Princeton Legal Journal Forum

Volume 3 Spring 2023

FORUM

Temple University vs. Temple Graduate Student Union: A Violation of State and Federal Labor Statutes

Sidney Singer

"As a result of your participation in the [Temple University Graduate Student Association] strike, your tuition remission has been removed for the spring semester. You now owe the full balance listed in TUpay, which is due by Thursday, March 9," read an email sent by Temple University to graduate students participating in the Temple University Graduate Student Association (TUGSA) strike. Temple graduate students – many of whom make less than the estimated cost of living for Philadelphia, where Temple University is located – were on the third week of their strike after failing to reach a compromise with Temple to increase pay and benefits when this email reached their inboxes.

Not only has Temple University revoked tuition remission for students on strike, but Temple has also canceled their University-provided health insurance, which many students discovered after trying to purchase prescriptions or go to doctor's appointments. Temple said that the termination of health coverage was due to the students' "decision to strike." On March 7th, Temple University reinstated striking students' health insurance, noting that this decision was made "because of the good faith effort shown by TUGSA." After 42 days on strike, and two days after the reinstatement of student health insurance, the TUGSA accepted a deal that increased their stipend payments, in the face of what they called

"unprecedented retaliation and intimidation, not to mention the cowardice and cruelty of [Temple University] admin."

I argue that based on case precedent, Temple University violated the Pennsylvania Labor Relations Act (PLRA), and by extension the Pennsylvania Employee Relations Act (PERA), as well as the National Labor Relations Act (NLRA), by removing tuition remission and health insurance for striking graduate students. In this article, I will explore not only the implications of the University being held accountable under the NLRB, but also will look at the PLRA and PERA, which the University incontestably must abide by. I will explain how Temple's decision to remove students' health insurance was a violation of each of these statutes as per Section 8(d) of the NLRB and the PERA.

The Pennsylvania Labor Relations Act, first introduced in 1935, guarantees employees the right to "to organize and bargain collectively." Section 6 of the act states that "it shall be unfair practice for an employer to… intimidate, restrain, or coerce any employee for the purpose and with the intent of compelling such employee to join or to refrain from joining any labor organization, or for the purpose or with the intent of influencing or affecting his selection of representatives for the purposes of collective bargaining."

However, according to a spokesperson for Temple University, under Pennsylvania law, "TUGSA members who have chosen not to work and are on strike are no longer entitled to their compensation and work-related benefits." Yet, if these students are unable to access life-altering health care, such as access to necessary medications or doctor's appointments, due to their membership and cooperation with the TUGSA, does this not constitute coercion with the intent to deter students from joining a union? If students are forced to make a choice between life-saving healthcare, and joining the TUGSA, then they are being forced to put their union membership at the expense of their physical health, thus coercing them into making a choice between health and collective bargaining.

However, *In re Appeal of Cumberland Valley Sch. Dist. from Final Ord. of Pa. Lab. Rels. Bd. in Case No. Pera-M-6966-C*, the Supreme Court of Pennsylvania ruled that the Cumberland Valley School District was exercising unfair labor practices, in violation of sections 1201(a)(1),(3) and (5) of the PLRA. These sections prohibit public employers from: "Interfering, restraining or coercing employees in the exercise of the rights guaranteed in Article IV of this Act"; "Discriminating in regard to hiring or tenure of employment, or any term or condition of employment to encourage or discourage membership in any employee organization."

In the aforementioned case, Cumberland Valley School District argued that the "line of cases defining the good faith obligation of the employer and employee which to board considered under the NLRA is inapplicable because the NLRA concerns private employment while Act 195 (also referred to as the PLRA) concerns public employment." However, the court ruled that the case did not present a situation "where there exists a meaningful difference in policy between the NLRA and Act 195." This case set the precedent in Pennsylvania that if there are no discernable differences between the NLRA and relevant Pennsylvania state statutes, the NLRA can be used as precedent.

In fact, if one were to look at the language of the NLRA, in comparison to the PLRA, Section 7 states "**Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection"** while section 5 of the PLRA reads nearly exactly verbatim, "Employees shall have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection."

The two excerpts are very similar, although there is a minor difference in wording. Overall, however, both Acts seem to convey the same basic message, which is that employees have the right to join unions and engage in collective bargaining and other activities that support their collective interests.

Thus, with the precedent set that any cases where there is no significant difference between the meaning of the PLRA and the NLRA, the NLRA can be used as a baseline for decisions, one can look at national cases which deal with similar issues as faced by the TUGSA.

Similar cases on a national level, and were dealt with through the NLRB, include *Intermountain Rural Electric Association v. National Labor Relations Board.*

In *Intermountain Rural v. NLRB*, the court held that Intermountain Rural violated section 8(a)(3) of the NLRB, which states that it is an unfair labor practice for an employer to "interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 157," Additionally, the Board found that this pattern of unlawful unilateral actions by IREA had a fundamental economic impact on the employees which would likely place the Union at a bargaining disadvantage in terms of maintaining the support of the employees and undercutting the Union's authority at the bargaining table.

In the case of TUGSA, the removal of tuition remission and revocation of health insurance would surely have a "fundamental economic impact on the employees," and would also violate Section 1201(a)(3) of the PLRA, which is taken essentially verbatim from the NLRA: "Discriminating in regard to hiring or tenure of employment, or any term or condition of employment to encourage or discourage membership in any employee organization." In the end, Intermountain Rural was required to "make whole employees sustained from this premium deductions, plus pay."

When looking at the events that unfolded at Temple University, one can see clear parallels between the national example of *Intermountain Rural Elec. Ass'n v. N.L.R.B*, and the Pennsylvania-specific example of appeal of Cumberland Valley Sch. Dist. Although the current situation at Temple has currently been resolved, I hold that based on case precedent, Temple University was in violation of the PLRA, as well as the NLRA, by removing tuition remission and health insurance for striking graduate students. It is very clearly a violation of Section 1201(a)(3) of the PLRA, and could also be considered in violation of Section 1009 (iii) of the PERA, which reads that it shall be an unfair labour practice for an employer "to intimidate, restrain, or coerce any employer by threats of force or violence or harm to the person of said employer or the members of his family, with the intent of compelling the employer to accede demands, conditions, and terms of employment including the demand for collective bargaining." Temple's removal of potentially life-saving health insurance can put those participating in a strike, or their direct family also covered by their insurance, directly in harm's way. It is thus illegally coercive.