60-PELRB-2023

STATE OF NEW MEXICO
PUBLIC EMPLOYEES LABOR RELATIONS BOARD

UNITED HEALTH PROFESSIONALS OF NEW MEXICO, AFT, AFL-CIO,

Petitioner,

and **PELRB No. 105-23**

UNIVERSITY OF NEW MEXICO SANDOVAL REGIONAL MEDICAL CENTER,

Respondent.

ORDER

THIS MATTER comes before the Public Employee Labor Relations Board at its regularly scheduled meeting on November 7, 2023 upon a Request by the United Health Professionals of New Mexico for Review of the Hearing Officer's Report and Recommended Decision finding no violations of the PEBA had occurred and dismissing the complaint. After review of the submissions and considering argument of Counsel, James Montalbano appearing for the Union, and Samantha Hults appearing for the Employer, the Board voted 2-0 (Member Nan Nash being absent) to adopt and affirm the Hearing Officer's Report and Recommended Decision issued October 10, 2023.

WHEREFORE, the Hearing Officer's Report and Recommended Decision in this case is AFFIRMED and the complaint is hereby DISMISSED.

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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Peggy Nelson
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PEGGY NELSON, BOARD CHAIR

11/16/2023
DATE

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

In re:

UNITED HEALTH PROFESSIONALS OF NEW MEXICO, AFT,

Complainant,

v. **PELRB No. 105-23**

UNIVERSITY OF NEW MEXICO SANDOVAL REGIONAL MEDICAL CENTER,

Respondent.

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

STATEMENT OF THE CASE: This matter comes before Thomas J. Griego, designated as the Hearing Officer in this case, on the merits of Complainant AFT's claim that University of New Mexico Sandoval Regional Medical Center (SRMC), committed Prohibited Labor Practices when, in retaliation for her Union activity, it disciplined Paula Venegas after accusing her of failing to provide timely patient care. SRMC denies violating the PEBA, contending that its decision to terminate Ms. Venegas's employment was not prohibited retaliation, but was legitimately based on a written warning following three incidents of failing to provide timely patient care – the first occurring on March 7, 2023, the second on April 3, 2023 and the last on April 13, 2023.

AFT bears the burden of proof that SRMC violated the Act.

Following a Motion for Summary Judgment filed July 21, 2023 the Hearing Officer dismissed two of AFT's claims: 1) that SRMC violated Ms. Venegas's Weingarten rights, and 2) that SRMC had or violated a duty to bargain over the discipline issued to Ms. Venegas. Those issues were not heard during the merits hearing.

A hearing on the merits was held Tuesday, September 12, 2023. Prior to the Hearing, the parties submitted a Stipulated Pre-Hearing Order indicating that two issues were to be determined by the Hearing Officer:

1. Whether Respondent violated PEBA when it disciplined Paula Venegas after accusing her of failing to provide timely patient care.

2. Whether Respondent violated PEBA by retaliating against Paula Venegas for her Union activity.

All parties hereto were afforded a full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence, and to argue orally. Closing briefs in lieu of oral Closing Arguments were submitted after closing the record at the conclusion of the case. The parties simultaneously submitted their briefs on October 4, 2023 and both were duly considered. On the entire record in this case and from my observation of the witnesses and their demeanor on the witness stand, and upon substantive, reliable evidence considered along with the consistency and inherent probability of testimony, I make the following

FINDINGS OF FACT:

1. Complainant is a "labor organization" as that term is defined in Section 4(K) of PEBA. (SPHO Stipulated Fact 1).

2. Pursuant to Senate Bill 41, Respondent is a "public employer" for the limited purposes of PEBA and as that term is defined in Section 4(R) of PEBA; NMSA 1978, § 10-7E-4(R) (2020). (SPHO Stipulated Fact 2).

I incorporate the following findings from my Letter Decision of August 9, 2023 granting in part and denying in part, SRMC's Motion for Summary Judgment and include references to the Audio record of the Hearing on the Merits:

3. Paula Venegas was employed as a Registered Nurse ("RN") in the Pre-Op/PACU

SRMC from 2019 to 2023. (Statement of Undisputed Fact ¶ 2 and Answer thereto; Affidavit of Paula Venegas; Testimony of Paula Venegas, Hrg. Audio Part 4 00:1:30 – 00:47:45).

4. As part of Ms. Venegas's duties, she provided patient care during the perioperative period, which is the time period of a patient's surgical procedure, including during admission and recovery, but it is disputed whether as a perioperative nurse, her duties did not include anesthesia patient care, which remains with the Certified Registered Nurse Anesthetists (CRNA). (Statement of Undisputed Fact ¶ 3 and Answer thereto; Affidavit of Paula Venegas, ¶ 5; Testimony of Paula Venegas, Hrg. Audio Part 4 00:1:30 – 00:47:45).

5. On March 8, 2023, Ms. Venegas was issued a written disciplinary warning concerning a delay in administering pre-op medication on March 7, 2023. (Statement of Undisputed Fact No. 4 and No. 12 and Answers thereto; Affidavit of Paula Venegas, ¶ 15; Testimony of Paula Venegas, Hrg. Audio Part 4 00:1:30 – 00:47:45;)(Bierman Testimony, Audio Part. 5, 4:53-5:55, 6:35-6:42 and 22:15- 23:15). Joint Exhibit 1).

6. Ms. Venegas received notice of pre-op orders for a patient at 0758 via TigerConnect Message. (Statement of Undisputed Facts No. 4 misnumbered as a second No. 3, No.'s 5 and 6 and Answers thereto; Affidavit of Paula Venegas, ¶ 15; Venegas Testimony Hrg. Audio Part 4 at 15:31 – 18:26; 31:55 – 33:09).

7. At 1100 the OR circulator and CRNA discovered that the pre-op medication was not administered by her. (Statement of Undisputed Facts No. 7 and Answer thereto; Bierman Testimony Audio Part. 5, 4:53-5:55, 6:35-6:42 and 22:15-23:15).

8. Although Ms. Venegas initially denied that the patient was assigned to her, after checking the record she admitted that the patient had been assigned to her and she

had not administered the pre-op medication. (Statements of Undisputed Facts No.'s 8 and 9, and Answers thereto. Venegas Testimony Hrg Audio Part 4 at 33:09 – 37:35).

9. The Union does not dispute that Pre-op medication for the patient at issue was not administered until 1108 as asserted in Statement of Undisputed Facts ¶ 10, although the reasons for the delay may be disputed. (Statement of Undisputed Fact No. 10 and Answer thereto; Affidavit of Paula Venegas, ¶¶ 7, 8 and 9; Venegas Testimony Hrg. Audio Part 4 at 33:09 – 37:35; Bierman Testimony Hrg. Audio Part 5 at 4:53-5:55, 6:35-6:42 and 22:15- 23:15).

10. On March 8, 2023, Ms. Venegas's supervisor met with her to inform her of the discipline (Statement of Undisputed Fact No. 13 and Answer thereto; Affidavit of Paula Venegas, ¶¶ 10 and 11; Joint Exhibit 1; Bierman Testimony Audio Part 5 at 4:53-5:55, 6:35-6:42 and 22:15- 23:15).

11. On April 3, 2023, Ms. Venegas was again disciplined for failure to follow pre-op orders to provide medication. (Statement of Undisputed Fact No's. 17 and 20; Affidavit of Paula Venegas ¶¶ 12, 13, 14, 15 and 16; Joint Exhibit 2; Bierman Testimony Hrg. Audio Part 5 at 4:53-5:55, 6:35-6:42 and 22:15- 23:15).

12. On April 13, 2023, Ms. Venegas was involved in a third instance of failure to follow pre-op orders to provide medication. (Statement of Undisputed Fact No. 22; Joint Exhibit 2; Bierman Testimony Audio Part 5 at 4:53-5:55, 6:35-6:42 and 22:15- 23:15).

13. Based on the March 8, 2023 written notice and the two incidents occurring on April 3rd and 13th, 2023, SRMC terminated Ms. Venegas's employment on April 21, 2023. (Statement of Undisputed Fact No. 25; Amended PPC ¶ 19 and SRMC's Answer

thereto; Affidavit of Paula Venegas, ¶ 20; Joint Exhibit 2; Bierman Testimony Audio Part 5 at 4:53-5:55, 6:35-6:42 and 22:15- 23:15).

14. On April 21, 2023, Ms. Venegas's supervisor met with her to issue the termination notice. Undisputed Fact No. 26. (Amended PPC ¶ 20 and SRMC's Answer thereto; Joint Exhibit 2; Bierman Testimony Audio Part 5 at 4:53-5:55, 6:35-6:42 and 22:15-23:15).

15. Neither Ms. Venegas's supervisor nor SRMC's Labor Relations Director were aware of any concerted activity by Ms. Venegas on behalf of the Union or any of its constituent members and the preponderance of the evidence is insufficient to establish that she was ever involved in any such concerted activity. That she may have been one of the initial employees to sign a Union authorization card (which are confidential) and attended Union meetings or wore a union button and lanyard or yellow QR code card are insufficient to establish that SRMC management knew of any such activities prior to imposing the discipline at issue. See, Testimony of Wilson Wilson (stating that SRMC is not allowed to attend card counts or view the cards) (Hrg. Audio Part 6 at 5:48-6:52); See also, 11 NMAC 11.21.2.33 (2022).

16. Dustin Bierman, the Manager of Surgical Services in PACU, was Ms. Venegas'ss supervisor and determined whether to issue disciplinary action to Ms. Venegas. (Hrg. Audio Part 5 at 4:53-5:55, 6:35-6:42 and 22:15- 23:15).

17. When asked if he knew whether Ms. Venegas was a Union member he stated, "I had no solid evidence that she was or wasn't. So I didn't really assert myself into nurses' business." Testimony of Bierman (Hrg. Audio Part 5 at 33:22-33:33). Additionally, when asked if Mr. Bierman knew whether Ms. Venegas wore a Union badge reel, he explained that because employees wore different decorative badge reels, he did not

pay attention to their content or "spend time looking at those." Testimony of Bierman (Hrg. Audio Part 5 at 47:06-47:33). He also testified that he did not notice whether Ms. Venegas wore a yellow badge with a QR code. Testimony of Bierman (Hrg. Audio Part 5 at 47:33-47:40) and Ms. Venegas admitted that she did not know if Mr. Bierman saw her union lanyard or QR badge. Testimony of Venegas (Hrg. Audio Part 4 at 49:16-50:12).

18. Discussions about the Union were held either in the cafeteria or in the parking lot, and not in the Unit, so that it was unlikely that SRMC would know the extent of Ms. Venegas's union activities based on those discussions. Testimony of Mauro (Hrg. Audio Part 3 at 38:30-39:31).

19. Disputed evidence that Ms. Venegas complained during a Zoom call staff meeting on April 14, 2022 about the possibility of rotating schedules, is not evidence of concerted union activities. The Union's witness, Ms. Mauro, testified that questions Ms. Venegas raised during that meeting were no different from those raised by her co-workers regarding their individual concerns about the mechanics of the rotation. See Testimony of Mauro (Hrg. Audio Part 2 at 47:38-50:20). I do not credit Ms. Venegas's disputed testimony that at the conclusion of her complaint she made a statement to the effect of, "Well, we'll see what the Union has to say about this." Testimony of Venegas (Hrg. Audio Part 4 at 8:31-9:04). However, if made, that statement would not be evidence of concerted activity occurring prior to reporting it to the Union.

20. Ms. Venegas testified that the reason she spoke out at the Zoom meeting was primarily because of her concern for patient care – that people rotating in to the PACU "needed to have orientation, that I thought that there should be some

adjustments made on how to do that." Testimony of Venegas (Hrg. Audio Part 4 at 7:56-8:21).

21. Testimony by Ms. Mauro and Ms. Venegas regarding her Union activities to the effect that the Charge Nurse, Geneva Lopez, and Educator, Emily (last name unknown), were aware of and made derogatory comments about these activities, is not relevant or persuasive because the Educator position is not management. Testimony of Mauro (Hrg. Audio Part 2 at 22:36-22:44). Nor is the Charge Nurse a management position. See Union Petition in 304-22, and this Board's Order 26-PELRB-2022 (Dec. 1, 2022).

22. I do not find the hearsay testimony of Union witnesses that Ms. Lopez, Emily (last name unknown) or any other Union members shared their knowledge of Ms. Venegas's Union Support with Mr. Bierman to be credible. Mr. Bierman testified that he did not independently obtain information regarding or otherwise discuss Union affiliation, or order others to share this knowledge with him. Testimony of Bierman (Hrg. Audio Part 5 at 31:54-33:11).

23. On cross-examination Ms. Venegas acknowledged that she was not disciplined for replacing removed union posters or for wearing a union badge or button. (Venegas Testimony Hrg. Audio at 1:04:52 – 1:06:17).

REASONING AND CONCLUSIONS OF LAW:

I. RESPONDENT DID NOT VIOLATE THE PEBA SECTIONS 5(A) AND (B) WHEN IT DISCIPLINED PAULA VENEGAS FOR HER FAILURE TO PROVIDE TIMELY PATIENT CARE.

Complainant's PPC alleges that by its discipline of Ms. Venegas, SRMC violated Section 5(A) and (B). NMSA 1978, Section 10-7E-5 (2020), provides in pertinent part, the right of public employees to:

> "A. … form, join or assist a labor organization for the purpose of collective bargaining through representatives chosen by public employees without interference, restraint or coercion and shall have the right to refuse those activities.
> B. … engage in other concerted activities for mutual aid or benefit…"

For the proposition that this Board has a longstanding recognition of concerted activities as a protected category under § 5 of the Act, see *AFSCME, Council 18 v. N.M. Children, Youth and Families Dep't.* 1-PELRB-2013 (PELRB 122-12, May 15, 2013); *AFSCME, Council 18 v. N.M. Public Defender Dep't.* (In re: PELRB 121-05, July 14, 2006); *AFSCME, Council 18 v. N.M. Dep't. of Health*; 06-PELRB-2007 (December 3, 2007); *AFSCME, Local 3422 v. N.M. Dep't. of Corrections*, (PELRB 113-17).

Concerted activity is activity "engaged in with or on the authority of other employees, and not solely by and on behalf of the employee [herself]." *YMCA of Pikes Peak Region, Inc. v. NLRB,* 914 F.2d 1442, 1451 (10th Cir. 1990)(internal citation omitted), (holding that an employee receiving authority from her co-worker to pursue a harassment matter on his behalf is sufficient to support a finding of "concertedness.").

The PEBA's prohibition of violations of an employee's right to form, join or assist a labor organization for the purpose of collective bargaining, does not prevent an employer's right to discipline its employees for legitimate reasons. That prohibition is directed to discipline undertaken for the purpose of interfering with participation in labor organizing activities, of which the Employer must have knowledge. *Meijer, Inc. v. NLRB*, 463 F.3d 534, 542 (6th Cir. 2005) (citing, *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937)). While violations under Section 5 do not contain an element of motive, unlike retaliation claims under Section 19(A), (B), (D) and (E), employer knowledge of the protected conduct is an essential and requisite element. *Id.* (discussing, *NLRB v. Burnup & Sims, Inc.* 379 U.S. 21, 23 (1964). "It is the employer's knowledge of an employee's protected activity and the subsequent discharge of

the employee to interfere with the known activity that violates the Act." *Id.* at 541. The employer has a right to maintain an orderly work environment. Even where protected concerted activities are present, under PELRB jurisprudence an employer may nevertheless enforce a rule restricting such activity "…where the prohibition is necessary because of 'special circumstances,' such as maintaining production and discipline, ensuring safety, preventing alienation of customers, adverse effects on patients in a health care institution…". See JOHN E. HIGGINS, THE DEVELOPING LABOR LAW (7th Ed.) Chapters 6.I.B.1; 6.I.B.3; 6.III.A.3; 6.II.A.4 and citations therein.

A preponderance of the evidence has established to my satisfaction that Ms. Venegas was terminated for her delay of patient care on multiple occasions and not for the purpose of interfering with participation in labor organizing activities. Furthermore, a preponderance of the evidence established that knowledge Ms. Venegas's participation in labor organizing activities, if any, was not directly communicated to the Employer, nor may knowledge of any such activities be imputed to the Employer.

The evidence established that on three separate occasions Ms. Venegas failed to carry out pre-op orders to administer, or delayed administering, standard pre-op medication. Each instance caused a delay in patient care. Such actions are not only a violation of SRMC policy (SRMC Exhibits 3 and 4; Bierman Testimony Audio Record part 5 at 16:32 – 18:00) but clearly constitute a potential, if not actual, danger to the patients concerned. (Bierman Testimony Audio Record part 5 at 14:30 – 15:22). While it may be true that others also missed deadlines for Pre-Op medication administration, there is no evidence that they did so several times in a short period of time as did Ms. Venegas. Ms. Venegas was previously counselled by her supervisor at least during disciplinary proceedings prior to her discharge, concerning missed medications. During those proceedings she displayed no sense of urgency

about her poor performance or that she recognized a duty to comport with the hospital's medication standards. (Bierman Testimony Audio Record part 5 at 21:21 – 22:22). I observed a similar tendency toward blame-shifting throughout Ms. Venegas's testimony in this hearing. In those counselling sessions and prior disciplinary actions, Ms. Venegas did not demonstrate a willingness to accept correction and change her conduct to meet the employer's expectations, and it was that attitude that led to her eventual discharge. (Bierman Testimony Audio Record part 5 at 44:00 – 46:29; Wilson Testimony Audio Record part 6 at 8:41 – 10:10). There was no evidence offered to show that any of the other employees who missed medications displayed a similar absence of personal responsibility or unwillingness to accept correction.

AFT also did not meet its burden of proving that Ms. Venegas engaged in protected concerted activity, much less that SRMC management had knowledge of any such protected, concerted activity. It did not know whether Ms. Venegas was a union supporter or if she signed a union card, as those cards are confidential and are not shown to the employer. Even if it was aware that she was a union member, mere membership and dues payment are not concerted activities. There is no evidence that she was a steward, represented co-workers in disciplinary proceedings, sat on the Union's bargaining team or did anything else in furtherance of the Union's organizing or conducting union business or had authority from her co-workers to otherwise pursue their interests on their behalf. The only person who testified that Ms. Venegas was acting on behalf of co-workers was Ms. Venegas herself – and her testimony on that question was not corroborated by her coworkers. I therefore conclude that Ms. Venegas'ss activities at the April 14, 2022, meeting were not protected concerted activity. AFT makes a colorable argument that replacing union posters torn down by management employees may constitute protected concerted activities but Ms. Venegas

acknowledged that she received no discipline for that and AFT has not shown a nexus between that activity and the discipline resulting in her discharge.

There is scant evidence that Ms. Venegas engaged in concerted activity or that any concerted activity was directly communicated to the Employer or reasonably imputed to SRMC. A preponderance of the evidence established that Ms. Venegas was disciplined for insufficient patient care on multiple occasions and not for the purpose of interfering with participation in labor organizing activities. Therefore, the alleged violation of Section 5(A) and (B) must be, and are, dismissed.

II. RESPONDENT DID NOT VIOLATE THE PEBA SECTIONS 19(A), 19(B), 19(D) or 19(E) BY RETALIATING AGAINST PAULA VENEGAS FOR HER UNION ACTIVITY WHEN IT DISCIPLINED HER FOR FAILURE TO PROVIDE TIMELY PATIENT CARE.

In addition to AFT's alleged violation of Section 5(A) and (B) dismissed above, the instant PPC alleges that SRMC's discipline of Ms. Venegas constitutes retaliation against her for her union activity in violation of the PEBA Section 19(A) (making it a prohibited practice for a public employer to "discriminate against a public employee with regard to terms and conditions of employment because of the employee's membership in a labor organization"); Section 19(B) (making it a prohibited practice for a public employer to "interfere with, restrain or coerce a public employee in the exercise of a right guaranteed pursuant to the public employee bargaining act or use public funds to influence the decision of its employees or the employees of its subcontractors regarding whether to support or oppose a labor organization that represents or seeks to represent those employees, or whether to become a member of any labor organization"); Section 19(D) (making it a prohibited practice for a public employer to "discriminate in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization"); and,

Section 19(E) (making it a prohibited practice for a public employer to "discharge or otherwise discriminate against a public employee because the employee has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of the public employee bargaining act or because a public employee is forming, joining or choosing to be represented by a labor organization").

The Union has not met its burden of proof to establish a violation of Sections 19 (A), (B), (D) or (E) of the PEBA. In order to establish a violation of the sections listed above, the Board typically applies the two-part test established in *Wright Line*, 251 NLRB 1083 (1980). See, *CWA v. Dept. of Health,* PELRB Case No. 108-08, Hearing Examiner's Report (July 15, 2008); *Goodenough v. State of New Mexico,* PELRB, No. D-101-CV-2020-01743 (B. Biedscheid; April 30, 2021); *Peñasco Federation of United School Employees v. Peñasco Independent School District,* PELRB No. 108-20 (2021). Under the *Wright Line* framework, the Union must first "make a prima facie showing sufficient to support the inference that protected conduct was a 'motivating factor' in the employer's decision." Id. at 1089. Once this is established, the burden . . . shift[s] to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct." Id. at 1089 fn. 24. A prima facie case is established by showing there was (a) union activity, (b) knowledge of such union activity, and (c) animus against the union. See *Carpenters Health & Welfare Fund*, 327 NLRB 262, 265 (1998). *Tschiggfrie Properties, Ltd.,* Case 25-CA-161304 clarified *Carpenters*, *supra* to make clear that there must be some evidence, direct or circumstantial demonstrating that anti-union animus was a motivating factor in the adverse action at issue before the burden shifts to the employer to demonstrate the same action would have been taken in the absence of the unlawful motive.

For the same reasons stated above in my analysis of Section 5(A) and (B), AFT did not make its prima facie case that anti-union animus was a motivating factor in the adverse action at issue. A preponderance of the evidence does not support a conclusion that Venegas engaged in protected activity; nor does it support a conclusion that SRMC's management had knowledge of such activity; or that SRMC was motivated in any degree by Union animus when it disciplined her. Wearing a Union lanyard, being a Union supporter, putting up Union posters in the patient nutrition area, and speaking about the proposed schedule rotation, are insufficient to establish a nexus between Venegas's alleged protected concerted activity and Respondent's adverse action against her.

Therefore, the burden does not shift to the employer to demonstrate the same action would have been taken in the absence of the unlawful motive and no further *Wright Line* analysis is necessary. For lack of a prima facie case, AFT's claims that SRMC violated Sections 19(A), (B), (D) or (E) of the PEBA are dismissed.

III. RESPONDENT DID NOT VIOLATE THE PEBA SECTION 19(G).

In addition to the PEBA sections analyzed above, AFT's PPC also alleges a violation of NMSA 1978 Section 10-7E-19(G) (2020) making it a prohibited practice for a public employer to "refuse or fail to comply with a provision of the Public Employee Bargaining Act or board rule".

In *AFSCME Council 18 v. NM Taxation & Revenue Dep't.,* PELRB Case No. 104-12, 55-PELRB-2012, an employee - union member was reprimanded by her supervisor for allegedly using state phones to conduct union business. The Union filed a PPC alleging that the reprimand violated §§ 19(A), (B), (C), (F), (G) and (H) of the PEBA. At a hearing on the merits the PELRB Hearing Officer granted the State's motion for a directed verdict dismissing all claims (affirmed by the Board) concluding that there were substantial reasons

for taking disciplinary action apart from the employee's union activities and affiliation. While the union established the employee's union affiliation and activities and established that correction and disciplinary action has been taken, it did not establish a nexus between the two. Because the Union did not meet its burden of proof as to any of the underlying claimed violations of the Act, there was no evidence to support a claim that the PEBA § 19(G) was violated.

A similar result appertains here. I have concluded that SRMC did not violate the PEBA Sections 5(A) And (B). I have further concluded that the SRMC did not violate PEBA Sections 19(A), 19(B), 19(D) or 19(E). There are no other violations of the Board's Rules or the Act alleged that would support a claim that SRMC refused or failed to comply with a provision of the Public Employee Bargaining Act or board rule. As the Union did not meet its burden of proof as to any of the underlying claimed violations of the Act, there can be no basis to support a claim that the PEBA § 19(G) was violated. That claim is therefore properly dismissed.

DECISION: For the reasons stated herein, the Union has failed to meet its burden of proof. No prohibited practice is found to have occurred and this Complaint should be, and hereby is, **DISMISSED.**

Issued, Tuesday, October 10, 2023.

Thomas J. Griego, PELRB Hearing Officer