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

In the Matter of:)

Deborrah Jackson)

and)

Jareaseh Brown,)

Complainants,)

PERB Case Nos. 95-S-01
Opinion No. 414

v.)

American Federation of
Government Employees,
Local 2741, AFL-CIO,)

Respondent.)

DECISION AND ORDER

On November 24, 1994, a Standards of Conduct Complaint was filed by the Complainants, Deborrah Jackson and Jareaseh Brown, employees of the District of Columbia Department of Recreation. ^{1/} Complainants are members of the collective bargaining unit represented by the Respondent, the American Federation of Government Employees, Local 2741, AFL-CIO (AFGE).

The Complainants allege that during the campaign and election of new local union officers, the Respondent's election committee violated AFGE's constitution and by-laws. The Complainants assert that the election committee's actions failed to comply with the standards of conduct for labor organizations under Comprehensive Merit Personnel Act (CMPA), as codified under D.C. Code § 1-618.3.

AFGE filed a Motion to Dismiss on January 11, 1995, requesting that the Board dismiss the Complaint as untimely filed.

^{1/} The Complainants filed an amended Complaint on December 12, 1994, in response to a notice of deficiency pursuant to Board Rule 501.13.

Complainants responded to the Motion on February 6, 1995. ^{2/}

For the reasons that follow, we find the Complaint untimely filed and grant AFGE's motion to dismiss the Complaint.

Complainants allege violations of the standards of conduct for labor organizations as set forth under D.C. Code § 1-618.3(a)(1) and (4) based on AFGE election committee's handling of a June 16, 1994 election and June 23 run-off election of local officers. Complainants state that they pursued internal union procedures for objecting to the alleged election improprieties by submitting a complaint on August 15, 1994. By letter dated August 29, 1994, Complainants' objections were dismissed by the election committee as untimely filed under AFGE's constitutional provisions governing the conduct of elections. Complainants' appeal to the national vice president of AFGE on September 10, 1994, was denied on October 17, 1994. The national office of AFGE affirmed the election committee's determination that the objections to the elections were untimely. ^{3/}

Board Rule 544.4 requires standards of conduct complaints to "be filed not later than [] 120 days from the date the alleged violation(s) occurred." AFGE moves to dismiss the Complaint since

^{2/} Complainants objects to Respondent AFGE Local 2741 being represented by Mr. Hugh Hassan, national representative of AFGE, because the national office of AFGE is not a party to this proceeding. We find no merit to this objection. The capacity of Mr. Hassan in this proceeding is not as an intervenor but rather as the representative of the Respondent in this proceeding, i.e., AFGE, Local 2741, pursuant to Board Rule 501.2.

^{3/} Following the denial of Complainants' appeal by the national office of AFGE, Complainants submitted the matter to the Department of Labor on November 15, 1994. Complainants state that the Labor Department informed them that it lacked jurisdiction over unions representing D.C. Government employees and was unable to advise them "as to what body was responsible for the conduct of Local elections conducted by District of Columbia locals". (Resp. at 5.) Complainants then sought out the Board about their objections to the election of officers, Complainants state that they were referred to an agency who had conducted a similar investigation of another union's election. Any further delay in filing the instant Complaint caused by Complainants' referral to another agency is irrelevant to a determination of timeliness. By the time the Complainants state they were referred elsewhere, any Complaint filed at that time would have been over 145 days after the June 23, 1994 election, the latest event serving as the basis of the alleged violations.

the alleged conduct occurred more than 120 days prior to the filing of the Complaint, a fact Complainants do not dispute. Complainants argue, however, that this fact should not foreclose consideration of the Complaint by the Board since the delay was due to their unfamiliarity with the Board's jurisdiction over standards of conduct complaints and the procedures governing the timely filing of such complaints.

Board Rules governing the initiation of actions before the Board are jurisdictional and mandatory. As such, they provide the Board with no discretion or exception for extending the deadline for initiating an action. Public Employee Relations Board v. D.C. Metropolitan Police Department, 593 A.2d 641 (1991). Complainants' ignorance of Board Rules governing our jurisdiction over standards of conduct complaints provides no exception to our jurisdictional time limit for filing a complaint. Prior exhaustion of internal union redress procedures is not required if union conduct violates labor policies as set forth under the CMPA. Fraternal Order of Police/MPD Labor Committee v. Public Employee Relations Board, 516 A.2d 501 (1986). Therefore, if Complainants contend that AFGE's violations of internal election rules also violated statutory standards of conduct, the time for filing a complaint with the Board concerning the alleged violations as a statutory cause of action commenced when the basis of those violations occurred.^{4/}

Complainants concede that they were aware of "rumors and suspicions raised during and after the election process" of the alleged violations. (Resp. at 3.) Complainants further note that they filed their August 15, 1994 objections with the election committee after they "were able to validate the allegations and within a reasonable time after determining the violations had in fact occurred." (Resp. at 4.) However, proof of the occurrence of an alleged statutory violation is not necessary to commence the time limit for initiating a cause of action before the Board. The validation, i.e., proof, of alleged statutory violations is what proceedings before the Board are intended to determine.

Absent compelling reasons, not stated here, why the June 16

^{4/} The Board, in dismissing an unfair labor practice complaint as untimely filed, rejected an argument similar to that made by Complainants. In that case, the complainant argued that her complaint against her union for failure to arbitrate her grievance should be measured from the time she ceased to have an "understanding" that her grievance was pending arbitration rather than from the time the union withdrew its request for arbitration. See, Joan T. Frederick v. American Federation of State County and Municipal Employees, D.C. Council 20, Local 2776, AFL-CIO, ___ DCR ___, Slip Op. No. 407, PERB Case No. 94-U-20 (1994).

Decision and Order
PERB Case No. 95-S-01
Page 4

election and June 23 run-off election dates should not be ruled as being the earliest dates on which Complainant knew of the alleged violative conduct, the Complaint must be dismissed as exceeding the 120-day time period mandated by Board Rule 544.4.

ORDER

IT IS HEREBY ORDERED THAT:

The Motion to Dismiss is granted; the Complaint is dismissed.

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

March 8, 1995