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

In the Matter of:)	
)	
Fraternal Order of Police/ Metropolitan Police Department, Labor Committee)	
)	PERB Case No. 11-U-43
Complainant,)	
)	Opinion No. 1371
v.)	
)	Administrative Dismissal
Yvonne Tidline, Respondent.)	
)	
)	
)	

EXECUTIVE DIRECTOR’S ADMINISTRATIVE DISMISSAL

I. Statement of the Case

On July 20, 2011, the Fraternal Order of Police/Metropolitan Police Department Labor Committee (“FOP” or “Complainant”) filed an Unfair Labor Practice Complaint (“Complaint”) against Sergeant Yvonne Tidline (“Respondent”) for violating D.C. Code § 1-617.04(b)(1) of the Comprehensive Merit Personnel Act (“CMPA”).

II. Discussion

FOP alleges that, on March 15, 2011, Sergeant Tidline sent an email to FOP members with the subject: “Vote NO on Raising of Union Dues.” (Complaint at 3). FOP alleges that the email “encouraged FOP member[s] to vote ‘no’ on an upcoming dues increase vote and instructed FOP members to forward the email to other FOP members.” *Id.* FOP alleges the email was forwarded by other FOP members. *Id.*

In the Complaint, FOP alleges that Respondent violated the CMPA by “interfering, restraining, coercing, or retaliating against the exercise of rights guaranteed to the FOP members by the CMPA.” (Complaint at 4). FOP argues:

- (a) the FOP was engaged in protected union activities by holding a Special

- Membership Meeting regarding a vote on the dues assessment;
- (b) Respondent knew of the FOP's activities and of the Special Membership Meeting;
- (c) there was express anti-union email animus by the Respondent demonstrated by the Respondent sending an anti-union email on the Department's email system encouraging FOP members to vote 'no' on an upcoming dues increase vote and instructing FOP members to forward the email to other FOP members; and
- (d) the Respondent attempted to interfere, restrain, coerce, and retaliate against the FOP in the exercise of the rights guaranteed by the CMPA by sending unauthorized and misleading anti-union emails on the Department's email system.

(Complaint at 4).

III. Analysis

In order to find whether the Board has jurisdiction, a Complainant does not need to prove its case on the pleadings, it must only plead or assert allegations that, if proven, would establish the alleged statutory violations. *See Virginia Dade v. National Association of Government Employees, Service Employees International Union, Local R3-06*, 46 D.C. Reg. 6876, Slip Op. No. 491 at 4, PERB Case No. 96-U-22 (1996); and *Gregory Miller v. American Federation of Government Employees, Local 63, AFL-CIO and D.C. Department of Public Works*, 48 D.C. Reg. 6560, Slip Op. No. 371, PERB Case Nos. 93-S-02 and 93-U-25 (1994). In addition, the Board views contested facts in the light most favorable to the Complainant in determining whether the Complaint gives rise to an unfair labor practice. *See JoAnne G. Hicks v. District of Columbia Office of the Deputy Mayor of Finance, Office of the Controller and American Federation of State, County and Municipal Employees, District Council 24*, 40 D.C. Reg. 1751, Slip Op. No. 303, PERB Case No. 91-U-17 (1992). "Without the existence of such evidence, Respondent's actions cannot be found to constitute the asserted unfair labor practice. Therefore, a Complaint that fails to allege the existence of such evidence, does not present allegations sufficient to support the cause of action." *Goodline v. FOP/DOC Labor Committee*, 43 D.C. Reg. 5163, Slip Op. No. 476 at p. 3, PERB Case No. 96-U-16 (1996).

In PERB Case No. 11-U-38, FOP brought an unfair labor practice complaint against MPD for the same incident involving Respondent under D.C. Code § 1-617.04(a). The Board determined that Respondent's email was sent in her capacity as a union member and not as an agent of MPD, as is required to find liability under D.C. Code § 1-617.04(a). *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. D.C. Metropolitan Police Department*, Slip Op. No. 1370, PERB Case No. 11-U-38 (2013). Conversely, FOP now asserts that Respondent's actions violated D.C. Code § 1-617.04(b), prohibiting conduct by "[e]mployees, labor organizations, their agents, or representatives." (2001 ed.).

The Board determined in PERB Case No. 11-U-38 that Sergeant Tidline acted within her capacity as a union member, voicing her opinion on union issues to other union members.

Fraternal Order of Police/Metropolitan Police Department Labor Committee v. D.C. Metropolitan Police Department, Slip Op. No. 1370. In the present case, FOP alleges that Sergeant Tidline interfered, restrained, coerced, or retaliated against the exercise of rights guaranteed to FOP members by sending the email. (Complaint at 4). On the face of Complainant's pleading and the plain language of the email, there is nothing to suggest interference, restraint, coercion, or retaliation of any member's rights. Furthermore, FOP has alleged no other actions by or evidence against Respondent that would rise to the level of a violation of the CMPA.

In viewing the facts in the light most favorable to the Complainant, FOP's Complaint fails to contain allegations, which proven, would constitute a violation of the CMPA. Therefore, in accordance with PERB Rules 520.8 and 500.4, this matter is administratively dismissed.

March 18, 2013
Date


Ondray T. Harris
Executive Director

CERTIFICATE OF SERVICE

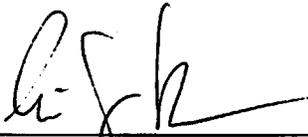
This is to certify that the attached Administrative Dismissal was transmitted to the following parties on this the 18th day of March, 2013.

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