

STATE OF CONNECTICUT
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF

STATE EMPLOYEES BARGAINING
AGENT COALITION

October 12, 2012

-AND-

THE DIVISION OF CRIMINAL JUSTICE

-AND-

GOVERNOR DANIEL P. MALLOY

-AND-

THE CONNECTICUT ASSOCIATION OF
PROSECUTORS

-AND-

LISA HERSKOWITZ

Case No. SPP-29,298

A P P E A R A N C E S:

Attorney Leon M. Rosenblatt
for the Complainant

Attorney Daniel E. Livingston
for the State Employees Bargaining Agent Coalition

Attorney Robert J. Krzys
for the Connecticut Association of Prosecutors

Attorney Saranne P. Murray
for the Division of Criminal Justice

Attorney Ellen M. Carter
for Governor Daniel P. Malloy

RULING ON MOTIONS TO DISMISS

On July 12, 2011 Lisa Herskowitz (Herskowitz or Complainant) filed a complaint, amended on July 27, 2011 and again by an unsigned unsworn pleading on March 8, 2012, with the Connecticut State Board of Labor Relations (the Labor Board) alleging that the State Employees Bargaining Agent Coalition (SEBAC)¹ and the Connecticut Association of Prosecutors (CAP) violated the State Employee Relations Act (SERA or the Act) by breaching their duty of fair representation and that Governor Dannel Malloy (State) and the Division of Criminal Justice (DCJ) had violated the Act by interfering with Complainant's rights under SERA.

On April 2, 2012 the matter came before the Labor Board for a hearing and DCJ filed a motion to dismiss claiming that the complaint was too vague to meet the Labor Board's minimum pleading requirements and that no specific request for relief was directed to DCJ. At that hearing the Labor Board notified the parties that any other motion(s) to dismiss were to be filed by April 5, 2012 and that the Complainant's response, if any, to the motions was to be filed by April 16, 2012.

On April 5, 2012 the State filed a motion to dismiss claiming that the complaint was too vague, that the governor was not an "employer" under SERA, and that the third amended complaint was neither signed nor sworn as required under the Labor Board's regulations. On April 6, 2012 CAP filed a motion to dismiss claiming that the complaint was too vague and failed to request relief CAP had the power to allow.

On May 8, 2012 Complainant filed a signed and sworn third amended complaint and on May 21, 2012 Complainant filed a written response to respondents' motions to dismiss.

On the basis of the entire record before us² we find that the motions to dismiss are not dispositive of this case and must be denied.

¹ See Connecticut General Statutes § 5-278(f).

² Complainant's response to the motions to dismiss was untimely filed and we afford it no consideration or consider it properly part of the record for purposes of this Ruling.

ORDER

By virtue of and pursuant to the powers vested in the Connecticut State Board of Labor Relations by the State Employee Relations Act, it is hereby

ORDERED that the Motions To Dismiss by the State, the Division of Criminal Justice and the Connecticut Association of Prosecutors in the above-captioned case, be, and the same hereby are, **DENIED**. The case will proceed to a hearing on the merits.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

Patricia V. Low
Patricia V. Low
Chairman

Wendella Ault Battey
Wendella Ault Battey
Board Member

Kenneth Leech
Kenneth Leech
Alternate Board Member

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed postage prepaid this 12th day of October, 2012 to the following:

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Harry B. Elliott, Jr., General Counsel
CONNECTICUT STATE BOARD OF LABOR RELATIONS