

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

APSCUF :
 :
v. : Case No. PERA-C-25-37-E
 :
PENNSYLVANIA STATE SYSTEM OF HIGHER :
EDUCATION :

PROPOSED DECISION AND ORDER

On February 4, 2025, the Association of Pennsylvania State College and University Faculties (APSCUF or Union) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (Board) against the Pennsylvania State System of Higher Education, Cheyney University (PASSHE or Cheyney), alleging that PASSHE violated Section 1201(a)(1), (3), (5), and (9) of the Public Employe Relations Act (PERA or Act). Specifically, APSCUF alleged that PASSHE violated the Act by unilaterally removing Norma George and ODenis Ekwerike from their roles as chairpersons of their departments on November 25, 2024, and November 26, 2024, respectively, in retaliation for their protected activity. APSCUF also alleged that PASSHE violated the Act by unilaterally changing the negotiated terms and conditions of employment for the department chairpersons in violation of its bargaining obligation, along with the Act's "meet and discuss" requirements.

On February 27, 2025, the Secretary of the Board issued a Complaint and Notice of Hearing, assigning the charge to conciliation and directing a hearing on April 22, 2025, if necessary. After two continuances, the parties appeared for hearings on September 9, 2025, December 11, 2025, and February 11, 2026, at which time they were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence.^{1 2} The parties each filed separate post-hearing briefs in support of their respective positions on April 24, 2026.

The Hearing Examiner, on the basis of the testimony presented at the hearing and from all other matters and documents of record, makes the following:

FINDINGS OF FACT

1. PASSHE is a public employer within the meaning of Section 301(1) of PERA. (Joint Exhibit 2)
2. APSCUF is an employe organization within the meaning of Section 301(3) of PERA. (Joint Exhibit 2)
3. APSCUF is the exclusive bargaining representative for a unit of professional faculty employes at the PASSHE universities. (Joint Exhibit 1)
4. APSCUF and PASSHE are parties to a collective bargaining agreement (CBA) effective July 1, 2023 to June 30, 2027, which contains a

¹ The February 11, 2026 hearing was done virtually by agreement of the parties.

² APSCUF withdrew the charge under Section 1201(a)(5) of the Act during the hearing on September 9, 2025. (N.T.I 19)

provision in Article 6 setting forth the duties of a department chairperson, listing the stipends, and describing the procedures for the selection and/or removal of department chairpersons. (Joint Exhibits 1, 2)

5. Norma George is a faculty member at Cheyney University and at all relevant times was the President of the Local APSCUF Chapter. She has been an employee at Cheyney for close to 30 years and currently teaches English and foreign languages. In the fall of 2024, she worked in the Humanities Department at Cheyney, which housed several different disciplines, including English, Modern Languages, Communication Arts, Philosophy, Fine Arts, Music, and Graphic Design. (N.T. I 25-26, 41; Joint Exhibit 2)

6. ODenis Ekwerike is a faculty member at Cheyney University and at all relevant times was the Grievance Chair of the Local AFSCUF Chapter. He has been an employee at Cheyney since 2000 and currently teaches in the Business, Education, and Professional Studies Department (BEPS). (N.T. I 165-168, 184; Joint Exhibit 2)

7. Both APSCUF President George and Grievance Chair Ekwerike were elected by the majority of the regular faculty members in their respective departments in 2023 to serve as the Chairperson within their respective departments to include the academic year 2024-2025. Department Chairpersons serve a term of three years and are responsible for directing the activities of the department, including the determination of course schedules, specific course assignments for individual faculty, and observation and evaluation of faculty, as well as seeking adjuncts when needed. (N.T. I 27-31, 50-54; Union Exhibit 3, Joint Exhibit 2).³

8. In their capacity as Local Chapter executive leaders, APSCUF President George and Grievance Chair Ekwerike attend meet and discuss sessions, represent faculty members in meetings with management, and file and advance grievances. (N.T. I 41-49; Union Exhibit 2, Joint Exhibit 2)

9. In January and March 2024, APSCUF President George provided testimony at two grievance arbitration hearings challenging the termination of two individual APSCUF faculty members, Mark Asuzu and Abdelaziz Bior. The awards followed in May and July 2024, which reduced one termination to a written warning and reinstating both terminated employees effective for the fall of 2024. (N.T. I 55-56; Joint Exhibit 2)

10. On or about August 9, 2024, APSCUF President George and Grievance Chair Ekwerike together filed two grievances both alleging that Cheyney President Walton did not promote Ekwerike in compliance with the CBA. Ekwerike was the only faculty member to be denied a promotion in the spring of 2024. Ekwerike was also the only faculty member who was up for promotion in the spring of 2024. These individual and policy grievances are currently pending arbitration. (N.T. I 45-50, 175-179; Union Exhibits 2, 6, Joint Exhibit 2)

³ George was elected chair of the Humanities Department in the spring of 2023. Ekwerike was elected chair of the BEPS Department in December 2023. Ekwerike was nominated to run for chair, first in April 2023, and then again in November 2023, only for Cheyney President Aaron Walton to reject his candidacy both times without explanation. Walton eventually agreed to honor Ekwerike's election victory and admitted that he had misread the CBA after AFSCUF intervened on behalf of Ekwerike. (N.T. I 30-31, 50-54, 167-174; Union Exhibits 3, 4, 5).

11. On or about September 4, 2024, AFSCUF filed an unfair practices charge with the Board alleging that Cheyney violated the Act. The Board docketed the charge at PERA-C-24-200-E and subsequently served PASSHE on September 10, 2024. (Joint Exhibit 2)

12. Between October 3 and November 5, 2024, APSCUF President George and Grievance Chair Ekwerike filed and advanced a total of five additional grievances alleging violations of the CBA. (N.T. I 45-49; Union Exhibit 2, Joint Exhibit 2)

13. In late October 2024, Cheyney invited the department chairs, along with some faculty members to meet with Denise Pearson, who was a candidate to fill the Provost vacancy that occurred with the departure of the prior Provost in the spring of 2024. During the meeting, APSCUF President George introduced herself to Candidate Pearson, first as a graduate of Cheyney and a Department Chair, and then as President of the Union, after which Pearson replied "ooohh" in a derisive and mocking tone. Pearson also asked the individual chairs to introduce themselves, but Pearson skipped over APSCUF Grievance Chair Ekwerike. Pearson also skipped over Ekwerike a second time when she went around the room taking questions from the department chairs. Pearson was appointed as Provost a few days later in late October 2024. (N.T. I 56-60, 192-194)

14. In November 2024, the parties met for a Local Meet and Discuss session, wherein APSCUF President George and Provost Pearson were both in attendance. (N.T. I 61-62)

15. Approximately one week after the November 2024 Meet and Discuss session, APSCUF President George went to Provost Pearson's office to meet with her one on one. During that meeting, Pearson complained about APSCUF Statewide President Kevin Mash voicing the Union's concerns during the Meet and Discuss session about cancelled classes, dismissed adjuncts, and class coverage during that fall semester. (N.T. I 63-66)

16. By letter/email dated November 25, 2024, Cheyney President Walton removed APSCUF President George from her role as Chairperson of the Humanities Department. The November 25, 2024 letter provided, in relevant part, as follows:

Dear Dr. George:

This correspondence is to inform you that after gaining the knowledge of significant Chairperson related issues, I have decided to remove you from your role as Chairperson of the Humanities Department. This change will become effective at the close of business on November 25, 2024.

In reviewing the chairperson's duties and responsibilities contained in Article 6 of the CBA, accountability for yourself and those you lead are foundational. Additionally, setting an example for those under your charge is equally important.

Those deficiencies include timely reporting, student advising, class execution, training session attendance, and responses to Dean of Faculty inquiries.

Your role as a member of the university faculty is appreciated, and my expectation is that you will make every effort to see that the needs of the students are a priority in alignment with the mission, vision, values, and policies of Cheyney University.

Your assistance in the transfer of this important responsibility would be greatly appreciated...

(N.T. I 67; Joint Exhibit 2, 3)

17. By letter/email dated November 26, 2024, Cheyney President Walton removed APSCUF Grievance Chair Ekwerike from his role as Chairperson of the BEPS Department. The November 26, 2024 letter provided, in relevant part, as follows:

Dear Dr. Ekwerike:

This correspondence is to inform you that after gaining the knowledge of significant Chairperson related issues, I have decided to remove you from your role as Chairperson of the Business, Education and Professional Studies Department. This change will become effective at the close of business on November 26, 2024.

In reviewing the chairperson's duties and responsibilities contained in Article 6 of the CBA, accountability for yourself and those you lead are foundational. Additionally, setting an example for those under your charge is equally important.

Those deficiencies include timely reporting, student advising, class execution, training session attendance, and responses to Dean of Faculty inquiries.

Your role as a member of the university faculty is appreciated, and my expectation is that you will make every effort to see that the needs of the students are a priority in alignment with the mission, vision, values, and policies of Cheyney University.

Your assistance in the transfer of this important responsibility would be greatly appreciated...

(N.T. I 196-197; Joint Exhibit 2, 4)

15. By email dated November 26, 2024, Cheyney Provost Pearson announced the merger of the Department where APSCUF President George served as Chairperson, with another department and appointed a Department Chairperson. The November 26, 2024 email provided, in relevant part, as follows:

Dear colleagues:

Effective immediately, the Humanities Department will be merged with the Social and Behavioral Sciences Department. Dr. Tamika Thomas will assume the role as Chair for the new academic unit. Please join me in congratulating Dr. Thomas on this expanded leadership role. I look forward to continuing to work to build out Cheyney's academic program array...

(N.T. I 70-71; Joint Exhibit 2, 5).⁴

16. Cheyney did not notify APSCUF about the merger of the academic departments prior to November 26, 2024. (N.T. 71-72)

17. APSCUF President George put the appointment of Chairperson Thomas on the next Meet and Discuss agenda because AFSCUF believed the chair should be elected, and not appointed. She also notified Statewide APSCUF that this had occurred. (N.T. I 70-71)

18. Shortly after the merger of the departments, a new Department Chair was elected pursuant to Article 6 of the CBA. (Joint Exhibit 2)

19. APSCUF President George did not seek a nomination for the next chair election for the combined department. She testified that, since she was just removed as chair, she was unsure of what was happening and understood she would not be welcome as chair. (N.T. I 71-72)

20. PASSHE failed to engage in meet and discuss before implementing changes to academic departments or the unilateral selection of the department chairs. (Joint Exhibit 2)

21. After implementing the merger, management put "organizational restructuring" on the meet and discuss agenda, and the parties discussed the merger of departments on December 4, 2024. (N.T. I 72, 130-131; Employer Exhibit 6, Joint Exhibit 2)

22. In March 2025, Cheyney President Walton requested a meeting with APSCUF President George, during which Walton asked for George's support with a workforce development initiative he was trying to do with the students at Cheyney. When George asked why Walton thought she would not support such an idea, Walton complained that APSCUF is "constantly filing grievances." Walton also claimed that Cheyney is the smallest PASSHE school, but Cheyney has the most grievances. George indicated that she would support whatever is in the best interests of the students, as long as it did not violate the CBA. (N.T. I 72-75)

23. Two days after the March 2025 meeting, APSCUF President George was notified by Cheyney's Chief of Operations, Derrick Gilmore, that she was being removed from her office space that she had occupied since August 2024 to make room for new staff members who had temporary housing needs. She described her prior office as being a spacious two-room configuration with some chairs, a sofa, bathroom, and windows, while the new office was previously used as a storage closet with no windows, natural lighting, or ventilation. She explained that her new office is between another office and a classroom with no soundproofing, such that she can hear everything that happens on the other side of her walls. She stressed how this could impact students who come to her with advising or other concerns, as they might be reluctant to share issues which are confidential in nature. She also explained how the new office was filthy and in very poor condition. (N.T. I 75-79)

⁴ The record shows that Thomas was the chairperson of the Social and Behavioral Sciences Department prior to being named as the chair for the new combined department. (N.T. I 70).

24. APSCUF President George testified that nobody moved into her old office space after she was removed in March 2025 at least through the end of the spring semester and through June 2025. (N.T. I 79)

25. PASSHE offered the testimony of Derrick Gilmore, the Chief Operations Officer (COO) at Cheyney, in support of its position. His responsibilities include managing capital projects, maintenance and custodial services, and space utilization. (N.T. II 7-8)

26. Cheyney COO Gilmore testified that APSCUF President George initially had an office located in Harris Turner Building, Room 24, which was in the basement of the structure. He explained that Cheyney was using that space for residential apartments for temporary housing of new employees, like athletic coaches, for example. He described how George was moved to Room 219 of the Harris Turner Building on March 28, 2025, after a request for the move came in on March 20, 2025. (N.T. II 10-13; Employer Exhibit 8)

27. Cheyney COO Gilmore testified that the space where APSCUF President George initially had her office in the basement of Harris Turner was allocated for male residents with temporary appointments. He described how there was an athletic coach and a maintenance team member, who were living there at the time. He claimed that George should never have been assigned to that office space from the outset. He asserted that, once he learned she was in there, he sent her a formal email request to relocate her office space to Room 219. (N.T. II 14-15; Employer Exhibits 10, 11)

28. On cross-examination, Cheyney COO Gilmore admitted that the March 20, 2025 request for APSCUF President George to relocate offices came from Cheyney President Walton. He asserted that somebody did move in to George's prior office in Room 24 after she left. He was unable to say when the new person moved in. When asked specifically if someone moved in between March 2025 and May 2025, he did not know. (N.T. II 19, 21-22)

29. PASSHE also offered the testimony of Cheyney President Aaron Walton in support of its position. He has been President of Cheyney since June of 2017. He claimed that one of the reasons he removed APSCUF President George and Grievance Chair Ekwerike from their department chair positions was due to a complaint "during the year" where a Cheyney student was pregnant and needed some accommodations in class for her morning sickness. He described how George and Ekwerike allegedly mishandled the information and allowed others to hear of it, despite undergoing recent Title IX training. (N.T. II 136-137, 155-157)

30. Cheyney President Walton testified that another reason for his removal of APSCUF President George and Grievance Chair Ekwerike was based on reports he received from Cheyney Interim Dean Tamara Hollins that they were not complying with deadlines, some of which occurred during the summer of 2024. He acknowledged that the other chairs had similar issues, but he asserted that George and Ekwerike had issues that were more pronounced and led to greater volume. He claimed that Hollins reported in November 2024 that the other two chairs provided reports in a timelier fashion. (N.T. II 157-158)

31. Cheyney President Walton testified about an alleged incident from November 19, 2024, in which APSCUF Grievance Chair Ekwerike called a Professor Gray from the BEPS department, while Walton was in the presence of Gray. Walton described how Ekwerike stated that Ekwerike was sick, and when

Gray asked Ekwerike if Gray should notify anyone, Ekwerike stated "don't bother." Walton claimed that he followed up with Cheyney Interim Dean Hollins later that day, and Hollins was unaware of the call-off. Walton testified that he expected a greater level of communication from the chair, who should have notified the Dean, and not simply another faculty member. (N.T. II 159-160)

32. Cheyney President Walton testified about another alleged incident during the fall of 2024, in which Grievance Chair Ekwerike apparently refused to talk to a faculty member from the BEPS department to assist her in being granted an assignment for the next semester. He explained that this faculty member had been teaching in the BEPS department for 4.5 years, and that if she reached five full years, under the CBA, she would have had the ability to roll over into permanent status as a tenure track faculty member. He believed that Ekwerike refused to help her in retaliation for her testimony against Mark Asuzu during that arbitration proceeding. (N.T. II 160-162)

33. Cheyney President Walton testified that he also received four formal complaints in the fall of 2024 about an individual faculty member by students in APSCUF President George's department, but she did not take any action to correct the behavior. (N.T. II 163-164)

DISCUSSION

APSCUF argues that PASSHE violated Section 1201(a)(1), (3), and (9) of the Act⁵ by unilaterally removing Norma George and ODenis Ekwerike from their roles as chairpersons of their departments on November 25, 2024, and November 26, 2024, respectively, in retaliation for their protected activity, and by failing to meet and discuss the impact of the department merger and chair removals prior to their implementation. PASSHE, for its part, submits that the charge under Section 1201(a)(1) and (3) of the Act should be dismissed because the Union has not sustained its burden of proving a violation of the Act. Instead, PASSHE contends that the removal of George and Ekwerike from their chairperson roles was based on numerous deficiencies in their performance as chairs, which constitute legitimate nondiscriminatory reasons. In addition, PASSHE essentially admits that it failed to meet and discuss with AFSCUF prior to the department merger in November 2024, but PASSHE relies on its subsequent meet and discuss session shortly thereafter in December 2024, to alleviate any potential violation of the Act.

In a Section 1201(a)(3) discrimination claim, the Complainant has the burden of establishing the following three-part conjunctive standard: (1) that the employee engaged in activity protected by PERA; (2) that the employer knew the employee engaged in protected activity; and (3) the employer engaged in conduct that was motivated by the employee's involvement in protected activity. Audie Davis v. Mercer County Regional Council of Government, 45 PPER 108 (Proposed Decision and Order, 2014) (citing St. Joseph's Hospital v. PLRB, 373 A.2d 1069 (Pa. 1977)). Motive creates the offense. PLRB v. Stairways, Inc., 425 A.2d 1172 (Pa. Cmwlth. 1981). Once a prima facie

⁵ Section 1201(a) of the Act provides that "Public employers, their agents or representatives are prohibited from: (1) Interfering, restraining or coercing employees in the exercise of the rights guaranteed in Article IV of this act... (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any employee organization... (9) Refusing to comply with the requirements of 'meet and discuss.'" 43 P.S. § 1101.1201.

showing is established that the protected activity was a motivating factor in the employer's decision, the burden shifts to the employer to demonstrate that the action would have occurred even in the absence of that protected activity. Teamsters Local 776 v. Perry County, 23 PPER ¶ 23201 (Final Order, 1992). If the employer offers such evidence, the burden shifts back to the complainant to prove, on rebuttal, that the reasons proffered by the employer were pretextual. Teamsters Local 429 v. Lebanon County, 32 PPER ¶ 32006 (Final Order, 2000). The employer need only show by a preponderance of the evidence that it would have taken the same actions absent the protected conduct. Mercer County Regional COG, supra, (citing Pennsylvania Federation of Teachers v. Temple University, 23 PPER ¶ 23033 (Final Order, 1992)).

The Board has recognized that, in the absence of direct evidence, it will give weight to several factors upon which an inference of unlawful motive may be drawn. City of Philadelphia, 26 PPER ¶ 26117 (Proposed Decision and Order, 1995). The factors which the Board considers are: the entire background of the case, including any anti-union activities by the employer; statements of supervisors tending to show their state of mind; the failure of the employer to adequately explain the adverse employment action; the effect of the adverse action on unionization activities-for example, whether leading organizers have been eliminated; the extent to which the adversely affected employees engaged in union activities; and whether the action complained of was "inherently destructive" of employee rights. City of Philadelphia, supra, (citing PLRB v. Child Development Council of Centre County, 9 PPER ¶ 9188 (Nisi Decision and Order, 1978)). Although close timing alone is insufficient to support a basis for discrimination, Teamsters Local 764 v. Montour County, 35 PPER 12 (Final Order, 2004), the Board has long held that the timing of an adverse action against an employee engaged in protected activity is a legitimate factor to be considered in determining anti-union animus. Berks Heim County Home, 13 PPER ¶ 13277 (Final Order, 1982).

In this case, APSCUF has sustained its burden of proving the first two elements of the Section 1201(a)(3) discrimination test. The record shows that APSCUF President George and Grievance Chair Ekwerike both engaged in significant protected activity, ranging from filing a multitude of grievances, testifying at arbitration proceedings, advocating for bargaining unit employees, and filing an unfair practice charge with the Board. The record also shows that PASSHE was aware of this protected activity. (Joint Exhibit 2, paragraphs 9, 10, 11, 12, 13; Union Exhibits 3, 6). In fact, PASSHE does not dispute the first two prongs of the Section 1201(a)(3) discrimination test in its post-hearing brief. As usual then, the issue hinges on whether PASSHE was motivated by anti-union animus when Cheyney President Walton removed George and Ekwerike from their department chairperson roles in November 2024.

APSCUF has also sustained its burden of proving the third element for the discrimination test under Section 1201(a)(3) of the Act. The first, and most obvious factor, supporting an inference of unlawful motive are the statements of Cheyney President Walton from the March 2025 meeting with APSCUF President George, wherein Walton complained that APSCUF is "constantly filing grievances." During that meeting, Walton also bemoaned the alleged fact that Cheyney is the smallest PASSHE school, but that Cheyney has the most grievances. While PASSHE contends in its post-hearing brief that there is nothing specific to the protected activity of George and Ekwerike leading up to their removals to suggest an unlawful motive, the March 2025 statements of Walton clearly demonstrate otherwise. To be sure, these statements were

plain evidence that Walton was rankled by the sheer number of grievances from APSCUF, which amounted to five in total from George and Ekwerike just between October 3, 2024, and November 5, 2024, coincidentally within two months of their removals in late November 2024. To complicate matters further, Walton then directed Cheyney COO Derrick Gilmore to immediately relocate George to another office, which represented a significant downgrade in accommodations and amenities, just days after his complaints over the grievances in March 2025.⁶ All this, of course, just a few short months after the grievances set forth directly above, and within a year of two bargaining unit employees being reinstated as a result of their arbitration proceedings.⁷

Beyond this, the timing of the removals themselves are also indicative of unlawful motivation. Indeed, the record shows that George and Ekwerike engaged in extensive protected activity during the fall of 2024 immediately prior to their removals as department chairs in late November 2024. As detailed above, George and Ekwerike filed and processed five grievances just between October 3, 2024 and November 5, 2024, not to mention the two grievances they filed in August 2024, specifically challenging Walton's refusal to promote Ekwerike. As APSCUF persuasively notes in its post-hearing brief, Walton then took almost immediate action against the APSCUF officers he deemed most responsible for the flood of grievances at Cheyney during the fall of 2024. But perhaps the most telling factor supporting an inference of anti-union animus is the clear pretext and shifting reasons that PASSHE offers for the removals.

Cheyney President Walton authored two letters in late November 2024 notifying AFSCUF President George and Grievance Chair Ekwerike of their removals and listing his reasons for the same. The letters are virtually identical and include several alleged general deficiencies, which Walton described as "timely reporting, student advising, class execution, training session attendance, and responses to Dean of Faculty inquiries." In his testimony, however, Walton offered several other explanations for the removals, which were noticeably absent from his November 2024 removal letters. For example, Walton initially asserted during that hearing that

⁶ This evidence was admitted during the September 9, 2025 hearing over PASSHE's objection. (N.T. I 73-74). The Board has long held that, while the Board may not redress post charge conduct that is not included in any amendment to the charge, such conduct is nevertheless admissible to shed light on the true character of events at issue in the charge, such as an employer's intent behind those events. Lower Dauphin School District, 19 PPER ¶ 19195 (Final Order, 1988). Walton's statements and conduct from March 2025 are certainly indicative of his discriminatory intent relative to the November 2024 chair removals.

⁷ Walton and Gilmore's efforts to explain away the office relocation have not been accepted as credible. George persuasively refuted their claims that the space where her former office was located was allocated for male housing residents only. George convincingly testified that there was at least one other female living there, along with another office. (N.T. III 22-23, 38-39). Likewise, PASSHE's attempt to downplay George's claims that her new office was in poor condition is similarly unavailing. That Walton and Gilmore moved her office **at all** is significant evidence of unlawful motivation, given George's testimony that her old office remained vacant through May 2025. Neither Walton, nor Gilmore could refute this testimony. Why they could not have waited at least until the end of the semester remains unexplained, which yields an additional inference of anti-union animus on behalf of Cheyney.

George and Ekwerike had mishandled confidential information regarding a Cheyney student, who was apparently pregnant and requested accommodations for class. Walton also claimed that Ekwerike allegedly refused to assist another faculty employee in obtaining a teaching assignment during the fall of 2024, in retaliation for her testimony during an arbitration proceeding against bargaining unit employee, Mark Asuzu. How exactly Ekwerike had the authority to thwart an employee's ability to obtain a teaching assignment is unclear, especially given that Ekwerike is a rank-and-file bargaining unit employee, while Walton is the University President. Nevertheless, such an averment from Walton is an astonishing omission from the November 2024 removal letter. Even the justifications that Walton provided during his testimony, which are at least arguably contained in the removal letters, crumble upon closer review.

Walton cited alleged deficiencies in "student advising," which also purportedly contributed to the removals. On this point, PASSHE introduced evidence of three students, who apparently ran into issues with being able to graduate on time during the spring of 2024. (Employer Exhibit 5). Cheyney Interim Dean Hollins appeared to blame APSCUF President George for these incidents since George was the department chair at the time, and therefore, George was overseeing the faculty advisor for those students, who allegedly made the mistakes. (Employer Exhibit 5). But the record shows that the chairs from other departments oversaw far more incidents of students failing to timely complete their degrees and never being removed as chairs. (N.T. II 105; Union Exhibits 8, 9). In fact, the record shows that nobody has been removed as a department chairperson at Cheyney in the last 30 years. (N.T. I 69-70). This is the very essence of disparate treatment, which leads to the inescapable conclusion that PASSHE has offered pretextual reasons for the removals.

If that were not enough, however, PASSHE also failed to introduce any evidence of how APSCUF Grievance Chair Ekwerike was deficient in his "student advising" duties at all, despite the allegation being included in his removal letter. Likewise, PASSHE did not introduce any evidence demonstrating how either George or Ekwerike were deficient in attending any training sessions, notwithstanding that allegation as well. Notably, Cheyney Interim Dean Hollins admitted that she was unaware of any required training for the department chairs. (N.T. II 71).

Furthermore, Cheyney President Walton cited reports he received from Cheyney Interim Dean Hollins that APSCUF President George and Grievance Chair Ekwerike were not complying with deadlines in 2024, which was included in the removal letters.⁸ Walton readily conceded that the other department chairs also failed to comply with deadlines, however, which is apparent from the minutes of the department chair meetings with Hollins and emails between staff in the spring semester of 2024. (Employer Exhibit 4). Walton tried to explain this away by asserting generally that the issues with George and Ekwerike were more pronounced than the other department chairs. However, this claim is rejected as not credible and not persuasive, in light of the obvious pretext and shifting reasons that PASSHE offered for the removals of both George and Ekwerike discussed above.⁹ Accordingly, it must be concluded

⁸ In reality, this reason seems to be included twice, as the letters list alleged deficiencies in "timely reporting" and "responses to Dean of Faculty inquiries." (Joint Exhibits 3, 4).

⁹ PASSHE argues at length in its post-hearing brief that Cheyney President Walton has sole discretion to remove department chairs from their posts

that PASSHE violated Section 1201(a)(1) and (3) of the Act by removing George and Ekwerike from their department chair roles in November 2024, in retaliation for their protected conduct.

APSCUF argues in its post-hearing brief that the remedy for PASSHE's violation of Section 1201(a)(3) of the Act should include a make-whole order through the spring semester of 2026, which represents the end of what would have been the respective chair terms for George and Ekwerike. The record does support a finding that Ekwerike would have been able to finish his three-year term as chair, but for his unlawful removal in November 2024. As such, PASSHE will be directed to make Ekwerike whole for this period. The same result, however, does not obtain for George. The record shows that Cheyney merged her department with another department and that George declined to run for chair of that new combined department. As a result, I am unable to conclude that she would have finished her term as department chair, but for the unlawful removal in November 2024. PASSHE will nevertheless be directed to make George whole for the pay she would have received as chair up until the point that the chair of the new combined unit assumed office as chairperson for that combined unit.¹⁰

Finally, APSCUF maintains that PASSHE also violated Section 1201(a)(9) of the Act by failing to meet and discuss over the impact of the department merger and chair removals in November 2024. Where a public employer fails to provide the employee representative with the opportunity to request meet and discuss before a managerial policy decision was made, the employer violates its meet and discuss duty under Section 1201(a)(9) of the Act. APSCUF v. PASSHE, 56 PPER 62 (Proposed Decision and Order, 2025). The record shows that PASSHE failed to engage in meet and discuss before implementing changes to the academic departments and the department chairs. Thus, APSCUF has sustained its burden of proving that PASSHE violated Section 1201(a)(9) of the Act. However, the record also shows that PASSHE then held a meet and discuss session with APSCUF on December 4, 2024, during which those issues were addressed. Since the Board's typical remedy for a failure to engage in meet and discuss is to direct the employer to meet and discuss, APSCUF v. SSHE, Edinboro University & West Chester University, 35 PPER 41 (Proposed Decision and Order, 2004), the remedy for this violation will be limited to a cease and desist order, along with the Board's usual posting requirements.

pursuant to the CBA. Such a contention, however, is irrelevant, even assuming that it is correct. The Board has long held that a public employer's managerial prerogative does not insulate it from the statutory obligation to exercise that authority without anti-union discrimination. Twin Valley Educational Support Professionals Ass'n, PSEA/NEA v. Twin Valley School District, 49 PPER 72 (Proposed Decision and Order, 2018) (*citing* Teamsters Local No. 205 v. Brentwood Borough, 35 PPER 112 (Final Order, 2004); United Steel Workers of America, Local 8125 v. East Taylor Township, 24 PPER ¶ 24166 (Final Order, 1993); Mid Valley Education Ass'n v. Mid Valley School District, 25 PPER ¶ 25138 (Final Order, 1994)). Under the color of a managerial right, a public employer does not have the authority to retaliate against employees who engage in protected activity. Twin Valley School District, 49 PPER at 300.

¹⁰ The record is unclear as to when exactly this occurred. The parties stipulated only that a new chair was elected shortly after the merger of the two departments.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. PASSHE is a public employer within the meaning of Section 301(1) of PERA.
2. APSCUF is an employee organization within the meaning of Section 301(3) of PERA.
3. The Board has jurisdiction over the parties hereto.
4. PASSHE has committed unfair practices in violation of Section 1201(a)(1), (3), and (9) of PERA.

ORDER

In view of the foregoing and in order to effectuate the policies of the Act, the examiner

HEREBY ORDERS AND DIRECTS

that PASSHE shall:

1. Cease and desist from interfering with, restraining or coercing employees in the exercise of the rights guaranteed in Article IV of PERA;
2. Cease and desist from discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any employee organization;
3. Cease and desist from refusing to comply with the requirements of "meet and discuss."
4. Take the following affirmative action which the examiner finds necessary to effectuate the policies of PERA:
 - (a) Immediately make George and Ekwerike whole for any and all lost wages and benefits incurred as a result of PASSHE's unfair practices, together with six (6%) percent per annum interest, including but not limited, to any out-of-pocket medical expenses, pension contributions, and seniority, through the end of the three-year chairperson term for Ekwerike, and through the date in which the new chair of the combined academic department assumed office following the merger announced in November 2024 for George;
 - (b) Immediately purge the personnel files of George and Ekwerike, to include all paper and electronic copies and records, of any and all mention of or references to any internal investigations leading to the November 2024 removals, including but not limited to the November 2024 removal letters themselves;
 - (c) Post a copy of this Decision and Order within five (5) days from the effective date hereof in a conspicuous place readily accessible to the bargaining unit employees and have the same remain so posted for a period of

ten (10) consecutive days;

(d) Furnish to the Board within twenty (20) days of the date hereof satisfactory evidence of compliance with this Decision and Order by completion and filing of the attached Affidavit of Compliance; and

(e) Serve a copy of the attached Affidavit of Compliance upon the Union.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this decision and order shall be final.

SIGNED, DATED AND MAILED from Harrisburg, Pennsylvania this sixth day of August, 2026.

PENNSYLVANIA LABOR RELATIONS BOARD

/s/ John Pozniak
John Pozniak, Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

APSCUF :
 :
 v. : Case No. PERA-C-25-37-E
 :
 PENNSYLVANIA STATE SYSTEM OF HIGHER :
 EDUCATION :

AFFIDAVIT OF COMPLIANCE

PASSHE hereby certifies that it has ceased and desisted from its violations of Section 1201(a)(1), (3), and (9) of the Public Employee Relations Act; that it has complied with the Proposed Decision and Order as directed therein by immediately making George and Ekwerike whole for any and all lost wages and benefits incurred as a result of PASSHE's unfair practices, together with six (6%) percent per annum interest, including but not limited, to any out-of-pocket medical expenses, pension contributions, and seniority, through the end of the three-year chairperson term for Ekwerike, and through the date in which the new chair of the combined academic department assumed office following the merger announced in November 2024 for George; and by immediately purging the personnel files of George and Ekwerike, to include all paper and electronic copies and records, of any and all mention of or references to any internal investigations leading to the November 2024 removals, including but not limited to the November 2024 removal letters themselves; that it has posted a copy of the Proposed Decision and Order in the manner prescribed therein; and that it has served a copy of this affidavit on the Union 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