

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

In the Matter of:)	
)	
Teamsters , Local Unions No. 639 and)	
730 a/w International Brotherhood)	
of Teamsters, Chauffeurs, Warehousemen)	
and Helpers of America, AFL-CIO,)	PERB Case No. 92-U-04
)	Opinion No. 318
Complainants,)	
)	
v.)	
)	
District of Columbia Public Schools,)	
)	
Respondent.)	
)	

DECISION AND ORDER

On December 27, 1991, Teamsters, Local Unions No. 639 and 730 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). Complainants charge the Respondent District of Columbia Public Schools (DCPS) with violating D.C. Code Sec. 1-618.4(a)(1) and (5) of the Comprehensive Merit Personnel Act (CMPA) by unilaterally subcontracting work performed by bargaining-unit employees. Respondent filed an Answer to the Complaint on January 16, 1992.

For the reasons below, we dismiss the Complaint.

The Complaint alleges that "[i]n or about November, 1991 the Union became aware that the Respondent had unilaterally reassigned at least two bargaining unit members and then subcontracted the bargaining unit work relating to the air conditioning maintenance to an outside contractor." (Compl. at 3.) The Teamsters state that by letter dated November 25, 1991, it demanded that DCPS cease this "unlawful conduct." However, the Teamsters further state, "[b]y letter of December 5, 1991 Respondent denied that it had breached the parties' contract." Id. The Complaint acknowledges that the parties' contract is a collective bargaining agreement which, notwithstanding its September 30, 1990 expiration date, remains in effect over bargaining-unit employees' terms and conditions of employment.

In support of the Complaint allegations, the Teamsters attached its November 25, 1991 letter to DCPS notifying DCPS of its alleged "unlawful conduct". The letter stated, in relevant part, the following:

Pursuant to Article LXI of the negotiated Agreement between the D.C. Board of Education and Teamsters Local Unions 639/730, you are hereby notified that you are in violation of the Agreement by reassigning the air condition equipment employees to general appliance repair and contracting out the air conditioning work. It is the position of the Local Unions 639/730 that the Board's obligation is to notify the Local Unions to negotiate this matter. (emphasis added.)

DCPS admits that "in relevant part, the Agreement [referenced in the Complaint] remains in full force and effect during any period of negotiations." (Ans. at 2.) However, DCPS contends that Article VII "Work Force" and not Article LXI-"Contracting Out" is controlling with respect to the Complaint allegations. Notwithstanding this point of dispute, DCPS asserts that "the instant matter is appropriately the subject of contract interpretation and the grievance procedure between the parties." (Ans. at 4.)^{1/} Thus, DCPS avers, the Complaint fails to state any act or conduct that would give rise to a claim that DCPS had violated D.C. Code Sections 1-618.4(a)(1) and (5). We agree.

The Board has held that an alleged violation of "the parties' collective bargaining agreement does not state an unfair labor practice proscribed under the CMPA." American Federation of Government Employees, Local Union No. 3721 v. District of Columbia Fire Department, DCR, Slip Op. No. 287 at 4, 90-U-11 (1991). See also, Carlease Madison Forbes v. Teamsters, Local Union No. 1714 and Teamsters Joint Council 55, 36 DCR 7097, Slip Op. No. 205, PERB Case No. 87-U-11 (1989). We have further held that "no statutory obligation to engage in additional negotiation [exists under the CMPA] prior to the implementation of provisions of [an effective] negotiated agreement." University of the District of Columbia v. University of the District of Columbia Faculty Association/NEA, 37 DCR 1012, Slip

^{1/} DCPS' Answer also contained averments that Respondent's actions had no "demonstrable adverse impact on bargaining unit employees...." However, the Complaint contains no assertions which give rise to issues that involve the Union's statutory right (and an agency's corresponding duty) to bargain under the CMPA. See n.2 infra.

Op. No. 240 at 3, 89-U-09 (1990). The Complaint allegations and attached supporting documents merely charge UDC with violating Article LXI, a provision of the parties' collective bargaining agreement, and refusing to bargain in good faith over the subject matter contained therein, i.e., contracting out. Clearly, as we have held, such alleged contractual violations do not constitute unfair labor practices or invoke a statutory duty to bargain under the CMPA.^{2/}

Thus, the Complaint makes no claim within our jurisdiction over which we are authorized to rule. We, therefore, dismiss it for want of jurisdiction.

ORDER

IT IS HEREBY ORDERED THAT:

The Complaint is dismissed.

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

June 10, 1992

^{2/} In reaching our conclusion, we reiterate our observation in AFGE, Local Union No. 3721 v. DCFD, supra at n.5, where we stated:

Unlike charges 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), an alleged violation of a collective bargaining agreement concerns a breach of an obligation contractually agreed-upon between the parties, whereas the former concerns alleged violations of obligations statutorily imposed. The CMPA provides for the resolution of the former while the parties have contractually provided for the resolution of the latter, vis-a-vis, the grievance and arbitration process contained in their collective bargaining agreement.