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**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)	
)	
Keith Allison, et al.)	
)	PERB Case No. 14-S-04
Complainants,)	
)	Opinion No. 1477
v.)	
)	
Fraternal Order of Police/ Department of Corrections Labor Committee)	
)	
Respondent.)	
)	

DECISION AND ORDER

I. Statement of the Case

On May 15, 2014, Keith Allison, Andra Parker, Julia Broadus, Almeada Allen, Edwin Hull, Jannease Johnson, and Bernard Bryant (“Complainants”) filed a Standards of Conduct Complaint (“Complaint”) against the Fraternal Order of Police/Department of Corrections Labor Committee (“Union” or “FOP”). Complainants allege Union Chairman, John Rosser, improperly removed Complainants Julia Broadus and Almeada Allen from the 2014 FOP/DOC Election Committee in violation of Article 9.3 of the Union’s by-laws : Duties that governs the time frame and the manner in which the FOP/DOC Chairman can exercise his rights under Article 9.2 of the Union by-laws related to removal and appointment of all standing committee chairmen subject to ratification by the Executive Board. (Complaint at 3). The Complainants also moved for Preliminary Injunctive Relief requesting the Board grant preliminary relief and enjoin the May 16, 2014, FOP/DOC Labor Committee Election. (Complaint at 20). On June 4, 2014, FOP filed an answer to the Complaint.

II. Discussion

A. Motion for Preliminary Injunctive Relief

The Complainants’ Motion for Preliminary Injunctive Relief was submitted to enjoin FOP from conducting elections scheduled to be held on May 16, 2014. Complainants did not submit their Motion until May 15, 2014, the day before the election.

The criteria the Board employs for granting preliminary relief in a standards of conduct complaint case under Board Rule 544.15 provides:

The Board may order preliminary relief. A request for such relief shall be accompanied by affidavits or other evidence supporting the request. Such relief may be granted where the Board finds that the conduct is clear-cut and flagrant; or the effect of the alleged violation is widespread; or the public interest is seriously affected; or the Board's processes are being interfered with, and the Board's ultimate remedy may be inadequate.

The Board has held that its authority to grant preliminary relief is discretionary. *See AFSCME, D.C. Council 20, et al. v. D.C. Government, et al.*, 42 D.C. Reg. 3430, Slip Op. No. 330, PERB Case No. 92-U-24 (1992). Board Rule 544.15 substantially mirrors Board Rule 520.15, and thus the Board applies a similar standard to Board Rule 544.15 as Board Rule 520.15. In determining whether or not to exercise its discretion under Board Rule 520.15, this Board has adopted the standard stated in *Automobile Workers v. NLRB*, 449 F.2d 1046 (CA DC 1971). There, addressing the standard for granting relief before judgment under Section 10(j) of the National Labor Relations Act, the Court of Appeals - - held that irreparable harm need not be shown. However, the supporting evidence must "establish that there is reasonable cause to believe that the [NLRA] has been violated, and that remedial purposes of the law will be served by *pendente lite* relief." *Id.* at 1051. "In those instances where [this Board] has determined that the standard for exercising its discretion has been met, the basis for such relief [has been] restricted to the existence of the prescribed circumstances in the provisions of Board Rule [544.15] set forth above." *Clarence Mack, et al. v. FOP/DOC Labor Committee, et al.*, 45 D.C. Reg. 4762, Slip Op. No. 516 at p. 3, PERB Case Nos. 97-S-01, 97-S-02 and 95-S-03 (1997).

In the present case, the relief sought for the Motion is now moot, and the Board declines to address the merits of the Motion. Therefore, the Motion for Preliminary Injunctive Relief is denied.

B. Standards of Conduct Complaint

It appears to the Board that the crux of the Complaint is that Complainants allege that removal of Complainants Broadus and Allen from the FOP Election Committee was unlawful and in violation of Article 9.3 of the bylaws. (Complaint at 3, 13). Respondent denies the allegations. (Answer at 10, 13). Further, the Complainants seem to allege that various election procedures were conducted in violation of the Union's bylaws. The Union denies the allegations that the election was improperly conducted.

The Respondent asserts that the Complainants have failed to assert any particularized harm. (Answer at 5). Further, the Respondent argues that the Complainants fail to state a claim for which relief may be granted. (Answer at 8). The Respondent argues that, even if there was a violation of the bylaws, a violation of the bylaws is not, standing alone, a standard of conduct violation. *Id.* The Respondent asserts that "[t]he instant Complaint provides no basis for any of

its claims beyond conjecture....” *Id.* Therefore, the Respondent argues that the standard of conduct complaint is outside of the Board’s jurisdiction.

In order to determine the Board's jurisdiction, it is necessary to determine whether the allegations, if proven, would violate D.C. Official Code § 1-617.03(a). A complainant does not need to prove his/her case on the pleadings, but he/she must plead or assert allegations that, if proven, would establish a statutory violation of the CMPA. *Osekre v. American Federation of State, County, and Municipal Employees, Council 20, Local 2401*, 47 D.C. Reg. 7191, Slip Op. No. 623, PERB Case Nos. 99-U-15 and 99-S-04 (1998). The Board views contested facts in the light most favorable to the complainant in determining whether the complaint gives rise to a violation of the CMPA. *Id.*

A pro se litigant is entitled to a liberal construction of his/her pleadings when determining whether a proper cause of action has been alleged. *Thomas J. Gardner v. District of Columbia Public Schools and Washington Teachers' Union, Local 67, AFT AFL-CIO*, 49 DC. Reg. 7763, Slip Op. No. 677, PERB Case Nos. 02-S-01 and 02-U-04 (2002).

Therefore, pursuant to Board Rule 544.8, the Board orders the parties to an investigatory conference with the parties.

III. Conclusion

As the Complainant’s Motion for Preliminary Injunctive Relief is moot, the Board denies the Motion. The Board has determined that an investigatory conference with the parties is necessary prior to any further action by the Board.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Motion for Preliminary Injunctive Relief is denied.
2. Pursuant to Board Rule 544.8, the parties will be scheduled for an investigatory conference concerning the Standards of Conduct Complaint.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, Member Donald Wasserman, and Member Ann Hoffman

Washington, D.C.

June 9, 2014

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 14-S-04 was transmitted to the following Parties on the 11th of June, 2014.

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