

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD**

In the Matter of: )  
)

Teamsters Local Union No. 639 )  
a/w International Brotherhood )  
of Teamsters, Chauffeurs, )  
Warehousemen and Helpers of )  
America, AFL-CIO, )

Complainant, )

v. )

District of Columbia )  
Public Schools, )

Respondent. )

PERB Case No. 91-U-12  
Opinion No. 310

DECISION AND ORDER

On April 19, 1991, Teamsters Local Union No. 639 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO (Teamsters) filed an Unfair Labor Practice Complaint with the Public Employee Relations Board (Board). The Complaint alleged that the District of Columbia Public Schools (DCPS) violated D.C. Code Sec. 1-618.4(a)(1) and (5) by denying the Teamsters, during interest arbitration proceedings, the required "permission", as provided under the parties' pre-negotiation ground rules agreement, "to recast its wage proposal to eliminate the proposal for Fiscal Year 1990." (Comp. at 3.) <sup>1/</sup>

<sup>1/</sup> The negotiations that gave rise to the filing of this Complaint also precipitated the filing of a Teamsters' negotiability appeal in Teamsters Local Union No. 639 a/w Int'l. Bhd. of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO and District of Columbia Public Schools, 38 DCR 1586, Slip Op. No. 263, PERB Case Nos. 90-N-02, 90-N-03 and 90-N-04 (1990). There the Board found, inter alia, the Teamsters' 1990 compensation proposal, generally, to be a negotiable matter that was within the scope of collective bargaining under the Comprehensive Merit Personnel Act (CMPA). Shortly thereafter, the Board issued its Decision and Order in an unfair labor practice proceeding involving these parties in Teamsters Local Union No. 639 a/w Int'l. Bhd. of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO and District of Columbia Public Schools, DCR \_\_\_\_\_, Slip Op. No. 267, PERB Case No. 90-U-05 (1991). There,

On May 9, 1991, DCPS filed an Answer to Unfair Labor Practice Complaint (Answer). Although DCPS disputed the legal conclusions the Teamsters attribute to the Complaint allegations, there is no dispute over the material acts and conduct upon which the Complaint is based. DCPS contended, however, that the Teamsters' claim is governed by the parties' "Pre-Negotiation Agreement" and not the provisions of the CMPA. DCPS averred, that since the Board is without statutory authority under the CMPA to rule upon provisions in negotiated agreements between the parties, the Complaint should be dismissed. We agree.

Our review of the parties' pleadings reveals that while some issues of fact are contested, taking all of Complainant's allegations as true, the Complaint does not give rise to any unfair labor practices or other claims which the Board is authorized to address under the CMPA.<sup>2/</sup> Therefore, for the reasons that follow, we dismiss the Complaint.

The threshold issue presented by the Teamsters' allegations is whether or not the Board is authorized to rule upon claims that arise from the provisions of an effective collective bargaining agreement between these parties, i.e., their "Pre-Negotiation Agreement." D.C. Code Sec. 1-618.4(a)(5), which provides that "[t]he District, its agents and representatives are prohibited from...[r]efusing to bargain collectively in good faith with the exclusive representative," makes an unfair labor practice conduct "in the nature of a refusal to bargain over a mandatory subject of bargaining or a unilateral change in established and bargainable terms and conditions of employment (not covered under an effective agreement between the parties)

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(Footnote 1 Cont'd)

we found that DCPS had no lawful obligation to negotiate over the Teamsters' compensation proposal considered in PERB Case Nos. 90-N-02, 03 and 04, as it related to fiscal year 1990.

The Teamsters asserted in the instant Complaint that "PERB Opinion No. 267 would preclude the arbitrator [, in an interest arbitration proceeding] from selecting the Union's wage proposal for Fiscal years 1991 and 1992 because they were packaged with the Fiscal Year 1990 proposal", the Teamsters "repeatedly asked the Public Schools to allow it to recast its wage [, i.e., compensation,] proposals to eliminate the Fiscal Year 1990 proposal." (Complaint at 3.)

<sup>2/</sup> The Teamsters on May 23, 1991, filed an Amended Unfair Labor Practice Complaint to which DCPS responded on June 7, 1991. The amendment, however, was of no material significance to our disposition above.

...." American Federation of Government Employees, Local Union No. 3721 v. District of Columbia Fire Department, DCR \_\_\_\_\_, Slip Op. No. 287 at fn. 5, PERB Case No. 90-U-11 (1991).

The violative conduct alleged by the Teamsters consists of DCPS' refusal to waive or relax a groundrule provision contained in the parties' pre-negotiation agreement concerning the submission of final offers to the arbitrator during impasse proceedings.<sup>3/</sup> The Teamsters neither cite nor do we find any provision under D.C. Code Sec. 1-618.4(a), or the CMPA, generally, which preempts or proscribes negotiated agreements concerning such matters. We have previously held that relief from such alleged violative conduct lies not within the statutory authority of the Board but in the available rights and obligations arising from the negotiated agreement between the parties. See Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, DCR \_\_\_\_\_, Slip Op. No. 295, PERB Case No. 91-U-18 (1992).

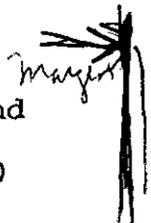
The Teamsters alleged the same conduct which it asserted as a violation of D.C. Code Sec. 1-618.4(a)(5) is also a violation of Sec. 1-618.4 (a)(1). Having found no jurisdictional authority to consider the alleged Sec. 1-618.4(a)(5) violation, we find, similarly, that the Sec. 1-618.4(a)(1) allegation does not support a claim under the CMPA within our jurisdiction. Thus, no issue within our jurisdiction and authority remains. Accordingly, we dismiss the Complaint.<sup>4/</sup>

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<sup>3/</sup> Specifically, the Teamsters alleged as the basis of its Complaint the following:

"Since April 2, 1991, and at all times thereafter, the Public Schools has denied the Union permission to recast its wage proposal to eliminate the proposal for Fiscal Year 1990. Under the Ground Rules, the Union cannot eliminate the Fiscal Year 1990 wage proposal from the wage 'item' without the Public Schools' permission." (Complaint at 3.)

<sup>4/</sup> Based on the reasons discussed in AFSCME, District Council 20, Local 2776 v. D.C. Dept. of Finance and Revenue, 37 DCR 5658, Slip Op. No. 245, PERB Case No. 89-U-02 (1990) and UDC Faculty Association/NEA v. University of the District of Columbia, 38 DCR 3463, Slip Op. No. 272, PERB Case No. 90-U-10 (1991), we deny the Teamsters' request for costs and attorney fees.



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ORDER

IT IS HEREBY ORDERED THAT:

The Complaint is dismissed.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD  
Washington, D.C.

May 14, 1992