



# CHARGE

Michigan Department of Licensing and Regulatory Affairs  
Employment Relations Commission (MERC)  
Labor Relations Division  
313-456-3510

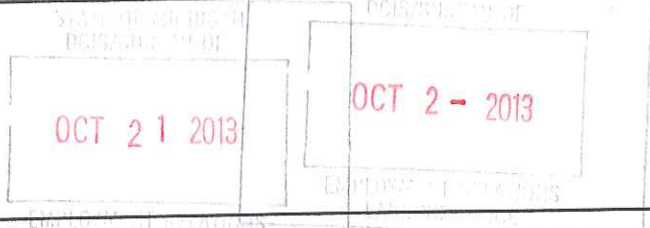
Authority: P.A. 380 of 1965, as amended.

INSTRUCTIONS: File an **original** and **4 copies** of this charge (including attachments) with the Employment Relations Commission at: Cadillac Place, 3026 W. Grand Boulevard, Suite 2-750, PO Box 02988, Detroit MI 48202-2988 or 1375 S. Washington St., Lansing MI 48910. **The Charging Party must serve the Charge on the opposing side within the applicable statute of limitations, and must file a statement of service with MERC.** (Refer to the "How to File a Charge" document under the "Forms" link at [www.michigan.gov/merc](http://www.michigan.gov/merc).)

Complete Section 1 if you are filing charges against an employer and/or its agents and representatives. — or —  
Complete Section 2 if you are filing charges against a labor organization and/or its agents and representatives.

1. EMPLOYER AGAINST WHICH THE CHARGE IS BROUGHT Check appropriate box:  Private  Governmental

Name and Address:



2. LABOR ORGANIZATION AGAINST WHICH THE CHARGE IS BROUGHT

Name and Address: Michigan Education Association  
1216 Kendale Blvd., P.O. Box 2573  
East Lansing, MI 48826-2573

### 3. CHARGE

Pursuant to the ~~Michigan Act (LMA)~~ Public Employment Relations Act (PERA) (cross out one), the undersigned charges that the above-named party has engaged in or is engaging in unfair labor practices within the meaning of the Act.

On an attached sheet you must provide a clear and concise statement of the facts which allege a violation of the LMA or PERA, including the date of occurrence of each particular act and the names of the agents of the charged party who engaged in the complained of conduct. The charge should describe who did what and when they did it, and briefly explain why such actions constitute a violation of the LMA or PERA.

The Commission may reject a charge for failure to include the required information. However, it is not necessary to present your case in full at this time. Documentary material and exhibits ordinarily **should not** be submitted with this charge form.

4. Name and Address of Party Filing Charge (Charging Party)  
(if labor organization, give full name, including local name and number)

Amy Breza

Telephone Number:

(989 ) 631-0900

5. List ALL related MERC case(s) (if any): \_\_\_\_\_  
(Name of parties)

Case No.: \_\_\_\_\_ Judge: \_\_\_\_\_

Case No.: \_\_\_\_\_ Judge: \_\_\_\_\_

I have read this charge and it is true to the best of my knowledge and belief.

*Patrick J. Wright*  
Signature of Representative/Person Filing Charge

Email:  
wright@mackinac.org

Telephone/Cell No.: 989-430-3912

Print Name and Title: Patrick Wright, Senior Legal Analyst

Fax No.: 989-631-0964

Street Address:  
Mackinac Center Legal Foundation, 140 W. Main St.

City:  
Midland

State:  
MI

Zip Code: 48640

The Department of Licensing and Regulatory Affairs will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

Amy Breza's Charge against the Clarkston Education Association and/or Michigan Education Association (the "Union")

Section 3 Summary Explanation

1. The Charging Party, Amy Breza, is a para-educator in a public-sector bargaining unit represented by the labor organization against which the charge is brought. She is employed by the Clarkston Community Schools (the "School District").
2. The collective bargaining agreement between the School District and the Union expired on August 31, 2013.
3. Since the collective bargaining agreement expired on August 31, 2013, the Charging Party could thereafter exercise their right to cease paying the union any dues or agency fees pursuant to 2012 PA 349, Michigan's right to work law.
4. According to the Union, resignations are only accepted during the month of August. However, Charging Party was never informed of this until after the August window had closed.
5. Neither the initial membership application nor any subsequent document provided to the Charging Party by the Union provided any specific procedure or form for membership resignation.
6. MCL 423.209(2)(a), Section 9 of PERA, states that: "No person shall by force, intimidation, or unlawful threats compel or attempt to compel any public employee to do any of the following: ... (a) Become or remain a member of a labor organization or bargaining representative or otherwise affiliate with or financially support a labor organization or bargaining representative."
7. Attempting to compel public employees to remain members of a labor organization and/or to financially support a labor organization through threats and intimidation of reporting and trying to collect a debt that it is not owed are unfair labor practices by the Union.
8. MCL 423.210(2)(a) states that: "(2) A labor organization or its agents shall not do any of the following: ... (a) Restrain or coerce public employees in the exercise of the rights guaranteed in section 9."

9. The Union commits an unfair labor practice where it attempts to restrain or coerce a public employee with the claim of an invalid debt from the Charging Party which violates her Section 9 rights.

10. The Union is expected to rely on a previous decision of the MERC, *West Branch-Rose City Educ Ass'n and MEA*, 2004 WL 6012388 (May 25, 2004). However, Charging Party contends that this opinion should not be applied because: (1) It was wrongly decided at the time; (2) The facts of this case are different; (3) The change in the statutory law, namely 2012 PA 349, made it illegal to compel payment to the Union by an employee and any dues checkoff or authorization card was signed under the previous statutes which had not allowed an employee to wholly withdraw financial support from the Union; and lastly, (4) There are indications from the federal courts that unions requiring an employee to 'opt out' to preserve their rights is disfavored; and, rather, that requiring employees to affirmatively 'opt in' is the option which preserves the employees' rights. See, *SEIU v Knox*, 132 SCt 2277 (2012).

**MICHIGAN EMPLOYMENT RELATIONS COMMISSION**

**STATEMENT OF SERVICE**

The undersigned hereby certifies that he served copies of the unfair labor practice charges on the respondents in the below-referenced matters by USPS First Class Mail on October 21, 2013, in accordance with R 423.182.

**Miriam Chanski** charging the **Coopersville Education Association & Michigan Education Association**

**William Ray Arthur** charging the **Northern Michigan Education Association, MEA/NEA, of Petoskey & Michigan Education Association**

**Amy Breza** charging the **Clarkston Education Association & Michigan Education Association**

**Matt Knapp** charging the **Saginaw Education Association & Michigan Education Association**

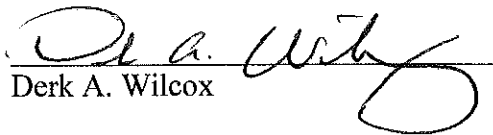
**Kurt Alliton** charging the **Saginaw Education Association & Michigan Education Association**

**Susan Romska** charging the **Saginaw Education Association & Michigan Education Association**

**Kathy Eady-Miskiewicz** charging the **Saginaw Education Association & Michigan Education Association**

**Jason LaPorte** charging the **Saginaw Education Association & Michigan Education Association**

October 21, 2013

  
Derk A. Wilcox





# CHARGE

Michigan Department of Licensing and Regulatory Affairs  
Employment Relations Commission (MERC)  
Labor Relations Division  
313-456-3510

Authority: P.A. 380 of 1965, as amended.

INSTRUCTIONS: File an **original** and **4 copies** of this charge (including attachments) with the Employment Relations Commission at: Cadillac Place, 3026 W. Grand Boulevard, Suite 2-750, PO Box 02988, Detroit MI 48202-2988 or 1375 S. Washington St., Lansing MI 48910. **The Charging Party must serve the Charge on the opposing side within the applicable statute of limitations, and must file a statement of service with MERC.** (Refer to the "How to File a Charge" document under the "Forms" link at [www.michigan.gov/merc](http://www.michigan.gov/merc).)

**Complete Section 1** if you are filing charges against an employer and/or its agents and representatives. — or —  
**Complete Section 2** if you are filing charges against a labor organization and/or its agents and representatives.

**1. EMPLOYER AGAINST WHICH THE CHARGE IS BROUGHT** Check appropriate box:  Private  Governmental

Name and Address:

OCT 2 - 2013

**2. LABOR ORGANIZATION AGAINST WHICH THE CHARGE IS BROUGHT**

Name and Address: Michigan Education Association  
1216 Kendale Blvd., P.O. Box 2573  
East Lansing, MI 48826-2573

OCT 21 2013

**3. CHARGE**

Pursuant to the ~~Labor-Mediation Act (LMA)~~ Public Employment Relations Act (PERA) (cross out one), the undersigned charges that the above-named party has engaged in or is engaging in unfair labor practices within the meaning of the Act.

**On an attached sheet** you must provide a clear and concise statement of the facts which allege a violation of the LMA or PERA, including the date of occurrence of each particular act and the names of the agents of the charged party who engaged in the complained of conduct. The charge should describe who did what and when they did it, and **briefly** explain why such actions constitute a violation of the LMA or PERA.

The Commission may reject a charge for failure to include the required information. However, it is not necessary to present your case in full at this time. Documentary material and exhibits ordinarily **should not** be submitted with this charge form.

4. Name and Address of Party Filing Charge (Charging Party)  
(if labor organization, give full name, including local name and number)

Amy Breza

Telephone Number:  
(989 ) 631-0900

5. List ALL related MERC case(s) (if any): \_\_\_\_\_  
(Name of parties)

Case No.: \_\_\_\_\_ Judge: \_\_\_\_\_  
Case No.: \_\_\_\_\_ Judge: \_\_\_\_\_

I have read this charge and it is true to the best of my knowledge and belief.

*Patrick J. Wright*  
Signature of Representative/Person Filing Charge

Print Name and Title: **Patrick Wright, Senior Legal Analyst**

Street Address: Mackinac Center Legal Foundation, 140 W. Main St. City: Midland State: MI Zip Code: 48640

Email: [wright@mackinac.org](mailto:wright@mackinac.org)  
Telephone/Cell No.: 989-430-3912  
Fax No.: 989-631-0964

The Department of Licensing and Regulatory Affairs will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

Amy Breza's Charge against the Clarkston Education Association and/or Michigan Education Association (the "Union")

Section 3 Summary Explanation

1. The Charging Party, Amy Breza, is a para-educator in a public-sector bargaining unit represented by the labor organization against which the charge is brought. She is employed by the Clarkston Community Schools (the "School District").
2. The collective bargaining agreement between the School District and the Union expired on August 31, 2013.
3. Since the collective bargaining agreement expired on August 31, 2013, the Charging Party could thereafter exercise their right to cease paying the union any dues or agency fees pursuant to 2012 PA 349, Michigan's right to work law.
4. According to the Union, resignations are only accepted during the month of August. However, Charging Party was never informed of this until after the August window had closed.
5. Neither the initial membership application nor any subsequent document provided to the Charging Party by the Union provided any specific procedure or form for membership resignation.
6. MCL 423.209(2)(a), Section 9 of PERA, states that: "No person shall by force, intimidation, or unlawful threats compel or attempt to compel any public employee to do any of the following: ... (a) Become or remain a member of a labor organization or bargaining representative or otherwise affiliate with or financially support a labor organization or bargaining representative."
7. Attempting to compel public employees to remain members of a labor organization and/or to financially support a labor organization through threats and intimidation of reporting and trying to collect a debt that it is not owed are unfair labor practices by the Union.
8. MCL 423.210(2)(a) states that: "(2) A labor organization or its agents shall not do any of the following: ... (a) Restrain or coerce public employees in the exercise of the rights guaranteed in section 9."

9. The Union commits an unfair labor practice where it attempts to restrain or coerce a public employee with the claim of an invalid debt from the Charging Party which violates her Section 9 rights.

10. The Union is expected to rely on a previous decision of the MERC, *West Branch-Rose City Educ Ass'n and MEA*, 2004 WL 6012388 (May 25, 2004). However, Charging Party contends that this opinion should not be applied because: (1) It was wrongly decided at the time; (2) The facts of this case are different; (3) The change in the statutory law, namely 2012 PA 349, made it illegal to compel payment to the Union by an employee and any dues checkoff or authorization card was signed under the previous statutes which had not allowed an employee to wholly withdraw financial support from the Union; and lastly, (4) There are indications from the federal courts that unions requiring an employee to 'opt out' to preserve their rights is disfavored; and, rather, that requiring employees to affirmatively 'opt in' is the option which preserves the employees' rights. See, *SEIU v Knox*, 132 SCt 2277 (2012).

**MICHIGAN EMPLOYMENT RELATIONS COMMISSION**

**STATEMENT OF SERVICE**

The undersigned hereby certifies that he served copies of the unfair labor practice charges on the respondents in the below-referenced matters by USPS First Class Mail on October 21, 2013, in accordance with R 423.182.

**Miriam Chanski** charging the **Coopersville Education Association & Michigan Education Association**

**William Ray Arthur** charging the **Northern Michigan Education Association, MEA/NEA, of Petoskey & Michigan Education Association**

**Amy Breza** charging the **Clarkston Education Association & Michigan Education Association**

**Matt Knapp** charging the **Saginaw Education Association & Michigan Education Association**


**Kurt Alliton** charging the **Saginaw Education Association & Michigan Education Association**

**Susan Romska** charging the **Saginaw Education Association & Michigan Education Association**

**Kathy Eady-Miskiewicz** charging the **Saginaw Education Association & Michigan Education Association**

**Jason LaPorte** charging the **Saginaw Education Association & Michigan Education Association**

October 21, 2013

  
Derk A. Wilcox