GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:	
Washington Teachers' Union Local 6, AFT, AFL-CIO, Complainant,	
v.	PERB Case No. 95-U-08 Opinion No. 431
District of Columbia Public Schools, Respondent.	

DECISION AND ORDER

On March 2, 1995, the Washington Teachers' Union, Local 6, AFT, AFL-CIO (WTU) filed an Unfair Labor Practice Complaint, charging that Respondent District of Columbia Public Schools (DCPS) had committed an unfair labor practice by circulating, among bargaining unit employees, proposals that were made by WTU to DCPS during the course of negotiations for a successor collective bargaining agreement.[1]/ WTU asserts that DCPS' conduct constitutes a failure to act in good faith in violation of D.C. Code § 1-618.4(a)(5).

DCPS filed an Answer to the Complaint, denying that by the

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[1]/ WTU is the certified representative of a unit of "[a]ll personnel employed by the District of Columbia Public Schools who are rendering educational services and receive compensation pursuant to the 'EG' Schedule". Washington Teachers' Union, Local 6, AFT, AFL-CIO and District of Columbia Public Schools, Certification No. 12, PERB Case No. 80-R-09 (August 30, 1982). The parties' collective bargaining agreement, however, indicates that WTU is the bargaining representative of a unit of teachers compensated pursuant to the the ET salary schedule as well.

acts and conduct alleged, DCPS had committed an unfair labor practice. In response to the Board's investigation of the Complaint, WTU filed a Reply and Supplemental Reply to DCPS' Answer, as well as a Motion for a Decision on the Pleadings pursuant to Board Rule 520.6. DCPS responded to the Motion and Supplemental Reply.

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 Comprehensive Merit Personnel Act (CMPA). Therefore, for the reasons that follow, we dismiss the Complaint.[2]/

The parties have been negotiating a new collective bargaining agreement since October 1994. During a negotiation session on January 25, 1995, WTU submitted proposals to DCPS concerning, among other things, the involuntary transfer of teachers and student discipline. Complainant states that on or about February 24, 1995, at a meeting between the DCPS Superintendent and several school principals, copies of excerpts from these proposals were handed out without informing or consulting WTU. Later that day the proposals were "re-copied and randomly distributed to teachers at a faculty meeting at M.C. Terrell Elementary" by the principal of that school. (Comp. at 2; Reply to Ans. at para. 5; Supp. Reply to Ans. at para. 1.) WTU also alleges that copies of the proposals were made available by the principal in the school's library where it was copied and circulated to other schools. (Supp. Reply to Ans. at para. 1.)

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[2]/ WTU moved that a decision be made on the pleadings since it contended DCPS' Answer to the Complaint was untimely filed and therefore the Complaint allegations should be deemed admitted pursuant to Board Rule 520.7. By letter dated March 3, 1995, DCPS was afforded 20 days, based on service by mail, to file its Answer, notwithstanding the fact that service of the Complaint was hand-delivered to DCPS. This due date afforded DCPS five more days than normally provided by Board Rule 520.6. DCPS filed its Answer on March 21, 1995, a day before the March 22, 1995 due date it was afforded. In view of this error, the Acting Executive Director found "good cause" for making an exception to the requirements for requesting an extention of time under Board Rule 501.2 and granted DCPS' request to accept its Answer as timely.

We affirm the Acting Executive Director's decision to deny WTU's Motion to decide this case based on the Complaint alone. For the reasons noted in the text, however, we find this case is appropriately decided on the entire pleadings pursuant to 520.8.

WTU alleges that DCPS "officers, representative(s), agents or administrative staff cause[d], or allow[ed], to be circulated among members of the collective bargaining unit... proposals made to the employer [by WTU] during the course of negotiations between the parties." (Comp. at 2.) Complainant contends that such action "interfered with the exclusive rights of [WTU] and undermined the authority of [WTU] in its capacity as exclusive representative." Id.[3]/

The Board has held under facts not significantly different from this case, that an employer's letter to bargaining unit employees that described the status of negotiations does not, standing alone, violate the CMPA. The Board found that the letter merely reflected the actual state of events and therefore did not constitute direct dealing with employees, disparage or undermine the union nor coerced or interfered with employees in their right to bargain collectively. AFSCME, Council 20, et al. v. Government of the District of Columbia, Board of Trustees of the University of the District of Columbia, et al., 36 DCR 427, PERB Case No. 88-U-32, Slip Op. No. 200 (1989).

Complainant merely alleges that DCPS officials circulated or made available to bargaining unit employees "excerpts" of the actual proposal WTU submitted to DCPS during one of their bargaining sessions. There is no claim that the proposals were altered, misrepresented or used in any fashion to distort the state of the negotiations between the parties. With nothing more, the circulation of the proposals could only amount to communications by DCPS to employees concerning the actual status of the negotiations with respect to the subjects addressed by the proposals. The Board has observed that "an employer has a right to communicate with employees concerning its position in negotiations and the course of negotiations." Id., Slip Op. at 5.

Nothing contained in the Complaint and supplemental pleadings indicates an effort by DCPS officials to deal directly with bargaining unit employees or an attempt to induce employees to abandon their representative to achieve better terms directly from DCPS. Any negative responses by members of the bargaining unit represent their opinions concerning the state of the negotiations, unaltered by the content of the circulated proposals. With nothing

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[3]/ WTU also claims that the distribution of these proposals resulted in dissension among bargaining unit members who voiced their disagreement with the proposals at a monthly membership meeting and through telephone calls. Furthermore, WTU claims that these proposals found their way into the hands of "political opponents" of WTU and were then used to criticize WTU's representation and leadership.

more, we do not find DCPS' action to be a violation of its duty to bargain in good faith as proscribed under D.C. Code § 1-618.4(a)(5). Nor by these alleged acts do we find that DCPS' actions undermined WTU's authority as employees' representative in violation of D.C. Code § 1-618.4(a)(1) and (2).

ORDER

IT IS HEREBY ORDERED THAT:

The Complaint is dismissed.

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

June 13, 1995