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

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In the Matter of: )

Earnest Durant, Jr., )

Complainant, )

v. )

Fraternal Order of Police/  
Department of Corrections Labor  
Committee, et al., )

Respondents. )

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PERB Case No. 95-U-19  
Opinion No. 495

**DECISION AND ORDER**

The events that gave rise to this case are set out by the Hearing Examiner in his Report and Recommendation.<sup>1/</sup> The Hearing Examiner found that Complainant Earnest Durant, Jr., a correctional officer for the District of Columbia Department of Corrections (DOC), failed to prove that his bargaining representative, the Fraternal Order of Police/Department of Corrections Labor Committee (FOP) committed unfair labor practices in violation of the Comprehensive Merit Personnel Act (CMPA) as codified under D.C. Code § 1-618.4(b)(1).<sup>2/</sup>

Specifically, the Hearing Examiner found that the Complainant did not meet his burden of proof by a preponderance of the evidence, as required under Board Rule 520.11, that FOP (1) refused to process the Complainant's union membership application or (2) unlawfully removed documents posted by the Complainant on employee bulletin boards that expressed his dissent with the representation FOP officers were providing employees. Based on the documentary and testimonial evidence presented, the Hearing Examiner recommended that the Complaint be dismissed.

No exceptions were filed by either party to the findings, conclusions and recommendation made by the Hearing Examiner.

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<sup>1/</sup> The Hearing Examiner's Report and Recommendation is attached as an appendix to this Opinion.

<sup>2/</sup> During a prehearing conference held on April 16, 1996, at the Complainant's request, the Hearing Examiner dismissed originally named Co-Respondent DOC as a party to this proceeding.

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Pursuant to D.C. Code § 1-605.2(3) and Board Rule 520.14, the Board has reviewed the findings and conclusions of the Hearing Examiner and find them to be reasonable and supported by the record. We therefore adopt the findings, conclusions and recommendation of the Hearing Examiner and dismiss the Complaint.

ORDER

IT IS HEREBY ORDERED THAT:

The Complaint is dismissed.

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

November 7, 1996