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

In the Matter of:)	
)	
William H. Dupree,)	
)	
Complainant,)	
)	
v.)	PERB Cases No. 96-U-05
)	and 96-U-10
)	Opinion No. 511
Fraternal Order of Police/ Department of Corrections Labor Committee,)	
)	
and)	
)	
D.C. Department of Corrections,)	
)	
Respondents.)	

DECISION AND ORDER

The events that gave rise to this case are set out by the Hearing Examiner in his Report and Recommendation.^{1/} In PERB Case No. 96-U-05, the Complainant William H. Dupree, alleged that the Respondent, the Fraternal Order of Police/Department of Corrections Labor Committee (FOP) violated its duty of fair representation by basing its decision not to take his grievance to arbitration on alleged unlawful reasons, i.e., Complainant's previous affiliation with and current support of FOP's predecessor, Teamsters, Local Union No. 1714. Complainant asserted that FOP's action violated the Comprehensive Merit Personnel Act (CMPA) as codified under D.C. Code § 1-618.4(b)(1). The Complainant had also filed a Complaint against the D.C. Department of Corrections (DOC), PERB Case No. 96-U-10, alleging a violation of D.C. Code § 1-618.4(a)(3) by conspiring with FOP to deny his grievance. The two Complaints were consolidated for hearing before the Hearing Examiner.

The Hearing Examiner found that FOP failed to meet its duty to fairly represent the Complainant by its decision not to process his grievance to arbitration and thereby, committed an unfair labor practice in violation of D.C. Code § 1-618.4(b)(1). With respect to Respondent DOC, however, the Hearing Examiner concluded that the evidence did not support the charge that DOC conspired with FOP to discriminate against the Complainant in violation of D.C. Code § 1-

^{1/} The Hearing Examiner's Report and Recommendation is attached as an appendix to this Opinion.

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618.4(a)(3).

No exceptions were filed by either party to the findings, conclusions and recommendation made by the Hearing Examiner.

Pursuant to D.C. Code § 1-605.2(3) and Board Rule 520.14, the Board has reviewed the findings and conclusions of the Hearing Examiner and find them to be reasonable and supported by the record. We therefore adopt the findings and conclusions of the Hearing Examiner and his recommendation that the: (1) Complaint in PERB Case No. 96-U-10 be dismissed and (2) Respondent FOP, in PERB Case No. 96-U-05, violated D.C. Code § 1-618.4(b)(1). Accordingly, we issue the Order below.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complaint in PERB Case No. 96-U-10 is dismissed.
2. The Fraternal Order of Police/Department of Corrections Labor Committee (FOP) and its agents and representatives shall cease and desist from breaching its duty to fairly represent bargaining unit employee William H. Dupree by refusing to arbitrate his grievance because he exercised his employee rights --to assist any labor organization-- guaranteed by the Comprehensive Merit Personnel Act (CMPA).
3. FOP and its agents and representatives shall cease and desist from interfering with, restraining, or coercing, in any like or related manner, employees in the exercise of rights guaranteed by the CMPA.
4. FOP shall notify, in writing (with a copy to the Complainant and the PERB), the Federal Mediation and Conciliation Service (FMCS) and the Department of Corrections (DOC), via, the Office of Labor Relations and Collective Bargaining (OLRCB), that FOP wishes to proceed to arbitration on the Complainant's grievance of October 6, 1995.
5. The time limits for processing a grievance to arbitration contained in the contractual grievance/arbitration procedure between FOP and DOC is suspended for Complainant's grievance. FOP shall take the necessary steps to process Complainant's grievance through arbitration.
6. FOP shall post conspicuously within ten (10) days from the service of this Opinion the attached Notice where FOP notices to employees are normally posted.

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7. FOP shall notify the Public Employee Relations Board (PERB), in writing, within fourteen (14) days from the date of this Order that the Notices have been posted and as to the steps it has taken to comply with the directives in paragraphs 3, 4, 5 and 6 of this Order.

8. FOP shall accord the Complainant the option to be represented at any arbitration grievance hearing by a representative of his choice at a rate not to exceed the rate charged by FOP's counsel in arbitration proceedings. The arbitrator shall retain jurisdiction to resolve any dispute over the fee of any representative retained by the Complainant.

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

March 13, 1997

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 96-U-05 and 96-U-10 was sent via facsimile and/or mailed (U.S. Mail) to the following parties on the 13th day of March, 1997.

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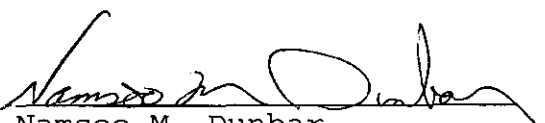
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