

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**

In the Matter of)	
)	
Tasheanna Harris)	
)	
Complainant)	PERB Case Nos. 22-S-02
)	
v.)	
)	Opinion No. 1840
Fraternal Order of Police/Department of Corrections Labor Committee)	
)	
Respondent)	

DECISION AND ORDER

I. Statement of the Case

On February 8, 2022, *pro se* Complainant Tasheanna Harris filed a Standards of Conduct Complaint (Complaint)¹ against the Fraternal Order of Police/Department of Corrections Labor Committee (FOP).² The Complaint alleged that FOP violated D.C. Official Code § 1-617.03(a)(1), (2), and (4) of the Comprehensive Merit Personnel Act (CMPA) by preventing the accretion of the Complainant, as an unopposed candidate, into the FOP Lodge #1 Agency Trustee position.³ The Complaint further alleged that FOP violated its bylaws and D.C. Official Code § 1-617.03(a)(5) of the CMPA by refusing to hold quarterly membership meetings; by failing to seek budget

¹ The Complaint included a request for preliminary relief which is moot due to the Board’s decision to dismiss the Complaint.

² The Complaint refers to “Respondents” and includes allegations against FOP and FOP Lodge #1, as well as various FOP and FOP Lodge #1 officers. The Board has held that a standards of conduct complaint can only be alleged against a labor organization. *Butler v. AFGE, Local 1550*, 32 D.C. Reg. 5912, Slip Op. No. 123 at 2, PERB Case No. 85-S-01 (1985). FOP Lodge #1 is not a labor organization under the Board’s jurisdiction and thus, is omitted as a respondent. *See Butler v. FOP/DOC Labor Comm. and FOP Lodge #1*, 45 D.C. Reg. 2047, Slip Op. No. 537 at 2-3, PERB Case No. 98-S-02 (1998). To the extent that individual union officers are named as respondents in a standards of conduct complaint, any statutory claims that accrue to them or their actions are not in their personal capacity but rather in their representative capacity as officers and/or agents of the union. *Mack, et al. and Barganier, et al v. FOP/DOC Labor Committee*, 46 D.C. Reg. 110, Slip Op. No. 507, PERB Case Nos. 95-S-03 and 95-S-02 (1999). Therefore, FOP is the only respondent named in the caption.

³ Complaint at 3-5.

approval from its members; and by failing to provide its members with records of annual financial audits.⁴

On February 21, 2022, FOP filed an Answer to the Complaint, asserting that the Complainant was not a dues paying member of FOP Lodge #1 and thus, was ineligible to run for the Agency Trustee position.⁵ FOP broadly asserted that the Board lacked jurisdiction over this case and requested that PERB dismiss the Complaint.⁶

On May 2, 2022, the parties mediated the dispute and narrowed the issue for hearing to whether the Complainant should have been appointed as the Agency Trustee for Lodge #1. On January 18, 2023, PERB held a hearing to resolve outstanding issues of fact.

On February 21, 2023, the Hearing Examiner issued his Report and Recommendations (Report). The Hearing Examiner found that the Complainant was the successful candidate for the FOP Lodge #1 Agency Trustee position and recommended that the Board order FOP to install the Complainant as Agency Trustee.⁷ Neither party filed exceptions.

For the reasons discussed herein, the Board declines to adopt the Hearing Examiner's recommendation and dismisses the Complaint for lack of jurisdiction.

I. Discussion

The Board has not certified FOP Lodge #1 as a labor organization and thus, FOP Lodge #1 is not bound to the standards of conduct set forth in D.C. Official Code § 1-617.03.⁸ In prior cases, the Board has determined that it lacks jurisdiction over FOP members' allegations of unfair treatment in FOP Lodge #1 affairs, including elections.⁹ Further, the Board has previously discussed the FOP Lodge #1 Agency Trustee role and found that the position exists to further the political interests of FOP Lodge #1 and has no bearing on the rights of FOP members as established in the CMPA.¹⁰

A recent D.C. Court of Appeals decision reinforced the Board's holding on this issue, emphasizing that the CMPA "limit[s] the [Board's] enforcement authority for standards of conduct complaints to an employee's exclusive bargaining representative."¹¹ The court specified that "the CMPA grants the [Board] jurisdiction to hear and decide whether exclusive bargaining representatives are in compliance with the standards of conduct provisions of the statute."¹² The

⁴ Complaint at 6-8.

⁵ See Answer at 2.

⁶ Answer at 1-2.

⁷ Report at 4-5.

⁸ *Butler v. FOP/DOC Labor Comm. and FOP Lodge #1*, 45 D.C. Reg. 2047, Slip Op. No. 537 at 3, PERB Case No. 98-S-02 (1998).

⁹ See *Id.* (citing *FOP/DOC Labor Comm. and DOC and AFGE, Local 1550*, 29 D.C. Reg. 4611, Slip Op. No. 49, PERB Case No. 82-R-06 (1982)).

¹⁰ *Butler v. FOP/DOC Labor Comm.*, 45 D.C. Reg. 4947, Slip Op. No. 547 at 3, PERB Case No. 98-S-02 (1998).

¹¹ *AFGE Nat'l Office. v. PERB*, 237 A.3d 81, 87 (D.C. 2020) (holding that the Board lacks jurisdiction over standards of conduct allegations against the AFGE National Office because it is not a labor organization certified by the Board).

¹² *Id.* at 87-88.

court established that “[a]n administrative body cannot act effectually where it lacks jurisdiction, and when it does so, its orders are void.”¹³

The Board lacks jurisdiction over standards of conduct allegations against parties other than Board-certified exclusive bargaining representatives.

II. Conclusion

The Board dismisses the Complaint for lack of jurisdiction.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complaint is dismissed with prejudice.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By vote of Board Chairperson Douglas Warshof and Members Renee Bowser, Mary Anne Gibbons, and Peter Winkler.

May 18, 2023

Washington, D.C.

¹³ *Id.* at 88 (citing *D.C. v. 17M Assocs., LLC*, 98 A.3d 954, 959 (D.C. 2014); 73A C.J.S. Public Administrative Law and Procedure § 281).

APPEAL RIGHTS

Pursuant to Board Rule 559.2, a party may file a motion for reconsideration, requesting the Board reconsider its decision. Additionally, a final decision by the Board may be appealed to the District of Columbia Superior Court pursuant to D.C. Official Code §§ 1-605.2(12) and 1-617.13(c), which provides 30 days after a decision is issued to file an appeal.