

**Notice:** This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

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

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In the Matter of:	)	
	)	
Wendell Cunningham,	)	
	)	
Complainant,	)	PERB Case Nos. 01-U-04 & 01-S-01
	)	Opinion No. 682
	)	
v.	)	
	)	
Fraternal Order of Police/Metropolitan Police Department Labor Committee,	)	
	)	
Respondent.	)	
	)	
	)	

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**DECISION AND ORDER**

This matter involves a consolidated unfair labor practice and standards of conduct complaint filed by Wendell Cunningham (Complainant).<sup>1</sup> The Complaint alleges that the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("FOP" or "Union") violated D.C. Code §1-617.04(b) (2001 ed.) and D.C. Code §1-617.03(a)(1) and (4) (2001 ed.) by failing to: (1) permit the Complainant to be nominated for the position of Chief Shop Steward of the Special Operations Division (SOD); (2) permit the Complainant's name to be placed on the ballot for the position of Chief Shop Steward of SOD; (3) count write-in ballots cast for the Complainant in FOP's 2000 Election of Officers; and (4) conduct a new election for the position of Chief Shop Steward of SOD as directed by the general membership.

FOP denied the allegations. A hearing was held and the Hearing Examiner issued a Report

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<sup>1</sup>The Complainant filed his consolidated complaint on January 4, 2001. In addition, he filed an amended complaint on July 26, 2001.

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and Recommendation. The Hearing Examiner found that FOP violated D.C. Code §1-617.03(a)(1) and (4) (2001 ed.).<sup>2</sup> FOP filed exceptions to the Hearing Examiner's Report and Recommendation.

The Hearing Examiner's Report and Recommendation (R&R) and FOP's exceptions are before the Board for disposition.

**I. BACKGROUND**

The Complainant is a police officer employed by the District of Columbia Metropolitan Police Department and is assigned to the Special Operations Division (SOD). He is a member in good standing of the FOP.

The Complainant claims that he intended to run for the position of Chief Steward of SOD and made his intention clear to others. In addition, he contends that he was not aware of the process used for nominating candidates. As a result, he made inquiries regarding the process and was told to attend a meeting scheduled for July 19, 2000, in order to get information. However, the Complainant asserts that FOP failed to post a notice at SOD (his work site) concerning the July 19<sup>th</sup> meeting. Therefore, he was not aware that the July 19<sup>th</sup> meeting was a nominating meeting.

On July 19, 2000, FOP held the scheduled special general membership meeting. The purpose of the meeting was to accept nominations for an election to be held on August 30, 2000. (R&R at p. 2). Under the nominating rules established by FOP, a union member nominee either had to be present at the nominating meeting in order to accept a nomination, or had to send a letter of acceptance to the Union by 4:00 p.m. that day. (R&R at p. 2). In addition, an individual could self nominate, either by being present at the meeting or by submitting an acceptance letter. (R&R at p. 2).

The Complainant contends that at the July 19<sup>th</sup> meeting, nominations were accepted for several positions, including the SOD Chief Shop Steward. However, the Complainant arrived late at the meeting due to his employment duties. Therefore, when it came time at the meeting to accept nominations for the position of SOD Chief Shop Steward, the only member nominated for the position of SOD Chief Shop Steward was Officer Branson. Although the Complainant attempted to put forth his name in nomination for that position, he was advised by the FOP leadership that the one person running unopposed for the position would be seated in the position by acclamation. (R&R

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<sup>2</sup>The Hearing Examiner observed that the Complaint was styled as both an unfair labor practice complaint and a standards of conduct complaint. However, the Hearing Examiner noted that the Complainant only proceeded on the basis of the standards of conduct violations. As a result, the Hearing Examiner dismissed all of the allegations concerning unfair labor practices. The Complainant did not file an exception concerning this ruling.

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at p. 2). Since there were no other nominees, FOP awarded the position of SOD Chief Shop Steward to Officer Branson by acclamation.

In light of the above, the Complainant's name was not included on the election ballot. Moreover, the office of SOD Chief Shop Steward was not placed on the ballot because the position "ostensibly had been awarded to Officer Branson by acclamation." (R&R at p. 4) Nonetheless, an unspecified number of FOP members submitted write-in ballots for the Complainant during the course of the August 30<sup>th</sup> election. However, FOP did not count the write-in ballots.

The Complainant asserts that he appealed to FOP's Election Committee. Also, the Complainant filed a recall petition with the Election Committee.<sup>3</sup> However, he received no response from FOP concerning his appeal and his recall petition.

Subsequently, the Complainant appealed the election at an October 18, 2000 general membership meeting.<sup>4</sup> The Complainant contends that at the October 18<sup>th</sup> meeting, there was a discussion concerning: (1) his name not being placed on the ballot for the position of SOD Chief Shop Steward; and (2) FOP's decision not to count write-in ballots which were cast for him as candidate for the position of SOD Chief Shop Steward. Furthermore, he claims that after the discussion a motion was made and properly seconded from the floor directing that FOP conduct a new election for the position of SOD Chief Shop Steward. Thereafter, the motion was passed by the membership.

The Complainant claims that despite the October 18<sup>th</sup> vote, FOP refused to conduct a new election. In light of the above, the Complainant filed the consolidated complaint.

**II. The Hearing Examiner's Report and Recommendation and FOP's Exceptions.**

Based on the pleadings, the record developed during the hearing and the parties' post hearing briefs, the Hearing Examiner identified several issues for resolution. These issues, the Hearing Examiner's findings and recommendations, and FOP's exceptions are as follows:

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<sup>3</sup>Specifically, he protested the election based on the fact that his name was not placed on the ballot and write-in votes which were cast for him were not counted.

<sup>4</sup>The October 18<sup>th</sup> general membership meeting, was the first meeting at which newly elected Chairman Neill presided. (R&R at p. 4).

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1. Did FOP violate D.C. Code §1-617.03(a) (1) and (4) (2001 ed.) by failing to post a notice at the Complainant's work site regarding the date and purpose of the July 19, 2000, nomination meeting?

The Complainant asserts that FOP failed to post a notice at his work site (SOD) regarding the date and purpose of the July 19<sup>th</sup> meeting. As a result, the Complainant contends that “[u]nion members were deprived of their statutory guarantee to ‘equal rights and privileges’ to nominate candidates for election to the office of Chief Shop Steward for SOD.” (R&R at p. 6). Furthermore, the Complainant asserts that by failing to post a notice at his work site, FOP violated D.C. Code §1-617.03 (a) (1) and (4) (2001 ed.).

FOP contends that the Complainant had both actual and constructive knowledge of the nomination meeting. Moreover, FOP asserts that the Complainant “is the victim of his own failure to satisfy the requirements of the nomination process.” (R&R at p. 6) In this regard, FOP notes that the Complainant spoke with Officers Holden (FOP’s former secretary) and Muzzatti in advance of the meeting. Furthermore, Chairman Neill testified that the Complainant admitted that he knew that the purpose of the July 19<sup>th</sup> meeting was to solicit nominations for the upcoming election. FOP also contends that the Complainant never claimed during the July 19<sup>th</sup> meeting that he had been unaware that nominations would be taken at the July 19<sup>th</sup> meeting.

Finally, FOP asserts that notices were distributed on June 20, 2000 notifying union members of the July 19<sup>th</sup> meeting. Specifically, FOP claims that the notices were sent out according to established procedure and were posted in conspicuous locations. Recognizing the possibility that the Complainant may not have seen the notice, FOP nevertheless argues that it took steps reasonably calculated to assure that bargaining unit members would be apprised of their election rights.

The Hearing Examiner found that the “[u]nion had an affirmative obligation, pursuant to both the [Comprehensive Merit Personnel Act (CMPA)] and its own bylaws,<sup>5</sup> to provide notice to its membership regarding the specifics of both the nominating process and the July 19, 2000, meeting.” (R&R at p. 7) In addition, he acknowledged that FOP “endeavored to satisfy those requirements through the efforts of then-Union Secretary Renee Holden, who typed a memorandum describing the nominating process and the time and place of the nominating meeting, and directed that it be distributed to all Shop Stewards and Districts.” (R&R at p. 7) However, the Hearing Examiner found that although Ms. Holden claims that she satisfied the notice provision required by FOP’s by-laws, she could not confirm that the notice was actually posted in each of the Districts. (R&R at pgs. 7-8). In addition, he observed that FOP did not attempt to provide evidence to demonstrate that the notice had actually been posted at the Complainant’s work site. Instead, FOP argued that it was sufficient

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<sup>5</sup>The Hearing Examiner noted that Section 4.1 of FOP’s by-laws requires that the secretary inform members concerning general membership meetings. Pursuant to Section 4.1., the notice must be given not less than ten (10) days prior to the meeting.

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to follow its normal procedure.

In light of the above, the Hearing Examiner determined that the Complainant did not have "actual advance knowledge of the nature and purpose of the July 19<sup>th</sup> meeting." (R&R at p. 8). In reaching this conclusion, the Hearing Examiner credited the "uncontested testimony" of Complainant Cunningham and two other officers "that not only was the June 20<sup>th</sup> Nomination Meeting Notice not posted in the SOD, there was not even a bulletin board in the SOD on which to post the notice." (R&R at p. 8) In addition, he noted that FOP's Chairman acknowledged that there was a problem with the dissemination of Union notices.<sup>6</sup>

Relying on the Board's holding in Dupree and Butler v. FOP/DOC Labor Committee,<sup>7</sup> DCR 1431, Slip Op. No. 605, PERB Case Nos. 98-S-08 and 98-S-09 (1999), the Hearing Examiner found that by not providing advance notice concerning the nomination meeting, FOP "failed to provide [the] Complainant with fair and equal treatment under the governing rules of the organization, in violation of D.C. Code §1-617.03 (a)(1)." (R&R at p. 10). In the Hearing Examiner's judgement, the "Union's failure [to] timely notify [the] Complainant of the nomination procedure precluded him from participating in the nomination process, as a result of which another candidate, the sole nominee, was awarded the position by acclamation at the July 19<sup>th</sup> meeting." (R&R at p. 9). Furthermore, the Hearing Examiner found that since the "nominating process is integral to the election process...the unfair nominating process also constitutes, by extension, a violation of D.C. Code §1617.03 (a) (4)." (R&R at p. 10).

FOP filed an exception to the Hearing Examiner's finding. Specifically, FOP contends that the Hearing Examiner "erred in finding that the Complainant did not have actual [or] constructive notice of the election." (FOP's Exception at p. 1) However, FOP does not cite any case law or evidence to support its claim.

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<sup>6</sup>Chairman Neill testified that "there seems to be a breakdown at the point of taking [a notice] off the fax machine and ensuring it gets posted and then again a breakdown ensuring that it's on the [bulletin] board, because a lot of times things will be posted and it's snatched off. We hear it happens all the time and I see it happen all the time." (R&R at p. 8)

<sup>7</sup>In the Dupree case, the Hearing Examiner credited Complainants' testimony that they did not receive timely notification concerning a nomination meeting. In addition, the Hearing Examiner found that the union did not provide evidence to establish that union members at the Complainants' work site ever received notice. The Board adopted the Hearing Examiner's finding that the Union had violated D.C. Code §1-617.03 (a)(1) (2001 ed.), by denying the Complainants "fair and equal treatment 'by not permitting [the Complainants] to participate in any meaningful or otherwise appropriate manner in the internal union affairs at a membership meeting'." Slip Op. No. 605 at p. 7.

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The Board has previously considered the issue of whether a union's failure to provide notice regarding a nomination meeting constitutes a violation of the CMPA. The Board has held that a prospective candidate is aggrieved when he does not receive notice in time to attend the required nomination meeting. See, Dupree v. FOP/DOC Labor Committee, *supra*. Furthermore, the Board has found that failure to provide notice (concerning the nomination meeting), when the union is aware of the candidate's "intent to run for office, clearly establishes [a] standards of conduct violation." Id. at p. 8.

After reviewing the record, we find that FOP's argument appears to be based on its claim that the Complainant was aware of the nomination meeting because he had spoken with Officers Holden and Muzzatti. The Hearing Examiner considered this argument and was not persuaded that the Complainant Cunningham or any bargaining unit member at SOD had prior notice concerning the July 19<sup>th</sup> meeting. As a result, we believe that FOP's exception amounts to a mere disagreement with the Hearing Examiner's finding. Moreover, FOP is requesting that the Board adopt its interpretation of the evidence presented at the hearing. However, the Board has held that "[c]hallenges to a Hearing Examiner's findings based on competing evidence do not give rise to a proper exception where, as here, the record contains evidence supporting the Hearing Examiner's findings." Clarence Mack v. D.C. Dept of Corrections, 43 DCR 5136, Slip Op. No. 467 at p. 2, at PERB Case 95-U-14 (1996). See also, American Federation of Government Employees, Local 872 v. D.C. Dept of Public Works, 38 DCR 6693, Slip Op. No. 266, PERB Case Nos. 89-U-15, 89-U-16, 89-U-18 and 90-U-04 (1991). Furthermore, issues concerning the probative value of evidence are reserved to the Hearing Examiner. See, University of the District of Columbia Faculty Association/NEA v. University of the District of Columbia, 39 DCR 6238, Slip Op. No. 285, PERB Case Nos. 88-U-33 and 88-U-34 (1991). In light of the above, we find that FOP's exception lacks merit. Therefore, FOP's exception is denied.

2. Did FOP violate D.C. Code §1-617.03 (2001 ed.) by failing to: (1) mention in the June 20<sup>th</sup> notice that it was possible for a member to be awarded a position by acclamation at the July 19<sup>th</sup> meeting; (2) provide sufficient alternatives to the nominating process to satisfy the CMPA; (3) count write-in ballots cast for the Complainant; and (4) act on the Complainant's recall petition?

The Complainant asserts that the June 20, 2000, notice distributed to other union members by FOP, was defective. Specifically, he contends that the notice failed to contain information concerning the "nomination procedures [for selection by] acclamation when only one candidate is nominated." (R&R at p. 5) As a result, the Complainant contends that "[u]nion members were deprived of their statutory guarantee to 'equal rights and privileges' to nominate candidates for election to the office of Chief Shop Steward for SOD." (R&R at p. 6). FOP contends that pursuant to Section 4.1 of its by-laws, notices were distributed on June 20, 2000, notifying members of the July 19<sup>th</sup> meeting. Furthermore, FOP claims that the notices were sent out according to established procedures and were posted in conspicuous locations.

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The Hearing Examiner found "that [FOP's] failure to mention in the June 20 notice the possibility of awarding a position by acclamation at the July 19 meeting [did not] violate the 'fair and equal treatment' provision of the CMPA." (R&R at p. 10). The Hearing Examiner opined that the "Complainant's contention appears to stem from the view that the acclamation process is an extension of, and therefore part of, the nomination process." (R&R at p. 10) However, the Hearing Examiner noted that "the process of awarding a position by acclamation, is distinct from the nomination process." (R&R at p. 10) Specifically, he noted that "the record shows, the acclamation process is only invoked after the nominating process is complete, under circumstances where a sole candidate for an office has been nominated." (R&R at p. 10) In light of the above, the Hearing Examiner concluded that the notice distributed by FOP did not violate the standards of conduct provisions of the CMPA.

The Complainant also argues that "the nature of Union members' work responsibilities...makes it likely that Union members would be precluded from attending nomination meetings due to unanticipated work assignments." (R&R at p. 5). As a result, the Complainant claims that FOP "violated D.C. Code §1-617.03(a)(1) and (4) by failing to provide sufficient alternate means for nominating candidates, because the only alternative to presence at the nominating meeting was the submission in advance of a letter of acceptance to the Union." (R & R at p. 5).

The Hearing Examiner found that FOP did not fail to provide sufficient alternatives to the nominating process. Specifically, he determined that "pursuant to [FOP's] procedure, the Complainant could have either appeared at the July 19<sup>th</sup> meeting to nominate himself or indicate his willingness to accept nomination, or he could have sent an advance acceptance letter to the Union." (R&R at pgs. 10-11) In view of the above, the Hearing Examiner opined that the right to send an acceptance letter, "adequately addresses Complainant's charge that unanticipated work responsibilities preclude a member's ability to exercise the right to participate in the election process." (R&R at pgs. 10-11).

Finally, the Complainant contends that FOP violated the CMPA by failing to count write-in ballots which were submitted. The Hearing Examiner found that FOP did not violate the CMPA by failing to count the write-in ballots cast for the Complainant. The Hearing Examiner acknowledged that the record supports the Complainant's claim that write-in ballots have been counted in the past. However, he found that the "Complainant failed to demonstrate that write-in ballots have been counted where, as here, there was an attempt to cast a write-in ballot for a position that already had been awarded by acclamation." (R&R at p. 11) In this regard, the Hearing Examiner notes that since 1996 a form of the acclamation process has been used by FOP, to award positions to unopposed nominees.<sup>8</sup> In addition, the Hearing Examiner determined that there was insufficient evidence on the record to suggest that FOP departed from its normal use of the acclamation procedure. (R&R at p. 11) Furthermore, he noted that "the nomination process in fact had been closed and the SOD Chief Shop

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<sup>8</sup>The Hearing Examiner observed that the acclamation procedure used by FOP was different from the acclamation procedure described in Robert's Rules of Order.

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Steward position had been awarded by the time certain FOP members attempted to cast write-in ballots for the Complainant." (R&R at p. 11) In view of the above, the Hearing Examiner determined that FOP did not violate its governing rules or the related provisions of the CMPA with respect to this alleged violation.

Concerning the recall petition, the Hearing Examiner found that the Complainant abandoned his claim that FOP violated the CMPA by failing to act on his recall petition. Nonetheless, the Hearing Examiner found that the recall petition, was submitted prior to the installation of Officer Branson as SOD Chief Steward. Therefore, he concluded that the petition was filed prematurely and was ineffective.<sup>9</sup>

The parties did not file exceptions to the above-noted findings. Moreover, we believe that the Hearing Examiner's findings are reasonable and supported by the record. As a result, the Board adopts the Hearing Examiner's findings on these issues.

3. Did FOP violate the CMPA by failing to act on the membership's vote directing that a new election be held for the position of SOD Chief Shop Steward?

The Complainant contends that at the October 18, 2000, general membership meeting, he raised allegations concerning FOP's decision not to place his name on the ballot. In addition, he asserts that the membership voted to hold a new election for SOD Chief Shop Steward. However, he claims that FOP failed to hold a new election for SOD Chief Shop Steward.

The Hearing Examiner found that it was clear that at the October 18<sup>th</sup> meeting, FOP's membership considered a motion for a new election. In addition, he concluded that the motion was properly seconded. Furthermore, he determined that FOP's membership voted to hold a new election for the SOD Chief Shop Steward position.

The Hearing Examiner acknowledged that the vote may not have been required by FOP's by-laws, as Respondent argues. However, he concluded that the vote was not precluded by FOP's by-laws. In addition, the Hearing Examiner found that Chairman Neill permitted the motion to be raised, discussed, voted on, and passed.

The Hearing Examiner notes that "the only indication in the record to explain [FOP's] inaction on the membership's vote for a new election for the SOD Chief Shop Steward position is the suggestion that Chairman Neill believed it best to allow PERB to sort it out." (R R at p. 12) Also, he observed that FOP's current administration was attempting to distance itself from the alleged faults of the predecessor administration. Nonetheless, he ruled that "turnover in leadership, of course, is

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<sup>9</sup>Specifically, he noted that Section 13.1 of FOP's by-laws provides for the "recall and removal from office of any [] officer." However, at the time that the Complainant submitted his recall petition, Officer Branson was not yet installed as an officer. Therefore, the Hearing Examiner concluded that Officer Branson was not subject to recall.

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no insulation against allegations of wrongdoing by a former administration. [Furthermore, the Hearing Examiner noted that] it may be that Chairman Neill and his administration did not personally commit the violations underlying the instant Complaint. [However,] the charges brought by [the] Complainant are not personal to the particular incumbents or any Union officer, but are brought against the Union as an institutional entity that survives a turnover in administration." (R&R p. 12)

In view of the above, the Hearing Examiner found that the "record clearly shows that a proper vote was taken for a new election for the SOD Chief Shop Steward position, and the FOP's failure to act on that vote constitutes a clear violation of D.C. Code §1-617.03(a)(1)." (R&R at p. 13) Specifically, he concluded that "FOP's action in ignoring the membership's vote for a new election for the position of SOD Chief Shop Steward, under circumstances where the vote was taken following a discussion of the alleged irregularities in the election process, seems decidedly undemocratic and unfair, especially where, as here, the membership vote appears to have been permitted by the Union's bylaws." (R&R at p. 13).

FOP filed an exception to this finding. In their exception, FOP asserts that the "Hearing Examiner erred in finding that the Union's failure to act on the vote by the membership was error." (FOP's Exception at p. 1) However, FOP fails to cite any Board precedent or other authority to support its position. As a result, we find that FOP's exception amounts to a mere disagreement with the Hearing Examiner's finding. As noted earlier, a disagreement with the Hearing Examiner's finding is not a sufficient basis for rejecting that finding. Therefore, the Board denies FOP's exception and adopts the Hearing Examiner's finding on this issue.

**III. REMEDY**

Having determined that FOP's violations caused the Complainant "actual injury," the Hearing Examiner determined that the proper remedy in this case is to invalidate the appointment by acclamation of Officer Branson to the position of SOD Chief Shop Steward. As a result, he recommends that the Board direct that a new election be held for the position of SOD Chief Shop Steward. In addition, he recommends that the Board order FOP to post a notice indicating that the Board has determined that FOP has violated the CMPA.

FOP filed an exception concerning the recommended remedy. In its exception, FOP asserts the Hearing Examiner erred in finding that the Union must invalidate the acclamation vote of the current Shop Steward of SOD and hold a new election. In addition, FOP claims that the Complainant has been elected to serve as Chief Shop Steward of SOD and was sworn in on April 1, 2002. As a result, FOP claims that the recommended remedy is moot as a result of the recent election. (FOP' s Exceptions at p.3).

The Board has previously considered the question of what is the appropriate remedy in a case where a union has violated the CMPA by failing to provide notice concerning the date and time of the nomination meeting. In Dupree v. FOP/DOC Labor Committee, supra, the Board held that it would not set aside an election. "However, to address the violations found and to further ensure the propriety of the next election, [the Board found] it appropriate that [the union] be directed to . . .

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issue notice of the nomination requirements and date and time of the nomination meeting to each eligible [union] member before holding the [next] nomination meeting.” Id. at p. 9.

The facts in the present case are very similar to those in the Dupree case. In addition, the Complainant has been elected Chief Shop Steward for SOD. As a result, the Board will not order a new election. Instead, we will order that FOP comply with the CMPA. Specifically, we direct that prior to holding its next election, FOP issue a notice concerning the nomination requirements and provide information concerning the nomination meeting (date and time of the nomination meeting), to each eligible FOP member.

Concerning the posting of a notice, we adopt the Hearing Examiner’s remedy requiring that FOP post a notice acknowledging that they have violated the CMPA. The Board has previously noted that, “the overriding purpose and policy of relief afforded under the CMPA, for [conduct which] violates employee rights, is the protection of rights that insure to all employees”. Charles Bagentose v. D.C. Public Schools, 41 DCR 1493, Slip Op. No. 283 at p.3, PERB Case No. 88-U-33 (1991). Moreover, “it is the furtherance of this end, i.e., the protection of employee rights,... [that] underlies [the Board’s] remedy requiring the posting of a notice to all employees concerning the violation found and the relief afforded, notwithstanding the fact that all employees may not have been directly affected.” Id. Therefore, even though the Complainant was selected as Chief Shop Steward in a subsequent election, we believe that it is appropriate to require FOP to post a notice. Specifically, if FOP is not required to post a notice, the CMPA’s policy and purpose of guaranteeing the rights of all employees is undermined. Moreover, those employees who are most aware of FOP’s illegal conduct and thereby affected by it, would not know that exercising their rights under the CMPA is indeed fully protected. Also, a notice posting requirement, serves as a strong warning against future violations. Furthermore, FOP has not presented a compelling reason for removing the notice posting requirement recommended by the Hearing Examiner.

Consistent with the above discussion, the Hearing Examiner’s recommended remedy is modified and FOP’s exception is granted in part.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Fraternal Order of Police/Metropolitan Police Department Labor Committee (FOP), and its officers and agents, shall cease and desist from failing to maintain recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization under the governing rules of the FOP in accordance with basic democratic principles, as codified under D.C. Code §1-605.02 (9) (2001 ed.).

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2. FOP and its officers and agents, shall cease and desist from denying fair and equal treatment to Complainant Wendell Cunningham and other members of the FOP, by failing to provide adequate notice of the FOP's election nomination meeting in violation of the Comprehensive Merit Personnel Act's (CMPA) standards of conduct for labor organizations as codified under D.C. Code § 1-617.03 (a) (1) and (4) (2001 ed.).
3. FOP and its officers and agents, shall cease and desist from failing to adopt, subscribe, or comply with the standards of conduct for labor organizations prescribed under the CMPA in any like or related manner.
4. FOP shall adhere to the schedule provided under its by-laws with respect to conducting the next election of officers (including pre-election and post-election requirements). In addition, FOP shall issue notice of the nomination requirements, including the and date and time of the nomination meeting, to each eligible FOP member before holding the next nomination meeting.
5. FOP shall post conspicuously within ten (10) days from the service of this Decision and Order the attached Notice where FOP notices to employees are normally posted.
6. FOP shall notify the Public Employee Relations Board (PERB), in writing, within fourteen (14) days from the date of this Order that the attached Notice has been posted accordingly. In addition, FOP shall notify PERB as to the steps it has taken to comply with the directives in paragraphs 4 and 5 of this Order.
7. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

**June 28, 2002**

## **CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case Nos. 01-S-01 and 01-U-04 was transmitted via Fax and U.S. Mail to the following parties on this 28<sup>th</sup> day of June 2002.

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# NOTICE

**TO ALL EMPLOYEES REPRESENTED BY THE FRATERNAL ORDER OF POLICE/METROPOLITAN POLICE DEPARTMENT LABOR COMMITTEE, AT THE METROPOLITAN POLICE DEPARTMENT: THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 682, PERB CASE NOS. 01-U-04 AND 01-S-01.**

**WE HEREBY NOTIFY** our bargaining unit members that the Public Employee Relations Board has found that the Fraternal Order of Police/Metropolitan Police Department Labor Committee (FOP), violated the standards of conduct for labor organizations and, thereby, the law, and has ordered us to post this notice.

**WE WILL** cease and desist from applying our by-laws and otherwise operating the labor organization in a manner that fails to define and secure the rights of individual members to participate in the affairs of the organization in accordance with basic democratic principles, as codified under D.C. Code §1-617.03 (9) (2001 ed.).

**WE WILL** cease and desist from denying fair and equal treatment to Wendell Cunningham and other members of the FOP, by denying or interfering with their right to participate in union elections and other internal union affairs, consistent with the governing rules of the FOP and the Comprehensive Merit Personnel Act (CMPA) standards of conduct for labor organizations, as codified under D.C. Code § 1-617.03 (a) (1) and (4) (2001 ed.).

**WE WILL NOT**, in any like or related manner fail to adopt, subscribe, or comply with the standards of conduct for labor organizations prescribed under the Labor-Management sub-chapter of the CMPA.

Fraternal Order of Police /  
Metropolitan Police Department  
Labor Committee,

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Chairman