

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

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

Candi Peterson,)
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Complainant,)
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and,)
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Washington Teachers Union,)
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Respondent.)
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PERB Case No. 12-S-01

Slip Opinion No. 1242

DECISION AND ORDER

I. Statement of the Case

Candi Peterson (“Complainant”) filed a Verified Standards of Conduct Complaint (“Complaint”) against the Washington Teachers Union (“Respondent,” “Union,” or “WTU”) on December 2, 2011. Complainant also filed a Verified Request for Preliminary Relief on December 2, 2011 (“Request”). On December 13, 2011, Respondent filed a Request for Enlargement of Time to Respond to Complainant’s Verified Request for Preliminary Relief (“Request”) and then filed a Motion to Dismiss (“Motion”) and, Alternatively, Answer to Candi Peterson’s Complaint (“Answer”) on December 22, 2011, denying the allegations and motioning for the matter to be dismissed. Respondent also filed an Opposition to Complainant’s Request for Preliminary Relief (“Opposition to Request”) on December 22, 2011. On January 9, 2012, Complainant filed an Opposition to Respondent’s Motion to Dismiss (“Opposition to Motion to Dismiss”).

The Complainant alleges that Respondent violated the Comprehensive Merit Personnel Act, D.C. Code §1-617.03(a)(1) when the Executive Board of the WTU conducted an Executive Board meeting without providing her with adequate notice that a disciplinary resolution would be on the agenda and without providing her an opportunity to respond. (See Complaint at p. 5).

Before the Board for its disposition are: the Complainant's Complaint and Request for Preliminary Relief and Respondent's Motion to Dismiss and Answer and Respondent's Opposition to Complainant's Request for Preliminary Relief.

II. Discussion

Ms. Candi Peterson is the General Vice President of the WTU; she took office on December 1, 2010. She is also employed by the District of Columbia Public Schools as a social worker. Complainant alleges that on July 26, 2011, WTU President Nathan Saunders notified her by hand-delivered letter that he would be removing her from the WTU payroll, effective that day, July 26, 2011, for "failure to perform the duties associated with your position." (See Complaint, Exhibit 3). Subsequently, on August 4, 2011, President Saunders scheduled a special meeting of the WTU Executive Board at which President Saunders proposed a disciplinary resolution regarding Ms. Peterson's alleged infractions. (See Complaint pgs. 3-4). Ms. Peterson claims she was only notified two hours before the meeting and, thus, did not have adequate time to prepare a defense. As a result of the President's actions, Ms. Peterson no longer receives a salary or benefits from WTU. She retains her title as Executive Vice President of WTU.

President Saunders does not dispute that he removed Ms. Peterson from the WTU payroll and reduced her duties, stating in his July 26, 2011 letter to her that "[she] may not perform any duties on behalf of the Washington Teachers' Union without [his] explicit consent and written approval." (See Complaint, Exhibit 3.) Further, President Saunders does not deny the meeting of the WTU Executive Board and its passage of a disciplinary resolution regarding Ms. Peterson but maintains that Ms. Peterson was informed of the meeting "under WTU's normal course of business." (See Washington Teachers' Union Motion to Dismiss and, Alternatively, Answer to Candi Peterson's Complaint at p.4).

Ms. Peterson seeks the restoration of her salary and benefits, including backpay and interest, the restoration of her duties and powers as outlined in the WTU's Constitution and By-Laws, payment of her legal fees and costs and the publication to its membership of WTU's actions towards Ms. Peterson. As noted above, Ms. Peterson alleges a violation of both the WTU's Constitution and Bylaws and the CMPA, D.C. Code §1-617.03(a)(1) which provides in pertinent part:

(a) Recognition shall be accorded only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. A labor organization must certify to the Board that its operations mandate the following:

(1) The maintenance of democratic provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to fair and equal treatment under the governing rules of the

organization, and to fair process in disciplinary proceedings.

Pursuant to PERB Rule 544.4, a Standards of Conduct Complaint must be filed within "120 days from the date the alleged violation occurred." Ms. Peterson maintains that the relevant alleged violation was the WTU Executive Meeting—its content, its occurrence and procedure. Indeed, she maintains that the WTU's Standards of Conduct violation is ongoing because the limitations imposed by the Resolution continue to displace her from her position. (See Candi Peterson's Opposition to Respondent's Motion to Dismiss at pgs.1-2) Thus, according to Ms. Peterson, her filing is timely because the time for filing began, at its most restrictive calculation, on August 4, 2011. Respondent asserts that "a timely claim disputing Ms. Peterson's reduction in pay and duties" would have to have been filed 120 days from her notice of such reduction in pay and duties, i.e. her receipt of President Saunders' letter delivered on July 26, 2011. (See Answer p. 2) Thus, according to Respondent, her filing is untimely and the Board must dismiss her Complaint. (According to *Gibson*, 785 A.2d at 1241 [quoting *Hoggard v. District of Columbia Public Employee Relations Board*, 655 A.2d 320, 323 (D.C. 1995)]: "PERB's rule concerning the time for filing exemplifies the principle that 'the time limits for filing appeals with administrative adjudicative agencies...are mandatory and jurisdictional.'")

Ms. Peterson attempts a range of arguments to persuade the Board that the alleged Standards of Conduct violation occurred within the 120 window for timely filing. Specifically, she cites the WTU's alleged violation of its own Constitution and By-laws when it held the August 4, 2011, Executive Meeting and passed the disciplinary resolution reducing her salary and duties as Executive Vice President of the Union. In her Complaint, she states the following: "The WTU Constitution and By-Laws contains two procedures for dealing with Union officers who violate their obligations By-Law Article IX permits a recall election upon a petition signed by 30% of the WTU Membership. By-Law Article III, Sections 3 through 5 contain a procedure for the filing of internal union charges against a member for a variety of offenses, including the willful violation of the WTU Constitution and By-Laws and revealing to non-members confidential information about the WTU." (See Complaint at p. 5) Neither of these provisions is relevant to the facts of Ms. Peterson's Complaint. Article IX outlines the procedures for a recall election (Ms. Peterson was not subject to a recall election and Article IX merely relates to procedure) and Article III implicates Union *membership* and membership expulsion from the WTU, not Union officers. Ms. Peterson simply locates no nexus between the facts of her Complaint, the alleged violation (the WTU Executive meeting) and any provision of either the WTU Constitution and By-Laws or the CMPA.

There is no dispute in the pleadings that the authority to reduce Ms. Peterson's pay and duties resides with President Saunders. (See Complaint, Exhibit 3). Thus, any alleged violation of D.C. Code §1-617.03(a)(1) would be located in the letter and its delivery. The Board finds that the alleged Standards of Conduct violation occurred on July 26, 2011, when WTU President Saunders hand delivered his letter to Ms. Peterson. Ms. Peterson's Complaint was filed on December 2, 2011, more than 120 days after the alleged violation occurred. The window for filing the Complaint has passed and the Complaint is, therefore, dismissed.

Because the Board finds the Complaint in the instant case to be untimely, the Board does not find it necessary to address the subsequent pleadings filed by the Complainant and Respondent.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complaint filed by Ms. Candi Peterson is dismissed.
2. The Request for Preliminary Relief filed by Ms. Candi Peterson is denied.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

February 4, 2012

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and the Board's Decision and Order in PERB Case No. 12-S-01 are being transmitted via Fax and U.S. Mail to the following parties on this the 6th day of February, 2012.

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