

FIRST DIVISION
September 28, 2026

No. 1-25-2572

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

LATRICE MOTON,	)	Appeal from the Illinois Labor
	)	Relations Board.
Petitioner-Appellant,	)	
	)	
v.	)	
	)	
ILLINOIS LABOR RELATIONS BOARD,	)	
STATE PANEL and AMERICAN FEDERATION	)	
OF STATE, COUNTY, AND MUNICIPAL	)	
EMPLOYEES, COUNCIL 31, LOCAL 1610,	)	
	)	
Respondents-Appellees.	)	ILRB NO: S-CB-25-050

JUSTICE HOWSE delivered the judgment of the court.
Presiding Justice Ellis and Justice Cobbs concurred in the judgment.

ORDER

- ¶ 1 *Held:* We affirm the decision of the Illinois Labor Relations Board. Petitioner fails to establish that the Board abused its discretion when it dismissed petitioner's unfair labor practice charge for failure to raise an issue of law or fact sufficient to warrant a hearing.
- ¶ 2 Petitioner Latrice Moton was subject to escalating discipline due to inappropriate workplace behavior that ultimately resulted in the termination of her employment. Petitioner was working with her union representatives during the course of the entire dispute with her employer, but she was dissatisfied with the actions taken by the union. Petitioner contends that the union's conduct in its representation of her amounted to a breach of its duty of fair representation.

Petitioner filed a charge against the union with the Illinois Labor Relations Board for an unfair labor practice. Following an investigation, the Board dismissed petitioner's charge for failure to raise an issue of law or fact sufficient to warrant a hearing. Petitioner filed a direct appeal of the Board's decision in this court. For the following reasons, we affirm.

¶ 3

BACKGROUND

¶ 4 Petitioner Latrice Moton was employed as a certified nursing assistant by the Department of Veterans Affairs. In both 2024 and 2025, Moton allegedly engaged in certain disruptive and hostile behavior that violated workplace conduct policies. Moton was placed on administrative leave in mid-2024. Moton received counseling for bullying and a written reprimand. Her workplace behavior reportedly did not improve. On March 24, 2025, Moton was reassigned from her regular work duties due to her alleged inappropriate conduct. In April 2025, Moton allegedly continued to engage in inappropriate workplace behavior including harassment and intimidation, bullying, and other hostile behavior that was determined by her coworkers and superiors to be disruptive to a respectful work environment. On May 9, 2025, Moton was placed on administrative leave a second time. The Department issued charges against Moton for eight specific instances of misconduct that allegedly occurred during March and April 2025.

¶ 5 On June 28, 2025, Moton filed an unfair labor practice charge with respondent, the Illinois Labor Relations Board. In her "charge against labor organization," Moton alleged that the other respondent, the American Federation of State, County, and Municipal Employees (AFSCME), violated the Illinois Public Labor Relations Act (5 ILCS 315/10(b) (West 2024)). Specifically, Moton alleged that when she was placed on administrative leave in March 2024 and again on May 9, 2025, she immediately requested that AFSCME file a grievance on her behalf to challenge the Department's action. Moton alleged that her union representatives advised her to

wait, which caused the contractual grievance filing deadlines to expire. Moton further alleged that AFSCME breached its duty of fair representation when it failed to take any action when she was transferred to a different work assignment. Moton alleged that she immediately protested her employer's action and requested AFSCME's intervention, but it failed to act on her behalf. Moton concluded in her labor relations charge that AFSCME's actions "demonstrate a pattern of arbitrary, discriminatory, and/or bad faith representation."

¶ 6 Moton attached to her unfair labor practice charge a copy of the relevant collective bargaining agreement governing her employment. Moton further attached copies of text messages between herself and various union representatives. The text messages indicate that Moton was inquiring about why AFSCME was not filing grievances on her behalf as she had been advocating for. The union representatives indicated that they were waiting for the Department to take some sort of actual adverse disciplinary action because the period for filing a grievance begins to run once disciplinary action is taken. The representatives stated that the union did not file grievances for the mere placement on administrative leave pending an investigation.

¶ 7 On July 3, 2025, AFSCME negotiated a "last chance agreement" that would have allowed Moton to continue her employment. By email dated July 8, 2025, Moton rejected the last chance agreement because she declined to work under the conditions outlined in the agreement where she believed there was no basis for any discipline against her. On July 14, 2025, Moton was formally notified that she was suspended pending discharge. The suspension was made to be effective retroactively to June 23, 2025.

¶ 8 Upon learning of her suspension pending discharge, Moton amended her charge against AFSCME on July 21, 2025 to include the additional information about her suspension and the

last chance agreement. Moton alleged that AFSCME further failed to adequately represent her in light of the fact that it negotiated an agreement for her to have a last chance in a job where her employer had already decided it was going to terminate her employment. Moton concluded that AFSCME egregiously breached the duty of fair representation where it was unaware of her suspension while actively engaging with her about her employment status.

¶ 9 The Illinois Labor Relations Board assigned an investigator to look into Moton's charge. The investigator contacted Moton on July 31, 2025 to ask for information. The investigator asked Moton what reason the union provided for not filing a grievance over her March 24, 2025 transfer. The investigator stated that it was her belief that the union cannot grieve the employer's decision to place an employee on administrative leave pending an investigation but could grieve any discipline resulting from such investigation. The investigator informed Moton of the standard that required the union to have engaged in intentional misconduct in order to have violated the Illinois Public Labor Relations Act. The investigator asked Moton to provide the reason the union had to be biased against her and to detail how the union displayed its bias.

¶ 10 Moton responded to the investigator on August 5, 2025. Moton explained that her charge was that the union had engaged in a pattern of intentional misconduct and neglect that amounted to a breach of its duty of fair representation. As to the union's failure to file a grievance for her March 24, 2025 transfer, Moton stated that she is "not aware of any specific reason the Union provided for not filing a grievance." As for the union's purported intentional misconduct and bias, Moton stated that the union failed to fairly represent her because of the pending labor relations claim she had filed against the union. Moton told the investigator that she had a phone conversation with her union representative who stated that the union steward had said she could no longer work with Moton because of Moton's pending claim against the union. Moton

informed the investigator, however, that when she reiterated the concerns about the union steward being unable to work with her in a text message with the same union representative, the union representative denied ever making such a statement.

¶ 11 Moton attached copies of the text message conversation she purportedly had with her union representative about the steward's alleged inability to work with Moton. In the messages, Moton asked the union representative whether the steward was declining to file grievances on Moton's behalf because Moton had contacted labor relations. The union representative explained that she "never said [the union steward] couldn't work with" Moton. The union representative clarified that the union steward escalated Moton's case to superiors because of the charge against the union, but that the steward could still communicate with Moton and would file a grievance on her behalf at the appropriate time. The union representative told Moton that the only reason the union had not yet filed a grievance was because they had to wait until Moton received a formal letter from her employer informing her of her termination.

¶ 12 On the same day that Moton was responding to the investigator, AFSCME timely filed a grievance over Moton's discharge. The grievance states that Moton was discharged without just cause, and it asks that the termination of her employment be rescinded and that she receive all wages and benefits she was deprived of as a result of the employer's unwarranted action.

¶ 13 Following the Board's investigation, the Executive Director of the Board, in a written order, dismissed Moton's charge after concluding that it failed to raise an issue of law or fact sufficient to warrant a hearing. The Executive Director recounted in the order the investigation that was undertaken and the results thereof. The Executive Director determined that Moton failed to provide any evidence to show that animus motivated the union's decision not to file a grievance over her transfer, noting Moton's own statement to the investigator that she did not

know why the union did not file the grievance. The Executive Director also determined that Moton failed to provide any evidence that animus influenced the union's decision not to file a grievance over Moton being placed on administrative leave, citing the union's explanation that it could not file a grievance until Moton's employer took disciplinary action against her. The Executive Director noted that there was no evidence that any animus influenced the union's representation of Moton as it concerned her suspension or termination because the Union did, in fact, file a grievance on Moton's behalf concerning those actions.

¶ 14 Moton filed an appeal of the Executive Director's decision to the Board itself. Moton contended that the Executive Director's dismissal order failed to properly account for key evidence demonstrating that AFSCME engaged in intentional misconduct and breached its duty of fair representation. Moton requested that the Board reverse the dismissal and order her charge to proceed to a hearing.

¶ 15 The Board affirmed the dismissal of Moton's charge for the reasons stated by the Executive Director. The Board additionally explained that, upon its review of the dismissal order, the record, and Moton's appeal, it found the appeal to be "without merit for it offers no viable basis to undermine the Executive Director's grounds for dismissal." The Board went on to state that, "[s]pecifically, the appeal fails to provide or point to any evidence that [the union] failed to file or pursue a grievance for [Moton] due to any bias or hostility toward [Moton's] status or activity." Moreover, according to the Board, the materials Moton included with her appeal "fail to undermine the Executive Director's findings or raise issues for hearing on the elements of intentional misconduct needed to prevail in duty of fair representation cases." The Board also noted that the union "did file a grievance over [Moton's] discharge." The Board concluded that "the Executive Director correctly dismissed the charge on grounds that the

available evidence failed to raise issues of fact or law warranting a hearing on the allegations that the Respondent engaged in unlawful activity in violation of Section 10(b)(1) of the Act.”

¶ 16 Moton now seeks direct review of the Board’s final administrative order in this court.

¶ 17 ANALYSIS

¶ 18 Moton appeals an order from the Illinois Labor Relations Board arguing that the Board erred when it determined that her charge was subject to dismissal because no issue of law or fact warranted a hearing or further proceedings.¹ The Board’s final administrative order is directly appealable to this court under the Illinois Public Labor Relations Act and Illinois Supreme Court Rule 335. See 5 ILCS 315/11(e) (West 2024); Ill. S. Ct. R. 335 (eff. July 1, 2017).

¶ 19 In her opening brief, Moton argued that this appeal presented “questions of law, findings of fact, and mixed questions of law and fact.” Moton argued that this court reviews questions of law *de novo*, findings of fact under the manifest-weight-of-the-evidence standard, and mixed questions of law and fact under the clearly erroneous standard. Both respondents, AFSCME and the Board, in their separate response briefs, contend that the proper standard of review is the abuse of discretion standard. In her reply brief, Moton “accepts that the dismissal is reviewed for abuse of discretion” and she “does not ask the court to apply the manifest-weight or clearly erroneous standards applicable after an evidentiary hearing.” Indeed, a petition for review from a decision of the Board finding that there is insufficient evidence to support an unfair labor practice charge is reviewed under the abuse of discretion standard. *Michels v. Illinois Labor*

¹ Moton filed her opening brief in this appeal on March 9, 2026 and then, with leave of court, filed an amended brief on July 13, 2026. One respondent, AFSCME, filed its response brief on April 1, 2026, prior to Moton filing her amended brief. The amended brief raises completely new issues for the appeal, and we do not address the issue raised in the original opening brief, which has been abandoned and forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (requiring an appellant’s brief to contain “the contentions of the appellant and the reasons therefor, with citation of the authorities *** relied on”).

Relations Board, 2012 IL App (4th) 110612, ¶ 45. The standards of review Moton argues for in her opening brief only apply when the court reviews a Board decision following an administrative hearing, not when the dismissal is made at the investigatory stage.

¶ 20 When a party files a charge alleging an unfair labor practice, the Board’s Executive Director investigates the charge and decides whether to issue a complaint. 5 ILCS 315/11(a) (West 2024); 80 Ill. Admin. Code §§ 1220.40(a)(3-4). In deciding whether to issue a formal complaint for an unfair labor practice, the Board acts pursuant to its investigatory authority and exercises its discretion in evaluating a charging party’s allegations. *Michels*, 2012 IL App (4th) 110612, ¶¶ 44-45. An abuse of discretion occurs only when a decision is arbitrary and is reached without the employment of conscientious judgment or when the decision is clearly against logic. *Id.* at ¶ 46.

¶ 21 Moton argues that the Executive Director exceeded her investigative authority by resolving factual disputes instead of simply determining whether the investigation disclosed material factual disputes warranting the issuance of a complaint. Moton points to the Illinois Labor Relation Board’s administrative regulations in which it sets forth the procedures for unfair labor practice proceedings. The regulations dictate that “[i]f the investigation reveals that the charge involves *an issue of law or fact* sufficient to warrant a hearing, the Board or the Executive Director shall issue a complaint for hearing.” 80 Ill. Admin. Code § 1220.40(a)(3) (internal citation omitted) (emphasis in original). Moton asserts that the record before the Executive Director presented competing evidence regarding the propriety of the union’s representational conduct and that, “by weighing competing evidence and resolving disputed factual issues during the investigative stage, the Executive Director performed a function reserved for further proceedings after the issuance of a complaint.” Moton asserts that, “[b]ecause the administrative

record contained competing evidence on material issues, *** a complaint should have been issued *** allowing those factual disputes to be resolved through the Board’s adjudicative process rather than during the investigative stage.”

¶ 22 When a party files a charge alleging an unfair labor practice, the Executive Director is empowered to investigate and then decide whether to issue a complaint. 5 ILCS 315/11(a) (2024); 80 Ill. Admin. Code §§ 1220.40(a)(3-4). During that process, the Executive Director, and ultimately the Board, is empowered to assess credibility and draw inferences from the facts. *Michels*, 2012 IL App (4th) 110612, ¶ 44 (citing *Murry v. American Federation of State, County & Municipal Employees, Local 1111*, 305 Ill. App. 3d 627, 633 (1999)).

¶ 23 The process and the standards governing the Executive Director’s role in reviewing a charge against a labor organization are not tantamount to, say, the circuit court’s role in deciding a motion for summary judgment as Moton seems to argue. There, the circuit court’s role is only to decide whether evidence exists to create a genuine issue of material fact, and the court errs if it assesses witness credibility, draws inferences against the nonmovant, or otherwise weighs the evidence. *Heath v. City of Naperville*, 2024 IL App (3d) 230663, ¶ 50. Here, the Executive Director, and ultimately the Board, has an investigatory role. When investigating an unfair labor practices charge, the Board is analogous to a grand jury. *Murry v. American Federation of State, County & Municipal Employees, Local 1111*, 305 Ill. App. 3d 627, 633 (1999). And like a grand jury, the Board assesses the credibility of witnesses, draws inferences from the facts, and, in general, decides whether there is enough evidence to support the charge. *Id.*

¶ 24 Additionally, Moton fails to identify any specific issue resolved by the Board that necessarily required further proceedings. Moton’s full statement of purported disputes that would require a hearing fails to show that further proceedings were warranted. All that Moton argues,

and she does so in a general way, is that “[t]he administrative record contains disputed factual issues concerning the timing of [her] disciplinary proceedings, the Union’s response to [her] repeated requests for representation, and the handling of the grievance process.” Moton continues that “[t]he record also reflects evidence concerning the proposed Last Chance Agreement and communications between the parties regarding the Union’s representation.” These vague assertions of error are insufficient to clearly define and sufficiently present an argument for appellate review (see Ill. S. Ct. R. 341(h)(7)) or to otherwise show that Moton presented sufficient evidence to warrant a hearing.

¶ 25 To the contrary, the record reveals that the Executive Director, whose findings and conclusions were adopted by the Board, addressed each of the relevant events leading up to the termination of Moton’s employment and found that Moton did not present sufficient evidence to require a hearing to determine whether the union engaged in intentional misconduct or acted with bias or animus against her.

¶ 26 The Illinois Public Labor Relations Act (5 ILCS 315/1, *et seq.* (West 2024)) imposes on public employee labor unions a duty to fairly represent their members. *Zander v. Carlson*, 2020 IL 125691, ¶ 35. A labor organization commits an unfair labor practice in its duty of fair representation only when it engages in intentional misconduct in representing employees. 5 ILCS 315/10(b)(1)(ii); *Zander*, 2020 IL 125691, ¶ 36. In order to demonstrate intentional misconduct by a union, a charging party must show that: (1) the union’s conduct was intentional, invidious, and directed against him; and (2) the union’s intentional action occurred because of and in retaliation for some past activity by the employee or because of his status, such as race, gender, or national origin, or animosity between the employee and the union, such as that based upon

personal conflict or the employee's dissident union practices. *Michels*, 2012 IL App (4th) 110612, ¶ 48.

¶ 27 A few discrete events form the basis of Moton's dissatisfaction with her union representation. The record shows that Moton was displeased that the union did not file a grievance with regard to her 2024 placement on administrative leave despite her requests that the union do so. Moton also contended that the union should have filed a grievance over her March 24, 2025 transfer or reassignment. Moton was again displeased that she was placed on administrative leave a second time on May 9, 2025 with no grievance from the union. Moton also contended that the union improperly handled her suspension pending discharge and her ultimate termination.

¶ 28 With regard to both her 2024 and 2025 placements on administrative leave, union representatives specifically informed Moton that the union was required to wait until disciplinary action was taken and it would be premature to file a grievance for her mere placement on administrative leave pending an investigation. The Board's investigator stated that the union could not file a grievance over the decision to place an employee on administrative leave pending an investigation and could only grieve the result of that investigation, should it be adverse. The text message correspondence that Moton attached to her charge reflects that the Union was simply following its usual procedures when it decided not to grieve those actions. Given that a union enjoys "substantial discretion" in deciding "whether to pursue a grievance" (*Michels*, 2012 IL App (4th) 110612, ¶ 51) and because Moton fails to identify any improper motive for the union's decision to not file a grievance over her placements on administrative leave, Moton's discontent with the union over these events could not support the existence of an unfair labor practice.

¶ 29 With regard to her March 24, 2025 reassignment, the Board's investigator specifically asked Moton to provide the reason the union had given her for not filing a grievance over her transfer. Moton responded that, with regard to the union's failure to file a grievance for her transfer, she is "not aware of any specific reason the Union provided for not filing a grievance." As the Board found, Moton's inability to identify an improper motive for the Union's decision not to grieve her transfer is fatal to that claim.

¶ 30 Moreover, the investigator asked Moton to provide reason the union had to be biased against her and to detail how the union displayed its bias. The only basis Moton ever provided for the union allegedly failing to fairly represent her was due to the pending labor relations claim she had filed against the union. Both of her placements on administrative leave and her assignment to different work duties predated Moton filing her unfair labor practices charge. The union had already informed Moton why it was not filing a grievance over those employment actions well before Moton had lodged her unfair labor practices claim against the union.

¶ 31 As for the union's handling of Moton's suspension pending discharge and her termination, Moton failed to demonstrate that the union failed to fairly represent her. Union representatives repeatedly informed Moton that they would file a grievance once the employer took some actual adverse disciplinary action, namely, terminating her employment. The operative collective bargaining agreement, which Moton attached to her charge, expressly prohibited the union from filing a grievance over her suspension as it dictates that suspensions pending discharge are not subject to grievance procedures. Once the union received formal notice of Moton's discharge, it did, in fact, timely file a grievance on her behalf. The union merely waited for the disciplinary action to occur, as it had instructed Moton that it would do all along.

¶ 32 The only explanation for alleged bias or animus offered by Moton was that the union steward reportedly would not work with her because she had filed an unfair labor practice charge. The only evidence Moton provided of this alleged animus was her own statement that she was informed of this fact by a union representative in a telephone call. However, when Moton broached the subject with the same union representative in a text message, the union representative denied ever making the statement and informed Moton that the union steward was, in fact, willing to work with Moton and simply was waiting for the disciplinary action to happen. More importantly, however, the only adverse employment events that occurred after Moton filed her charge against the union were her suspension and her termination. The collective bargaining agreement forbade the filing of a grievance over the suspension and, once the termination did occur, the union timely did as it said it would do and filed a grievance over the termination of Moton's employment.

¶ 33 As the Board found, there is no evidence in the record that the union intentionally acted against Moton's interests or acted with any improper motive. Certainly, Moton has failed here to show that the Board abused its discretion when it found there was insufficient evidence to warrant a hearing on Moton's charge. Unions have broad discretion to decide how to best represent their members and they are accorded substantial discretion in deciding whether and to what extent a particular grievance should be pursued. *Metropolitan Alliance of Police v. State Labor Relations Board*, 345 Ill. App. 3d 579, 588 (2003). All of the explanations offered by the union for its actions came with legitimate business and strategic reasons. The Board's conclusion that those business and strategic reasons, rather than animus, motivated the union's actions was not arbitrary nor was it without logic or reached without the employment of conscientious judgment. See *Michels*, 2012 IL App (4th) 110612, ¶ 46. Therefore, the Board did not abuse its

discretion when it found that Moton presented no evidence that the union either: (1) engaged in intentional misconduct; or (2) acted with animus or bias when it declined to file certain grievances on her behalf.

¶ 34

CONCLUSION

¶ 35 For the foregoing reasons, we affirm.

¶ 36 Affirmed.