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GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)	
)	
Clarence E. Mack,)	
)	
Complainant,)	
)	
v.)	PERB Cases No. 95-U-16
)	Opinion No. 443
)	
Fraternal Order of Police/ Department of Corrections Labor Committee,)	MOTION FOR SUMMARY
)	JUDGEMENT
)	
Respondent.)	
)	
)	
)	
)	

DECISION AND ORDER

On May 26, 1995, Complainant Clarence E. Mack, an employee at the D.C. Department of Corrections, filed an Unfair Labor Practice Complaint, in the above-captioned case. The Complainant charged Respondent Fraternal Order of Police/DOC Labor Committee (FOP) with violating the Comprehensive Merit Personnel Act (CMPA), by failing to engage in fair elections for local union officers.^{1/} By this conduct, the Complainant asserts that FOP has committed an unfair labor practice in violation of D.C. Code § 1-618.4(b)(1).

The FOP filed an Answer to the Complaint, denying that by the acts and conduct alleged, FOP had committed any unfair labor practices. The Complainant responded by filing a "Motion for

^{1/} The FOP was certified as the representative of a wall-to-wall unit of all employees at the Department of Correction (DOC), which includes the Complainant, on January 12, 1994. Fraternal Order of Police/Dep't of Corrections Labor Committee and Dep't of Corrections and Teamsters Local Union 1714 and Alliance of Independent Corrections Employees, Inc., Certification No. 73, PERB Case No. 93-R-04 (March 1, 1985). Complainant was a former local union officer of FOP's predecessor at DOC, i.e., Department of Corrections Correctional Employees, Local Union No. 1714 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO.

Summary Judgment" and "Supplemental Motion for Summary Judgment". In accordance with Board Rule 553.2, FOP filed a Response to the Motion and Supplement. Complainant also filed a Reply to FOP's Response.

Although the Complainant asserts that FOP has committed an unfair labor practice as proscribed under D.C. Code § 1-618.4(b)(1), the unfair labor practice turns on FOP's alleged failure to comply with the standards of conduct for labor organizations, i.e., D.C. Code § 1-618.3(a)(4).^{2/} Complainant claims that FOP's failure to comply with this standard of conduct for labor organizations was an unfair labor practice under D.C. Code § 1-618.4(b)(1).

We have held, however, that a violation of the standards of conduct for labor organizations does not ordinarily constitute an unfair labor practice under D.C. Code § 1-618.4(b)(1). Charles Bagenstose v. Washington Teachers' Union, Local 6, AFT, AFL-CIO, __ DCR ____, Slip Op. No. 355, PERB Case Nos. 90-S-01 and 90-U-02 (1993). The only exceptions we have recognized are not presented by the Complaint allegations.

However, the Complaint allegations state a cause of action pursuant to our jurisdiction to "[m]ake decisions and take appropriate action on charges of failure to adopt, subscribe, or comply with the internal or national labor organization standards of conduct for labor organizations" as prescribed under D.C. Code § 1-618.3. See, D.C. Code § 1-605.2(9). (Emphasis added.) We have stated that when a complainant proceeds pro se in an unfair labor practice proceeding before the Board, the Board will not impose strict compliance with Board Rule 520.3(d) as a basis of dismissing the Complaint. Willard G. Taylor, et al. v. University of the District of Columbia Faculty Association/NEA, __ DCR ____, Slip Op. No. 324, PERB Case No. 90-U-24 (1992).

While the Complainant has captioned and asserted his cause of action to be an unfair labor practice, the Board did not notify Complainant of the defect in the cause of action asserted, in accordance with Board Rule 501.13. By our Decision, Complainant is

^{2/} D.C. Code § 1-618.3(a)(4) provides as follows:

(a) Recognition shall be accorded only to a labor organization that is free from corrupt influences and influences opposed to basis democratic principles. -A labor organization must certify to the Board that its operation mandate the following:

(4) Fair elections;

hereby provided with notice of this defect and the more appropriate standards of conduct cause of action reflected by the allegations. Furthermore, pursuant to Board Rule 501.13, the Complainant is directed to cure this deficiency within 3 days of the service of this Decision and Order.^{3/} Failure to cure the Complaint in accordance with our Order shall result in the dismissal of the Complaint for the reasons discussed above.

In any event, the pleadings present genuine issues of fact upon which a decision cannot be made without a further development of the record. Therefore, Complainant's Motion for Summary Judgement is denied. However, further processing of this matter is suspended, including any referral to a hearing examiner, until Complainant has had the opportunity to cure his Complaint.

ORDER

IT IS HEREBY ORDERED THAT:

1. Complainant's Motion for Summary Judgement is denied.
2. Complainant is provided 3 days from service of this Decision and Order to cure its Complaint in accordance with our discussion in this Opinion.

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

July 21, 1995

^{3/} Complainant's cure of the Complaint in accordance with our Decision and Order would effectively be a withdraw of the unfair labor practice allegations of the Complaint. While the cured Complaint would receive a new standards of conduct case number the Complaint would retain its original filing date.