultation with and support from the Provost and Executive Vice President for Academic Affairs, shall inform the Union of its failure in writing.
>
> Effective immediately upon such notice, Article V, Payroll Deduction Authorization for Dues, shall become null and void as set forth in Article V, Section E.

On March 21, 2023, DeLong sent a letter to Union president Jared Eno in response to threats by the GEO to initiate a strike and work stoppage by its members. In the letter, DeLong demanded that the GEO honor Article III of the collective bargaining agreement and cease planning or implementing a contractually prohibited strike against the University. Nevertheless, the GEO continued to organize, authorize and implement a strike. On March 29, 2023, the day the strike was to commence, DeLong sent a second letter to Eno, again demanding that the Union honor the contract and call off the strike. Despite both letters, bargaining unit members began striking at 10:24 a.m. that same day. The Union subsequently referred to the job action as a "strike" in a pamphlet sent to its members and various social media posts, including messages encouraging support from students, faculty and staff.

Discussion and Conclusions of Law:

Pursuant to Rule 165(1), R 423.165(1), of the General Rules and Regulations of the Employment Relations Commission, which govern practice and procedure in administrative hearings conducted by MOAHR, the ALJ may "on [his or her] own motion or on a motion by any party, order dismissal of a charge or issue a ruling in favor of the charging party." Among the various grounds for a ruling in favor of the charging party is a finding that the respondent has filed a pleading that demonstrates that it does not have a valid defense to the charge, R. 423.165(2)(e), Rule 165(2)(e), or where, except as to the relief sought, there is no genuine issue of material fact. Rule 165(2)(f), R 423.165(2)(f).

Before addressing the merits of the motion for summary disposition, it is important to recognize what this case is not about. The instant charge does not allege that members of the GEO committed an unfair labor practice merely by engaging in a strike, nor does the University assert that Respondent violated Section 2 of PERA by encouraging or inciting its members to engage in a stoppage of work or otherwise perform their assigned duties.[2] Rather, the charge is premised on the allegation that the GEO breached its duty to bargain in good faith under Section 15 of the Act by repudiating the "no-strike" provision of the collective bargaining agreement currently in effect between the parties.

Under Section 15, public employers and labor organizations have a duty to bargain in good faith over "wages, hours and other terms and conditions of employment." Such issues are mandatory subjects of bargaining. MCL 423.215(1); *Detroit Police Officers Ass'n v Detroit*, 391 Mich 44, 54-55 (1974). A party violates PERA if it unilaterally alters or modifies a term or condition of employment, unless that party has fulfilled its statutory bargaining obligation or has been freed from it. *Port Huron Ed Ass'n v Port Huron Area Sch Dist*, 452 Mich 309, 317 (1996); *Detroit Bd of Ed,* 2000 MERC Lab Op 375, 377. A party can fulfill its obligation under Section 15 of PERA by bargaining about a subject and memorializing the resolution of that subject in the collective bargaining agreement. Under such circumstances, the matter is "covered by" the agreement. *Port Huron* at 318; *St Clair Co ISD*, 2005 MERC Lab Op 55, 61-62. As the Michigan Supreme Court stated in *Port Huron* at 327, "Once the employer has fulfilled its duty to bargain, it has a right to rely on the agreement as the statement of its obligations on any topic 'covered by' the agreement." At the same time, bargaining unit members have a right to rely upon the terms and conditions in the contract and to expect that they will continue unchanged. *Detroit Bd of Ed*. See also *Wayne Co Community Coll*, 20 MPER 59 (2007).

The Commission has the authority to interpret the terms of a collective bargaining agreement only where necessary to determine whether a party has breached its statutory obligations. *Univ of Michigan*, 1971 MERC Lab Op 994, 996. It is well-established that ordinary contract breaches do not violate PERA. *Pontiac Sch Dist*, 1997 MERC Lab Op 375; *J.O. Mutch*, 1966 MERC Lab Op 314. Where there is a collective bargaining agreement covering the subject matter of the dispute which has provisions reasonably relied on for the action in question, and the contract also has a grievance procedure with final and binding arbitration, the contract controls and no PERA issue is presented. *Macomb Co v AFSCME Council 25, Locals 411 and 893*, 494

[2] Although PERA prohibits strikes by public employees, it does not provide a direct statutory remedy. *Kent County Ed Ass'n*, 1994 MERC Lab Op 110.

Mich 65 (2013). An alleged breach of contract will constitute a violation of PERA only if a repudiation can be demonstrated. See e.g., *City of Detroit (Transp Dept)*, 1984 MERC Lab Op 937, aff'd 150 Mich App 605 (1985); *Jonesville Bd of Ed*, 1980 MERC Lab Op 891, 900-901. Repudiation has been described as a rewriting of the contract or a complete disregard for the contract as written. *Central Michigan Univ*, 1997 MERC Lab Op 501, 507; *Cass City Pub Sch*, 1980 MERC Lab Op 956, 960. The Commission will not find repudiation based on an insubstantial or isolated breach, nor will repudiation be found where there exists a bona fide dispute over the language of the contract. *Crawford County Bd of Comm'rs,* 1998 MERC Lab Op 17, 21; *Plymouth-Canton Community Sch*, 1984 MERC Lab Op 894, 897.

The undisputed facts establish that the GEO engaged in conduct wholly inconsistent with its obligations under the contract. By agreeing to Article III, the GEO is contractually obligated to refrain from causing, instigating, supporting or encouraging any "concerted interference with the operation of the University" including the "failure, in whole or part, to fully, faithfully, and properly perform the duties of employment." Article III further provides that if such action or interference occurs, the Union is required, upon notice from the University, to take certain actions, including disavowing such conduct and instructing employees in writing to cease and desist. In her affidavit, DeLong avers that in response to threats by the GEO to strike, she sent a letter to Union president Eno demanding that the GEO abide by Article III of the contract. Despite such notice, the GEO continued to organize, authorize and implement a strike. On March 29, 2023, the day the strike was to commence, DeLong again wrote to Eno demanding that the Union comply with the contract. Nevertheless, a strike by members of the bargaining unit began that same day. The Union did not file any affidavit along with its response to the University's motion for summary disposition, nor has it disputed any of the facts set forth by DeLong. Under these circumstances, I find the record sufficient to establish that the Union's conduct constitutes a wholesale disregard for Article III of the collective bargaining agreement.

Rather than contesting the factual allegations set forth in the charge and the DeLong affidavit, Respondent argues that summary disposition is inappropriate because there exists a bona fide dispute over the meaning and interpretation of the contract. The GEO contends that the University is not entitled to seek relief from the Commission because the parties have already agreed to a specific remedy in the contract. According to the GEO, the University's sole remedy for a violation of Article III is to exercise its authority under the contract to terminate the deduction of dues. In support of this contention, the Union relies on *Michigan Ass'n of Police*, 25 MPER 73 (2012) (no exceptions) and *Ingham County*, 1993 MERC Lab Op 581 (no exceptions), cases which involved contract language prohibiting the arbitration of grievances where the individual grievant has sought relief in a different forum. Those cases are easily distinguishable from the instant dispute. Article III is not a traditional "election of remedies" clause and that provision, read in its entirety, does not evince any intent of the parties to prohibit the University from seeking judicial or administrative relief. To the contrary, the third paragraph of Article III contains an agreement that the University will forgo filing or prosecuting an action for damages only if "the Union, through its officials, performs its obligations as set forth in this Article."

More importantly, unlike grievance arbitration, which is a creature of contract, a public employer has a right under Section 10(2)(d) of PERA to pursue a claim with the Commission asserting that the labor organization representing its employees has breached its duty to bargain

in good faith. The Commission applies a stringent standard when considering whether a party has waived a statutory right. It is well established that waivers of statutory rights must be clear and unambiguous. *Amalgamated Transit Union, Local 1564 v SEMTA*, 437 Mich 441, 460-466 (1991); *Saginaw Ed Ass'n v Eady-Miskiewicz*, 319 Mich App 422, 449 (2017); *Berrien County Probate Court*, 8 MPER 26 (1995). It is simply impossible to read Article III as containing a clear and explicit waiver that would foreclose the right of the University to pursue its statutory remedies under the Act.

Next, the GEO argues that Article III of the contract is no longer enforceable because the University has also breached its obligations under the terms of that same agreement. In support of this contention, Charging Party relies on the common law breach of contract principle that when one party to a contract commits a substantial breach of an agreement, the other party is excused from further performance. *Merrill Lynch, Pierce, Fenner & Smith, Inc. v Ram*, 67 F Supp 2d 764, 776 (E.D. Mich 1999). See also *Rosenthal v Triangle Dev Co*, 261 Mich 462, 463 (1933). The Union contends that the University violated Article XXVI of the contract, which requires the parties to begin negotiations on a successor agreement upon notice by either party of a desire to amend or modify the existing agreement. According to the GEO, this provision created a contractual obligation on the part of the University to bargain in good faith on a new collective bargaining agreement in addition to the bargaining obligation set forth in Section 15 of the Act, an obligation which the Union contends the Employer violated via the conduct described in the companion charges. Even assuming *arguendo* that the University's actions during negotiations on successor contract constituted a material breach of Article XXVI of the current agreement, that fact would not excuse the Union's breach of its statutory duty to bargain in good faith under these circumstances. The GEO is essentially arguing that it was justified in repudiating its contractual obligations in violation of Sections 10(2)(d) and 15 of the Act by the University's own unfair labor practices, a finding which is not supported by Commission precedent or analogous federal law.

The National Labor Relations Board (NLRB) and the Courts have held that ordinary contract law principles are not readily transplanted to the realm of labor relations. *J. I. Case Co v NLRB*, 321 US 332, 334 (1944); *NLRB v M & M Oldsmobile, Inc*, 377 F2d 712, 717 (CA 2, 1967). Labor contracts are afforded a special, protected status which should not be judged by the general principles applicable to common law contracts. *Gatliff Coal Co v Cox*, 152 F2d 52 (CA 6, 1945). This is in recognition of the general purpose of the National Labor Relations Act (NLRA), which requires collective bargaining so that industrial disputes may be resolved peacefully and without resort to drastic measures likely to have an injurious effect on commerce. *Press Co, Inc*, 121 NLRB 976 (1958). Moreover, it is well-established under Board law, that the alleged misconduct of a charging party is ordinarily not a defense to an unfair labor practice

charge.[3] *Tri-County Paving, Inc*, 342 NLRB No. 122 (2004). See also *Carpenters Local 621 (Consolidated Constructors)*, 169 NLRB 1002, 1003 (1968) enf'd 406 F2d 1081 (CA 1, 1969); "One unfair labor practice does not excuse another." *Beacon Sales Acquisition, Inc*, 357 NLRB 789 (2011), quoting *Plumbers Local 457 (Bomat Plumbing)*, 131 NLRB 1243, 1245-1247 (1961), enf'd 299 F2d 497 (CA 2, 1962).

The primary purpose of PERA, like the NLRA, is to foster the stability of bargaining relations to encourage the peaceful resolution of labor disputes. *AFSCME Local 101*, 35 MPER 4 (2021); *City of Lansing*, 29 MPER 63 (2016) (no exceptions). An essential and necessary component of labor peace is the concept of finality of contract. Finality of contract is a basic principle of collective bargaining. Provisions of a ratified agreement cannot be lightly set aside without jeopardizing this principle and undermining the purpose of collective bargaining. *Third Circuit Ct*, 25 MPER 45 (2001); *Lakeville Comm Sch*, 1990 MERC Lab Op 56, 61. Adoption of the common law principle of contract relied upon by Respondent in this matter would encourage a party to rescind or terminate a collective bargaining agreement whenever it believed there has been substantial non-compliance by the other party. As the Commission expressed in *Kalamazoo Co & Kalamazoo Co Sheriff*, 22 MPER 94 (2009):

> To allow one party to renege on a lawful agreement would negate the stability and reliability that is the goal of good faith bargaining. It is central to the stability of labor relations that agreements be enforced, for if they can be unilaterally revoked, the stability and possibility of further good faith bargaining is undermined.

To accept the Union's argument and find that its clear repudiation of the "no-strike" provision was lawful due to unfair labor practices committed by the University would also effectively sanction self-help as a proper tactic, one which the Commission and the Courts have recognized is generally undesirable in the context of labor relations. *Detroit Fire Fighters*

[3] The NLRB recognized an exception to this principle in *Mastro Plastics Corp v NLRB*, 350 US 270 (1956). In *Mastro*, the Board held that striking employees were protected from being disciplined, discharged or otherwise discriminated against for participating in a strike, despite the existence of a contractual "no-strike" clause, if one of the purposes of the strike was to protest an employer's unfair labor practice. The issue in *Mastro*, however, was whether the "no-strike" provision constituted a waiver of the employees' right to strike. The instant dispute involves a repudiation by the union of its contractual obligation to refrain from supporting a strike by its members. Moreover, under the NLRA, concerted work stoppages are protected unless constituting a "partial strike" or where prohibited for some other reason. In contrast, strikes by public employees are prohibited under Section 2 of PERA. Although a compelling argument exists that Section 2 applies only to economic strikes and that work stoppages to protest unfair labor practices are lawful, see for example the ALJ's decision in *Wayne Co*, 28 MPER 35 (2014) (no exceptions), the Commission has never specifically addressed this issue. The Commission has stated, however, that the Act "prohibits all strikes." *City of Warren*, 1985 MERC Lab Op 1062, 1066. See also *Melvindale-Northern Allen Park Pub Sch*, 1992 MERC Lab Op 400, clarified, 1995 MERC Lab Op 53, aff'd sub nom, *Melvindale-Northern Allen Park Federation of Teachers v Melvindale-Northern Allen Park Schools*, 216 Mich App 31 (1996). Notably, the Union never raised as an affirmative defense the argument that it had a right to repudiate Article III because its members are engaged in a lawful unfair labor practice strike.

Association, IAFF Local 344 v City of Detroit, 482 Mich 18, 37 n 5 (2008), citing *Detroit & Toledo Shore Line R Co v United Transp Union*, 396 US 142 (1969); *City of Detroit (Police Dep't)*, 23 MPER 85 (2010) (no exceptions); *City of Detroit*, 25 MPER 13 (2011) (no exceptions). As ALJ Doyle O'Connor recognized in his decision in *Wayne Co*, 29 MPER 1 (2015), rev'd, in part, on other grounds, "the PERA hearing process was designed to provide remedies in lieu of such disruptive self-help. The obligations and remedies under PERA were carefully calibrated for the very purpose of avoiding the tit-for-tat resort to self-help that would occur in an unregulated environment." Notably, Charging Party has not cited a single case in which the Commission has endorsed such self-help efforts or otherwise held that a breach of one provision of a collective bargaining agreement excuses the other party from any further performance under the contract.[4]

Lastly, Respondent argues that the University's repudiation claim is moot because the parties' collective bargaining agreement is scheduled to expire on May 1, 2023, and, therefore, any remedy issued by the Commission can only apply to events occurring before that date. I disagree. A "no-strike" clause is a mandatory subject of bargaining. *Wayne County*, 28 MPER 35 (2014) (no exceptions), citing *NRLB v Boss Mfg Co*, 118 F2d 187 (CA 7, 1941). See also *UFCW Local 839 (Safeway, Inc)*, 2005 WL 6715417 ("the clause in question is similar to a traditional "no strike" clause, long considered a mandatory subject because it specifically prohibits disruptions, such as the instant handbilling, at the work-site.") Wages, hours and other terms and conditions of employment established by a contract which are mandatory subjects of bargaining survive the expiration of a contract by operation of law during the bargaining process for a new contract. Thus, during negotiations, the parties must maintain the status quo as to all mandatory subjects until impasse or agreement is reached. *Local 1467 IAFF v City of Portage*, 134 Mich App 466 (1984); *Detroit Police Officers Ass'n v Detroit*, 61 Mich App 487 (1985). A party's failure to abide by the terms of a mandatory subject of bargaining in an expired contract can be considered a repudiation. *Kalamazoo County*, 24 MPER 17 (2011).

Even if the "no strike" clause could be considered a permissive subject under PERA, or if the parties' obligations under the expired contract were negated by a legitimate impasse in negotiations, I would not find the University's claim that the GEO repudiated the "no strike" clause moot. An otherwise moot issue may be reviewed if it is deemed to be of public significance and is expected to recur while simultaneously likely to evade judicial review. *Wayne County Int. Sch. Dist.,* 1993 MERC Lab Op 317, 324; *Jackson Community Coll,* 1989 MERC Lab Op 913. Strikes by public employees are unlawful under PERA because of the inherent

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[4] Misconduct by a charging party may be taken into account, not for negating what otherwise would be an unfair labor practice by the respondent, as argued by the GEO, but rather in fashioning a remedy which best effectuates the purposes of the Act. See *Rockwell v Crestwood Sch Dist Bd of Ed*, 393 Mich 616 (1975). However, given the critical importance of the concept of finality of contract, I conclude that the standard remedy in repudiation cases, a cease and desist order, is appropriate in this matter regardless of any unfair labor practices the University may have committed during negotiations on a successor agreement. Had the University requested a make-whole remedy in either its charge or in its motion for summary disposition, or if this case had involved the reinstatement of a member of the bargaining unit who had been discharged for his or her participation in the strike, an evidentiary hearing would likely have been necessary to enable the Commission to properly balance the competing equities.

disruption in public service resulting from such job actions. For this reason, I conclude that the instant case involves a matter of public significance and that a finding that the GEO repudiated its contractual obligations is of consequence even if a cease and desist order is rendered ineffectual by the expiration of the agreement. Moreover, the possibility of a strike by employees is at its highest when negotiations on a successor contract have proven unsuccessful, a scenario which typically arises when an existing contract is close to expiration. Accordingly, this is the type of dispute which, if it were found moot, would be capable of repetition, yet evading review.

I have carefully considered the remaining arguments set forth by the parties in this matter and have determined that they do not warrant a change in the result. For the reasons set forth above, I find that Respondent violated Sections 10(2)(d) and Section 15 of PERA by repudiating the terms of Article III of the parties' collective bargaining agreement. Accordingly, I hereby recommend that the Commission issue the following order.

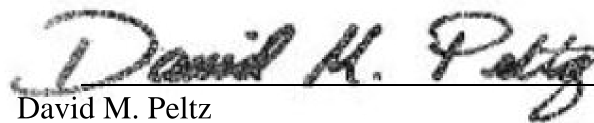
RECOMMENDED ORDER

The Graduate Employees Organization (GEO), Local 3550, its officers, agents and representatives, shall:

1. Cease and desist from repudiating Article III of its collective bargaining agreement with the University of Michigan by causing, instigating, supporting, or encouraging any strike or work stoppage by employees, including the failure to report for duty or to fully, faithfully, and properly perform the duties of employment; by failing to disavow such action or interference with the operations of the University; and by failing to follow the employee notification provisions in the agreement.

2. Post the attached notice to bargaining unit members in all places on the premises of the University of Michigan where notices to members of the unit are customarily posted for a period of 30 consecutive days or, in the alternative, mail or email copies of this notice to all members of the bargaining unit within 30 days of the date of this order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION



David M. Peltz
Administrative Law Judge
Michigan Office of Administrative Hearings & Rules

Dated: April 14, 2023

NOTICE TO ALL BARGAINING UNIT MEMBERS

GRADUATE EMPLOYEES ORGANIZATION, LOCAL 3550, a labor organization under the PUBLIC EMPLOYMENT RELATIONS ACT (PERA), has been found to have committed unfair labor practices in violation of this Act. Pursuant to the terms of the order of the MICHIGAN EMPLOYMENT RELATIONS COMMISSION, we hereby notify members of our bargaining unit that:

> **WE WILL** cease and desist from repudiating Article III of its collective bargaining agreement with the University of Michigan by causing, instigating, supporting, or encouraging any strike or work stoppage by employees, including the failure to report for duty or to fully, faithfully, and properly perform the duties of employment; by failing to disavow such action or interference with the operations of the University; and by failing to follow the employee notification provisions in the agreement.

GRADUATE EMPLOYEES ORGANIZATION, LOCAL 3550

By: ______________________________

Title: _____________________________

Date: _____________________________

This notice must be posted for a period of 30 consecutive days and must not be altered, defaced, or covered by any material. Any questions concerning this notice or compliance with its provisions may be directed to the office of the Michigan Employment Relations Commission, Cadillac Place Building, 3026 W. Grand Blvd, Suite 2-750, P.O. Box 02988, Detroit, MI 48202-2988. Telephone: (313) 456-3510.

GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

April 14, 2023

Re: Graduate Employees Organization, #3550 v University of Michigan (Regents)
Case No.: 23-C-0640-CU-1 Docket 23-014627-MERC

Greetings:

Enclosed is the Decision and Recommended Order by the Administrative Law Judge. **This Decision concludes the handling of this matter by the Administrative Law Judge and the Michigan Office of Administrative Hearings and Rules. Any further communications regarding this matter must be addressed to the Michigan Employment Relations Commission (MERC) at either of the following locations:**

MERC
3026 W. Grand Blvd.
Suite 2-750
P.O. Box 2988
Detroit, MI 48202-2988

MERC
503 W. Allegan
Mason Bldg., Garden Level
Lansing, MI 48909

Telephone 313-456-3510.

NOTICE OF APPEAL RIGHTS TO THE MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Any party to the proceedings may file written exceptions to this Recommended Order and a brief in support thereof with the Michigan Employment Relations Commission (MERC). An original and four copies of the exceptions and brief in support must be filed with the Commission and a copy served on the opposite party or parties. At the same time, a statement of service must also be filed with the Commission stating the names of the parties served, and the date and manner of service of the exceptions on the other parties. If a party filing exceptions fails to establish that timely service on the opposite party or parties has been accomplished, the Commission may disregard the exceptions. Two copies of every exhibit submitted at the hearing by any party must also be filed with the exceptions.

By our calculation the exceptions and brief must be <u>received</u> by MERC by the close of business on May 8, 2023; however, the burden is on the parties to comply with the deadlines in the statute and Commission Rules. *Any questions or disputes regarding the calculation of the deadline for filing exceptions must be addressed to the Commission in writing at the above referenced addresses or at **313-456-3510**.*

If no exceptions are received within the above period or within such further period as the Commission may authorize, the Recommended Order will become the Order of the Commission. If exceptions are filed, cross exceptions and/or a brief in support of the Administrative Law Judge's Decision and Recommended Order may be filed by any other party within 10 days of the *date of mailing or* other service of the exceptions.

Please note that this Recommended Order may be edited prior to formal publication. Please notify the Bureau of Employment Relations Secretary at **313-456-2466** of any typographical or other non-substantive errors so that corrections can be made prior to formal publication.

For further information, please consult the General Rules and Regulations of the Employment Relations Commission, R423.101 et seq., available at www.michigan.gov/merc or call the Detroit office of the Bureau of Employment Relations at **313-456-3510**.

Sincerely,

Phylis Osborne
Secretary to the Administrative Law Judge

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties and/or attorneys, to their last-known addresses in the manner specified below, 14th day of April 2023.

Phylis E. Osborne
Michigan Office of Administrative Hearings and Rules

Via Electronic Delivery:

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