

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)

Local 2725, American Federation)
of Government Employees, AFL-CIO,)

Complainant,)

v.)

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

Respondent.)

PERB Case No. 89-S-01
Opinion No. 231

DECISION AND ORDER

On April 10, 1989 Local 2725, (Local) of the American Federation of Government Employees (AFGE) filed with the D.C. Public Employee Relations Board (Board) a Standards of Conduct Complaint, under the provisions of the Comprehensive Merit Personnel Act of 1978 (CMPA) D.C. Code Section 1-618.3 and the Board's Interim Rule 108.2.

The Complaint alleges that the Local, which is the certified exclusive representative of three (3) units of employees at the Department of Housing and Community Development, the Department of Consumer and Regulatory Affairs and the Department of Public and Assisted Housing is aggrieved by the conduct and actions of its National Union-AFGE (National).

The Local claims that the National, by imposing a trusteeship upon the Local, has violated the Standards of Conduct provisions of D.C. Code 1-618.3 because its conduct "does not conform to [the] democratic and nondiscriminatory standards of conduct of a labor organization as envisioned by Section 1-618.3...." (Complaint p.4, para. 14). The Complaint specifies as the conduct complained of, (1) that contrary to the general practice, the National required the Local to submit all books and records as part of the carrying out of an agreement to pay per capita taxes that the Local owed the National ¹/_; (2) that in violation of D.C. Code Section 1-

¹/ Local 2725 asserts (Complaint para. 10) that another Local executed a pay agreement during the August 19, 1988 National Convention without presenting books and records and directs attention to Exhibit 5, attached to the Complaint. We cannot find anything in this Exhibit, however, that substantiates this claim or even addresses it.

618.7, the National sought to gain direct control of the dues and assessments deducted from employees' paychecks, despite the fact that Local 2725, not the National union, is the exclusive representative; (3) that the National has not presented just cause for the Local to turn over its books and records; and (4) that the mere failure of the Local to submit past due per capita payments does not constitute financial mismanagement under the trusteeship provisions of the AFGE Constitution, nor does a delinquency in the forwarding of dues support the imposition of a trusteeship.

As relief, the Local requests that the Board issue a cease-and-desist order and that the Board seek an order from the D.C. Superior Court restraining AFGE from engaging in any further similar prohibited conduct.

In its Response to the Complaint, AFGE moves the Board to dismiss the Complaint or in the alternative, to grant summary judgment. For reasons set out below, the Board grants the Respondent's request for summary judgment.

D.C. Code Section 1-618.3, entitled the "Standards of Conduct for Labor Organizations," provides in part the following:

(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.

D.C. Code Section 1-618.7, entitled "Union Security; dues deduction" provides that:

Any labor organization which has been certified as the exclusive representative shall, upon request, have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues. Such authorization, costs and termination shall be proper subjects of collective bargaining. Service fees may be deducted from an employees' salary by the employer if such

a provision is contained in the bargaining agreement.

D.C. Code Section 1-605.2(9) authorizes the Board to "[m]ake decisions and take appropriate action on charges of failure to adopt, subscribe or comply with the internal or national labor organization standards of conduct for labor organizations." Upon reviewing the parties' pleadings and attachments thereto, the Board finds nothing to support the Local's claim of an injury that is cognizable under the CMPA or the Board's rules. In essence, the Local complains about the imposition of a trusteeship by the National Union. However, the challenged trusteeship was established under rules of the Local and the National that by their terms are binding upon the Local and the appeal² procedures also there specified remain available to the Local. ²/

²/ Article IX, Sections 5(a) and 5(b) of the National's Constitution (Response - Exhibit 2) provides in pertinent part the following:

SEC. 5.(a) The National President shall be authorized and empowered, with the approval of the NEC, to place any council or local under trusteeship and shall for safeguard and protection take immediate charge of all equities and properties, tangible or intangible, acquired and/or possessed by any such affiliate for the purpose of preventing corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of bargaining representation, restoring democratic procedures or otherwise carrying out the legitimate objectives of the Federation.

* * *

SEC. 5.(b) When a trusteeship is established, the National President shall appoint one or more members of employees of the Federation to act as the trustee(s) of the affiliate being placed under trusteeship.

* * *

Upon imposition of the trusteeship, notice shall be sent by mail from the national office to all members of that affiliate setting forth the reasons. The National President shall appoint a panel of three (3) local presidents or other members or employees of the Federation to conduct a hearing concerning the circumstances surrounding the imposition of the trusteeship.

* * *

If the trusteeship is ratified by the National President, any member of the affiliate may

The trusteeship provisions of the National Constitution, provide for a hearing on the propriety of the trusteeship, with the opportunity for the Local to present such claims as it raises in the Complaint before the Board. ^{3/}

The Board does not agree with Respondent's contention that we have no jurisdiction to examine a Union's internal procedures. We do not find it necessary here to rule on Respondent's request that the Board adopt a policy of requiring the exhaustion of internal union procedures before considering a standards of conduct complaint. It is sufficient here that the conduct complained of is still contested and not final, hence there is no injury. ^{4/} Moreover, the CMPA provisions invoked here require a recognized union to maintain democratic procedures and "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;" (D.C. Code Section 1-618.3(a)(1) - Emphasis added). There is no assertion in the Complaint of conduct violating these provisions.

There is no merit to the Local's contention that the National Union has no claim to dues payments under D.C. Code Section 1-618.7 because it is not the exclusive representative. By virtue of the trusteeship the Local is being substituted by the National as the

appeal the National President's decision to the NEC....

If the NEC ratifies the National President's decision, the appellant may further appeal to the next National Convention.

Article V Section 2 of the National Constitution provides that:

SEC.2. National Conventions shall be the true and legitimate source of all authority and the final court of appeal.

³ By letter dated March 8, 1989 from National AFGE President John Sturdivant to the Local, a hearing before a panel on the establishment of the trusteeship was scheduled for May 3, 1989 (Complaint - Exhibit 4). In a letter dated June 9, 1989, the National notified the Board of the panel's recommendation to uphold the trusteeship and of President Sturdivant's ratification of the recommendation. As Sturdivant advises the Local in his March 8, 1989 letter, his decision ratifying the trusteeship may be appealed to the National Executive Council (NEC) and ultimately to the National Convention.

^{4/} Respondent AFGE invites the Board to adopt a presumption as to the validity of trusteeships for an initial period similar to that in the Labor Management Reporting and Disclosure Act, 29 U.S.C. Section 464(c). Given our disposition of this matter, however, we have no occasion to consider this request.

exclusive representative and therefore assumes its obligations.

In light of the Board's findings that the Constitution and By-Laws, which are binding upon Local 2725, provide for an appeal procedure on the question of trusteeship and that those proceedings are currently being pursued by the parties, the Complainant has failed to allege any harm so as to invoke the Board's review under the Standards of Conduct provisions.

Accordingly, since the Complaint does not allege any injury cognizable under the CMPA and the pleadings present no genuine issue of any material fact, we grant Respondent's request for summary judgment.

O R D E R

The Motion for Summary Judgment is granted.

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

June 21, 1989