

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

In the Matter of:)

Washington Teachers' Union)
Local 6, American Federation)
of Teachers, AFL-CIO,)

Complainant,)

v.)

District of Columbia)
Public Schools,)

Respondent.)

PERB Case No. 92-U-18
Opinion No. 337

DECISION AND ORDER

On July 2, 1992, the Washington Teachers' Union, Local 6, AFT, AFL-CIO (WTU) filed an Unfair Labor Practice Complaint with the Public Employee Relations Board (Board).^{1/} The Complainant charges that Respondent District of Columbia Public Schools (DCPS) violated D.C. Code Sec. 1-618.4(a)(1) and (5) by unilaterally adopting and implementing an administrative leave procedure for "employees in the bargaining unit who have been accused of various infractions and offenses." (Complt. at 2.) Respondent filed an Answer to the Complaint on July 24, 1992.

For the reasons below, we dismiss the Complaint.

WTU cites as an example of the alleged violative conduct, a notice issued by DCPS to a bargaining-unit employee on June 16, 1992, which informed him that "effective the next day 'you are being placed on administrative leave.'" (Complt. at 2.) DCPS essentially admits the conduct constituting the alleged violations but denies that by such conduct DCPS has committed any unfair labor practice. Rather, DCPS contends that WTU's claim is covered and thereby governed by the terms of the parties' collective bargaining agreement. As such, DCPS asserts that the Complaint allegations are "appropriately the subject of contract interpretation and the grievance and arbitration procedure

^{1/} In accordance with Board Rule 520.3(g), WTU also submitted a copy of the parties' collective bargaining agreement currently in effect.

between the parties." (Ans. at 2.)

A review of the parties' effective collective bargaining agreement reveals that the subject matter of administrative leave is covered by the agreement. ^{2/} We have ruled that under the CMPA an alleged unilateral change in established and bargainable terms and condition of employment does not constitute a violation of D.C. Code Sec. 1-618.4(a)(5) (and, derivatively, Section 1-618.4(a)(1)) when the alleged unilateral change is in terms and conditions of employment "covered under an effective agreement between the parties... ." American Federation of Government Employees, Local Union No. 3721 v. District of Columbia Fire Department, ___ DCR ___, Slip Op. No. 287 at n. 5, PERB Case No. 90-U-11 (1991). Upon review of the pleadings in this case, we find this to be the case with respect to the alleged unilateral change in terms and condition of employment, i.e., the placement of employees on administrative leave, by DCPS.

Since the Complaint allegations do not give rise to violations of D.C. Code Sec. 1-618.4(a)(1) and (5), no breach of DCPS' statutory duty to bargain under the CMPA can lie. See Teamsters, Local Unions No. 639 and 730 a/w International Brotherhood of Teamsters Chauffeurs, Warehousemen and Helpers of America, AFL-CIO v. District of Columbia Public Schools, ___ DCR ___, Slip Op. No. 318, PERB Case No. 92-U-04 (1992). Therefore, we find that the Complaint fails to allege a cause of action under the CMPA over which the Board possesses jurisdiction and we accordingly dismiss the Complaint.

ORDER

^{2/} Specifically, with respect to the instant dispute, DCPS cites Article VII, Section C which provides:

Disciplinary Action

In cases where retaining the employee on duty may be injurious to himself or the others, the employee may be placed immediately on administrative leave pending further administrative action. Should such administrative action result in suspension of five (5) school days or more or discharge, then the provisions of A above apply.

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IT IS HEREBY ORDERED THAT:

The Complaint is dismissed.

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

November 17, 1992