

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

KEYSTONE EDUCATION CENTER CHARTER  
SCHOOL EDUCATION ASSOCIATION, :  
PSEA/NEA :  
v. : Case No. PERA-C-98-339-W  
KEYSTONE EDUCATION CENTER, INC. :

**FINAL ORDER**

On May 5, 1999, the Keystone Education Center (Keystone) timely filed a statement of exceptions and a supporting brief with the Pennsylvania Labor Relations Board (Board) to the proposed decision and order (PDO) issued on April 16, 1999. In the PDO, the hearing examiner concluded that Keystone violated Section 1201(a)(1) and (3) of the Public Employee Relations Act (PERA) by discharging a teacher because of his efforts to organize the teachers at Keystone. Accordingly, the hearing examiner directed Keystone to unconditionally offer the teacher reinstatement to his former position and to make him whole for any lost wages and benefits. On May 24, 1999, the Keystone Education Center Charter School Education Association (Association) requested an extension of time in which to file its brief in opposition to exceptions. The Secretary of the Board granted the Association's request and the Association thereafter timely filed its brief in opposition to exceptions on June 3, 1999.

The essential facts of this case as found by the hearing examiner are as follows. In 1993 James Gentile founded the Keystone Adolescent Center (Center) to service at-risk students from the surrounding school districts. One of James Gentile's sons, Michael, was the coordinator of the alternative school districts. In 1994 Charles McErlane began working at the center where he held several positions including teacher in the alternative education program. In a memorandum dated April 11, 1995, Michael Gentile recognized Mr. McErlane's outstanding performance in the alternative education program at the adolescent center. In August 1997 Keystone, which was also founded by James Gentile, received a charter from the Commonwealth of Pennsylvania to run a school for at-risk students in grades six to twelve. Keystone opened for its first day of school later that month, with James Gentile as its president, Michael Gentile as its director of education and Charles McErlane as one of twelve teachers. Michael Gentile hired Mr. McErlane because he thought that Mr. McErlane was ideally suited for the job based on his prior experience working with the same type of students at the Center.

Keystone has a progressive disciplinary policy, which provides as follows:

The usual procedure for corrective action may consist of an oral reprimand, written warning, suspension without pay and/or termination. However, the severity of the problem and the work record of the employee will be taken into consideration when determining the appropriate action.

An employee subject to corrective action may be placed on a probationary period of thirty (30) to ninety (90) calendar days. The employee may be terminated during his period of probation if performance remains unsatisfactory. While on probation due to

corrective action, an employee is not eligible for paid vacation days, holidays or sick days.

(FF 5).

In November 1997, Keystone gave raises to all of its teachers, including Charles McErlane. At that time, Michael Gentile evaluated Mr. McErlane's performance as "entirely satisfactory, if not above satisfactory" (FF 6). In late November and early December of 1997, Michael Gentile began receiving complaints from teachers that Mr. McErlane was not being cooperative. As a result, Michael Gentile thereafter spoke to Mr. McErlane about those complaints on occasion but never stated that his job was in jeopardy. In January 1998 the head teacher at Keystone, Matthew Nelson, began receiving complaints from other teachers that Mr. McErlane was being uncooperative. Mr. Nelson also began noticing that Mr. McErlane was not always prepared for class, did not always get his work in on time or follow policy with respect to student supervision. Mr. Nelson spoke to Mr. McErlane and to Michael Gentile about those matters on occasion during the school year.

On January 20 or 21, 1998, Mr. McErlane called the Pennsylvania State Education Association (PSEA) to inquire about organizing a bargaining unit at Keystone. A PSEA representative called Mr. McErlane the next day. By notice dated January 26, 1999, Michael Gentile reprimanded Mr. McErlane for inappropriate, unprofessional and insubordinate conduct while handling an accusation made by a student against a teacher's aide on January 23, 1998. Michael Gentile considered the incident to be very serious. On February 19, 1998, Mr. McErlane and two other teachers from Keystone met with the PSEA representative. In March 1998 Mr. McErlane and another teacher again met with the PSEA representative, who gave them authorization cards, which Mr. McErlane passed out to selected teachers the next day.

In early May 1998 Michael Gentile did an in-class observation of Mr. McErlane's class. Mr. McErlane did not have a lesson plan with him for his class that day. In his evaluation of Mr. McErlane's class performance, Michael Gentile rated him as average in interaction with students, as needs improvement in effectiveness of lesson/preparation, as between good and average in supervision, as less than average in child discipline, as good in proximity (moving) and as good in professionalism.

In late May 1998 Michael Gentile learned that Mr. McErlane was attempting to organize the teachers at Keystone. Subsequently, in late May or early June 1998, another teacher's aide told Mr. Nelson that Mr. McErlane had sexually harassed her during the school year. On June 4, 1998, the school year ended. By letter dated June 5, 1998, the PSEA representative asked James Gentile to recognize the Association as the exclusive representative of a bargaining unit of Keystone's teachers. By letter dated June 10, 1998, James Gentile declined PSEA's request.

On June 11, 1998, Mr. Nelson prepared his head teacher's annual report of Mr. McErlane's performance in which he recognized that "Charles' short comings are detrimental to the team environment and to the overall mission of the school" (FF 19). Later that same day, Mr. Nelson gave the report to Michael Gentile and told him about the aide's allegations of sexual harassment against Mr. McErlane. However, neither Mr. Nelson nor Michael Gentile afforded Mr. McErlane the opportunity to respond to the allegations. On that same day a fellow teacher, Mr. Patterson, went to the school to pick up his paycheck at James Gentile's office. James Gentile had a list of teachers' names on which he was keeping track of their preferences for or against the Association. James Gentile asked Mr. Patterson if he was for or against the Association and stated that Mr. McErlane was probably the person behind the organizing effort. James Gentile further stated that "if Mr.

McErlane was here now, I'd wring his neck" (FF 20). James Gentile later apologized to Mr. Patterson for the outburst and told him not to take it personally.

In mid-June 1998 Keystone offered three weeks of summer school through July 8, 1998. Mr. McErlane was one of the teachers who taught classes during summer school. On June 25, 1998, James Gentile met with Mr. McErlane and during the course of the meeting stated that Mr. McErlane's organizing efforts were dividing the staff. On July 8, 1998, the Board held a pre-hearing conference in which James Gentile participated on a petition by the Association to represent Keystone's teachers. On that same day Michael Gentile called Mr. McErlane to a meeting in which James Gentile and Mr. Nelson were also present. At the meeting, James Gentile told Mr. McErlane that it was time to part ways. The reasons given for McErlane's termination included his unsatisfactory performance, the incident of insubordination in January 1998 and the accusation of sexual harassment. McErlane was also provided a copy of Mr. Nelson's annual report of McErlane's 1997-1998 performance and a copy of Michael Gentile's year-end performance appraisal of Mr. McErlane dated July 6, 1998 in which he rated McErlane as very good in two categories, as average in nineteen categories, as needs improvement in twelve categories and as poor in nine categories. In the comment section of that year-end appraisal, Michael Gentile noted that "your negative interactions with staff, your lack of cooperative team concepts and overall negative attitude make it undesirable for you to be a part of our staff" (FF 24). Keystone then discharged Mr. McErlane from his teaching position.

Keystone has filed eleven separately enumerated exceptions to the PDO. In its first ten exceptions, Keystone challenges certain findings of the hearing examiner regarding credibility determinations, which the Board ordinarily will not reverse absent compelling circumstances. In its final exception, Keystone excepts to the hearing examiner's alleged failure to consider Title VII of the Civil Rights Act of 1964 in directing Keystone to offer Mr. McErlane reinstatement to his former teaching position.

Keystone first excepts to finding of fact 5 of the PDO, wherein the hearing examiner found that Keystone adopted a progressive disciplinary policy. In the finding, the hearing examiner set forth the policy and thereafter in the PDO pointed out that Keystone failed to follow its own progressive disciplinary policy with respect to McErlane before discharging him. Keystone asserts that Michael Gentile testified that Keystone's disciplinary policy was not followed here because it is only a guideline and not the rule. Although Michael Gentile did not issue McErlane a written reprimand for unsatisfactory performance before the end of the school year, Keystone argues that its disciplinary policy depends on the circumstances of the particular case. In support, Keystone points to Michael Gentile's discretionary application of the policy to McErlane in January of 1998 when he issued McErlane a written reprimand rather than a suspension for unprofessional conduct. Furthermore, Keystone contends that the hearing examiner ignored Michael Gentile's testimony that he issued several oral reprimands to Mr. McErlane for his behavior during the school year and further disregarded the testimony of five teachers regarding Mr. McErlane's unprofessional behavior during the school year.

This exception must be dismissed because it challenges the hearing examiner's credibility determination regarding Michael Gentile's testimony of whether termination of McErlane was the only available option here. As the Board has recognized in numerous decisions, credibility determinations rest with the hearing examiner and the Board's long-standing policy is not to disturb those determinations absent compelling reasons. Upper Merion Area School District, 30 PPER ¶ 30091 (Final Order, 1999); Haverford Township, 27 PPER ¶ 27130 (Final Order, 1996); Springfield Township, 12 PPER ¶ 12354 (Final Order, 1981). After a thorough review of the record, the Board finds no compelling reason to overturn the hearing examiner's refusal to credit Michael Gentile's testimony. Keystone contends that Michael Gentile's testimony regarding the progressive disciplinary policy was

uncontradicted and unimpeached. However, a review of the hearing examiner's discussion reveals the inconsistency in Michael Gentile's testimony; thus, Keystone can hardly argue that his testimony was "unimpeached." Indeed, the hearing examiner recognized that:

Mr. Michael Gentile testified that he alone or in conjunction with Mr. Nelson made the decision to fire Mr. McErlane at the end of the school year because Mr. McErlane's performance over the school year had been unsatisfactory for a variety of reasons (N.T. II 112, 149, 162-164). Mr. Michael Gentile actually went so far as to say that no other form of discipline under Keystone's progressive disciplinary process was appropriate given the rating Mr. McErlane received from him following an observation in early May 1998, especially in light of the type of students being taught at the school (N.T. I 95). This testimony strains credulity. Mr. McErlane taught summer school after the school year ended. If Mr. Michael Gentile actually believed that Mr. McErlane was not fit to teach by the end of the school year, then it stands to reason that Mr. Michael Gentile would have fired him then rather than later. Moreover, by Mr. Michael Gentile's own account, he was well aware of Mr. McErlane's job performance throughout the school year (N.T. I 86-87; II 114-117, 135-244), but he never even issued Mr. McErlane a written reprimand. It seems remarkable that Mr. Michael Gentile would not at least have issued a written reprimand to Mr. McErlane before the end of the school year if Mr. McErlane's performance had been unsatisfactory all along. Furthermore, despite Mr. Michael Gentile's protestation to the contrary (N.T. II 144), his observation of Mr. McErlane was hardly unsatisfactory (KEC Exhibit 4). Notably, Mr. Michael Gentile first learned of Mr. McErlane's protected activity shortly after the observation.

(PDO at 6) (emphasis added). Based on the hearing examiner's discussion of Michael Gentile's testimony, it is clear that the examiner simply did not believe that the real reason for McErlane's discharge was his alleged poor work performance and inability to get along with fellow teachers.

Keystone further contends that the hearing examiner erred by relying on Lehighton Area School District v. PLRB, 682 A.2d 439 (Pa. Cmwlth. 1996). Although Lehighton may be factually distinguished from this case as pointed out by Keystone, the proposition relied on by the Board in Lehighton to infer anti-union animus applies with equal force to McErlane's circumstances here. In affirming the Board's finding of discrimination in Lehighton, Commonwealth Court stated that "[a]n employer's failure to follow its own policy of progressive discipline is sufficient to support the PLRB's inference that the employee was discharged because of his or her PERA-protected activities." Lehighton, 682 A.2d at 443 (citing St. Joseph's Hosp. v. PLRB, 473 Pa. 101, 373 A.2d 1069 (1977)). In January 1998, Keystone issued a written reprimand to McErlane for insubordination and unprofessional conduct related to a student's comments about a teacher's aide at Keystone. However, McErlane was never given a written reprimand or suspension for his alleged poor teaching performance; McErlane was simply fired based on the culmination of various problems that allegedly occurred throughout the school year. Although McErlane may have been given several oral reprimands for certain problems that arose during the school year as Michael Gentile and Mr. Nelson testified, Keystone's decision to discharge McErlane makes little sense in light of the fact that McErlane was permitted to teach summer school classes. Indeed, Michael Gentile and Mr. Nelson both testified that they decided to fire McErlane on June 11, 1998 and yet McErlane thereafter worked a session of summer school. Based on the evidence, the Board finds no compelling reason to overturn the hearing examiner's credibility determinations regarding Michael Gentile.

Despite evidence to the contrary, Keystone continues to assert that the termination of McErlane is understandable given the poor work evaluation he received from Michael Gentile in May 1998. However, Keystone again ignores the evaluation itself, which the hearing examiner found could hardly be considered an "unsatisfactory" evaluation. The May 1998 in-class evaluation ranks McErlane as average in interaction with students, as needs improvement in effectiveness of lesson/preparation, as between good and average in supervision, as less than average in child discipline, as good in proximity (moving) and as good in professionalism. For Keystone to offer the evaluation as a reason for McErlane's dismissal at this point belies its contrary actions in permitting McErlane to continue teaching at-risk students. Therefore, Keystone's first exception is dismissed.

In exceptions 2 and 3, Keystone excepts to findings 16 and 21 of the PDO, which respectively provide that on June 4, 1998 the school year ended and that in mid-June 1998 Keystone offered three weeks of summer school through July 8, 1998. Keystone contends that there is no evidence to suggest that Keystone held a three-week summer school or that the decision to discharge McErlane occurred before the summer school session began. However, these exceptions are without merit as the testimony of Keystone's own witness, Michael Gentile, clearly provides the evidence necessary to support the examiner's findings. Michael Gentile testified that Mr. McErlane finished teaching the first summer school session, which ended July 8, 1998 (N.T. I 90; N.T. II 152). Moreover, Michael Gentile admitted that Keystone knew three weeks prior to July 8, 1998 that it was going to discharge McErlane but decided to allow him to work the first session (N.T. I 91). Furthermore, in its exceptions Keystone admits that Michael Gentile and Mr. Nelson decided to discharge McErlane on June 11, 1998. Even if summer school began prior to June 11, 1998 as Keystone suggests, the fact remains that Keystone permitted McErlane to continue teaching summer school after Michael Gentile and Mr. Nelson made their decision to discharge McErlane on that date. Findings 16 and 21 in the PDO were based on substantial evidence and the inferences drawn by the hearing examiner from those findings were reasonable. Therefore, the Board will dismiss exceptions 2 and 3.

In exceptions 4, 5, 6, 7, 8 and 10, Keystone essentially challenges the hearing examiner's findings regarding whether the Association made out a prima facie case of discrimination and whether Keystone failed to rebut the Association's case. Keystone's primary argument in these exceptions is that there is no evidence to show that James Gentile was responsible for discharging McErlane or that he made anti-union statements regarding McErlane's organizing efforts. These exceptions challenge credibility, which as already stated is a matter that the Board normally defers to the hearing examiner to determine. The hearing examiner judges the credibility of the witnesses and is free to accept or reject the testimony of any witness, in whole or in part, based on the witness' appearance, general bearing, conduct on the stand, demeanor, manner of testifying (e.g. candor, frankness, clarity of statements) and certainty of the witnesses with respect to fact. PSSU, Local 668 (Blose), 26 PPER ¶ 26221 (Proposed Decision and Order, 1995). Furthermore, the party charged with the unfair practice rarely admits anti-union animus and therefore the fact finder may infer animus from the record as a whole. St. Joseph's Hospital, supra. In this case, the hearing examiner found that the testimony of James Gentile and Michael Gentile regarding the termination of McErlane's employment was not credible. The examiner concluded that their testimony that James Gentile did not know until after he met with McErlane on June 25, 1998 that McErlane was to be fired appeared to be "nothing more than a transparent attempt on their part to insulate Keystone from any liability for Mr. James Gentile's comments" (PDO at 7). Thus, the PDO clearly shows that the hearing examiner did not believe the reasons offered by the Gentiles for McErlane's discharge.

Keystone contends the hearing examiner focused only on James Gentile's comment to McErlane that his organizing efforts were "dividing the staff" (FF 22) to support his finding

of anti-union animus. Keystone claims that the examiner failed to look at James Gentile's comments in the context of the entire conversation with McErlane on June 25. Based on the findings, however, the hearing examiner believed McErlane's testimony that "dividing the staff" referred to his organizing efforts rather than his negative attitude as James Gentile claimed in his testimony. Moreover, Keystone ignores James Gentile's comments to Mr. Patterson on June 11, 1998 regarding whether he was for or against a union. At that time, James Gentile was admittedly upset and he did not deny that he stated he wanted to "wring McErlane's neck" (N.T. II 254). James Gentile and the PSEA representative both agreed that around this time James Gentile was informed via letter from PSEA that certain Keystone employees had expressed an interest in organizing a bargaining unit at Keystone (N.T. I 22-23; N.T. II 253; Association Exhibit 1). Mr. Patterson testified that James Gentile also stated on June 11 that McErlane was probably the person behind the organizing effort (N.T. I 46). Based on the context of James Gentile's conversation with Mr. Patterson on June 11 and upon James Gentile's admission, the hearing examiner was free to conclude that James Gentile wanted to wring McErlane's neck for contacting PSEA and attempting to organize. Thus, the hearing examiner's findings are based on substantial evidence and will not be disturbed.

Keystone further argues that the hearing examiner failed to properly apply the factors set forth in Child Development Council of Centre County, 9 PPER ¶ 9188 (Final Order, 1978). Specifically, Keystone contends that the examiner failed to discuss some of the factors, including what effect, if any, the discharge had on unionization activities and the statements made by the discharging supervisor. As to the former factor, the discharge of a leading organizer for engaging in protected activity clearly has a chilling effect on employee organizing efforts. With regard to the latter factor, Keystone asserts that there is no evidence to show James Gentile was responsible for firing McErlane. Initially, the Board notes that the factors set forth in Child Development Council of Centre County are not an exclusive or exhaustive list. Indeed, in that case the Board recognized that other factors may be present in other cases to show discrimination. For instance, the timing of adverse action against an employee engaging in protected activity is also a legitimate factor to be considered in determining anti-union animus. PLRB v. Berks County, 13 PPER ¶ 13277 (Final Order, 1982). The timing of McErlane's discharge here is crucial given the fact it came on the heels of an organizing effort in which McErlane was actively involved.

As to whether James Gentile can be considered the discharging supervisor here, the hearing examiner rejected this assertion based on James Gentile's comments and Michael Gentile's shifting explanations for McErlane's discharge. Shifting and inconsistent employer explanations for action taken against union activists are an appropriate consideration in determining a discrimination charge. Montgomery County v. PLRB, 15 PPER ¶ 15089 (Court of Common Pleas of Montgomery County, 1984). In one breath, Michael Gentile testified that McErlane was fired because he was not following rules, was not a team player, didn't have a positive attitude, didn't follow instructions, didn't cooperate with other teachers, had sexual problems with teachers and sexual issues with students (N.T. II 163-164). In the next breath, Michael Gentile admitted he never mentioned an incident regarding a student's grade as a reason for firing McErlane and he admitted that he failed to mention a lot of incidents at the prior hearing as reasons for McErlane's discharge (N.T. II 165). Also, Keystone fails to appreciate here that James Gentile is the president of Keystone, that he attended the meeting at which McErlane was dismissed on July 8 and the fact that Keystone is essentially a family owned and run business. Under these circumstances, the hearing examiner simply did not believe that James Gentile played no part in the decision to fire Mr. McErlane. Accordingly, Keystone did not meet its burden under Perry County v. PLRB, 634 A.2d 808 (Pa. Cmwlth. 1993) to show that McErlane would have been discharged absent his union activity and these exceptions are dismissed.

In its ninth exception, Keystone excepts to the hearing examiner's refusal to credit the testimony of Mr. Nelson. Keystone argues that the examiner erroneously relied on two factors to discredit Nelson's testimony, including the finding that McErlane was permitted to teach summer school despite his alleged poor performance and the finding that Keystone failed to give McErlane an opportunity to defend himself against the allegations of sexual harassment. The first factor pointed out as having been erroneously relied upon has already been addressed above in the Board's discussion of exceptions 2 and 3. As to the failure of Keystone to provide McErlane with an opportunity to address the allegations of sexual harassment, Mr. Nelson and Michael Gentile both testified that they considered the sexual harassment allegations to be very serious (N.T. II 73, 165). However, neither Nelson nor Michael Gentile asked McErlane about the allegations. Moreover, Nelson testified that he told Michael Gentile about the sexual harassment allegations during their June 11, 1998 meeting (N.T. II 45). If the allegations were as serious as Michael Gentile and Nelson claimed, again the question is raised as to why McErlane was permitted to continue teaching during the summer session. Based on the evidence of record, the hearing examiner was free to conclude that McErlane's discharge was not really based on the allegations of sexual harassment and that Nelson's testimony should not be credited.

Keystone questions what McErlane's defense would have been had Keystone afforded him an opportunity to respond to the allegations based on McErlane's admission that he had inappropriate conversations with the aide who made the allegations. Keystone's argument misses the point. The focus is not on what McErlane would have said but whether Keystone even approached McErlane about the allegations before deciding to terminate his employment. Whether McErlane admitted at the hearing that he had inappropriate conversations does not alter the fact that Keystone did not investigate the allegations upon which McErlane's termination was in part supposedly based. The Board will therefore dismiss exception 9 as well.

Finally, Keystone excepts to the remedy directed by the hearing examiner in the PDO, which requires Keystone to offer McErlane reinstatement to his former teaching position. Keystone contends that the hearing examiner disregarded Title VII of the Civil Rights Act of 1964 by directing it to offer reinstatement to McErlane. Keystone asserts that McErlane admitted to engaging in inappropriate sexual behavior with a fellow employee. Now that Keystone has actual knowledge of McErlane's alleged wrongful conduct, Keystone believes it will be exposed to civil liability for creating a hostile and offensive work environment.

Keystone's final exception is a red herring and will not serve as an after the fact shield against its violation of PERA. First, the function of the Board's hearing examiner is to conduct a hearing at which testimony and evidence is presented and based on the evidence he or she is to decide whether the unfair practice charged under PERA has been committed and if so direct an appropriate remedy. 34 Pa. Code § 95.91. The hearing examiner is not required or even authorized to determine whether a party has violated civil rights statutes. Second, Keystone cannot escape its violation of Section 1201(a)(1) and (3) of PERA by now arguing that reinstatement of McErlane will expose Keystone to civil liability. At the time the allegations of sexual harassment were presented to Mr. Nelson and Michael Gentile, the record shows they did not confront McErlane about the allegations nor did they conduct an investigation. Moreover, Keystone permitted McErlane to continue teaching summer school well after the teacher's aide informed Mr. Nelson of the sexual harassment allegations in late May or early June 1998 (FF 15).<sup>1</sup> Thus, Keystone's alleged concerns here do not compel the Board to alter or reject the remedy provided in the PDO. Keystone's final exception must be dismissed.

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<sup>1</sup> The Board notes that Keystone filed no exceptions to finding of fact 15 of the PDO.

After a thorough review of the exceptions, the brief in support of exceptions, the brief in opposition to exceptions and all matters of record, the Board shall dismiss the exceptions and make the proposed decision and order final.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employee Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed to the proposed decision and order in the above-captioned matter be and the same are hereby dismissed and the proposed decision and order be and the same is hereby made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania, pursuant to Conference Call Meeting of the Pennsylvania Labor Relations Board, John Markle Jr., Chairman, and Members L. Dennis Martire and Edward G. Feehan, this twenty-seventh day of July, 1999. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

KEYSTONE EDUCATION CENTER :  
CHARTER SCHOOL EDUCATION :  
ASSOCIATION, PSEA/NEA :  
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v. : Case No. PERA-C-98-339-W  
 :  
KEYSTONE EDUCATION CENTER, INC. :

**AFFIDAVIT OF COMPLIANCE**

Keystone Education Center hereby certifies that it has ceased and desisted from its violations of Section 1201(a)(1) and 1201(a)(3) of the Act, that it has offered Mr. McErlane in writing unconditional reinstatement to his former position without prejudice to any rights and/or privileges previously enjoyed by him, that it has made Mr. McErlane whole for any wages and benefits lost by him from the date of his discharge up to the date of the written offer of reinstatement as directed, that it has posted the proposed decision and order and final order as directed, and that it has served a copy of this affidavit on the Association at its principal place of business.

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Title

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

\_\_\_\_\_  
Signature of Notary Public