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

_____ )	
In the Matter of: )	
Keith Allison, et al. )	
Complainants, )	PERB Case No. 14-S-04
v. )	Opinion No. 1482
Fraternal Order of Police/ )	
Department of Corrections )	
Labor Committee )	
Respondent. )	
_____ )	

**DECISION AND ORDER**

**I. Statement of the Case**

On May 15, 2014, Keith Allison, Andra Parker, Julia Broadus, Almeida Allen, Edwin Hull, Jannease Johnson, and Bernard Bryant (“Complainants”) filed a Standards of Conduct Complaint (“Complaint”), alleging that the Fraternal Order of Police/Department of Corrections Labor Committee (“Union” or “FOP”) violated D.C. Official Code § 1-617.03(a)(1) and (4). Complainants appeared to allege irregularities in the procedures leading up to the Union’s May 16, 2014 election. In addition, the Complainants requested that the Board grant preliminary injunctive relief to prevent the May 16, 2014 election from moving forward. On June 4, 2014, FOP filed an answer to the Complaint, denying the allegations and asserting affirmative defenses that (1) Complainants had not asserted any particularized harm, and (2) Complainants failed to state a claim for which the Board could grant relief.

On June 11, 2014, the Board denied the Complainants’ motion for preliminary injunctive relief, and ordered an investigatory conference be held to clarify the Complainants’ Standards of Conduct Complaint allegations. *Keith Allison, et al. v. Fraternal Order of Police/Department of Corrections Labor Committee*, Slip Op. No. 1477, PERB Case No. 14-S-04.

## **II. Results of the Investigatory Conference**

Pursuant to Board Rule 544.8, an investigatory conference was held with the Complainants in order to clarify the allegations in the Standards of Conduct Complaint. According to the Complainants, during the General Union meeting held in September 2012, FOP Chairman Rosser nominated both Julia Broadus and Almeida Allen to serve on the May 16, 2014, Election Committee. On December 28, 2013, a General Union meeting was held, and Ms. Broadus stated that both she and Ms. Allen would be part of the Election Committee.

Ms. Broadus further stated that she and Ms. Allen heard rumors at the end of February 2014, that Chairman Rosser was removing them from the Election Committee. In a phone call from Ms. Broadus to Chairman Rosser, Ms. Broadus alleged that Chairman Rosser informed her that at a February 12, 2014, FOP Executive Board meeting, it was ratified by the FOP Executive Board that Ms. Broadus and Ms. Allen be removed from the Election Committee. During the investigatory conference, the Complainants alleged that the meeting and ratification of Ms. Broadus and Ms. Allen's removal from the Election Committee may not have been in accordance with the Union's bylaws. According to the Complainants, the Executive Board must ratify the decision to remove and appoint committee members with five board members present to establish a quorum. Only four members were alleged to have been present at the meeting with a fifth vote by Phyllis Grimes via telephone. Complainants alleged that Former Vice Chairman Marr had stated that no votes or phone calls ever occurred during this meeting.

In addition, during the investigatory conference and in the Complaint, the Complainants alleged that Chairman Rosser resigned from the Election Committee on March 28, 2014, which violated the Union's bylaws, requiring an election candidate to resign from the Election Committee ninety (90) days prior to an election. (Complaint at 5). The Complainants asserted that Chairman Rosser claimed he resigned from the Election Committee on October 1, 2013, which would prevent him from making any appointments or removals from the Election Committee after this date. Complainants asserted that a March 2014 newsletter, which was attached to their Complaint, showed that Ms. Broadus and Ms. Allen were removed from the Committee in February of 2014 by Chairman Rosser, and consequently, evidences that Chairman Rosser did not properly resign in accordance with the Articles 9.2 and 9.3 of the Union bylaws.

During the investigatory conference, the Complainants also asserted that the appointed Election Committee Chairman Theresa Capers was ineligible to serve on the Election Committee because she was not a union member in good standing. Phyllis Grimes's standing was also questioned. Complainants alleged that they requested verification on the standing issues, but did not receive the requested information from Chairman Rosser.

The Complainants provided additional information regarding the election conducted on May 16, 2014, which occurred after the filing of the Standards of Conduct Complaint. The Standards of Conduct Complaint was not amended to include allegations regarding the election.

For their remedy, the Complainants requested that the May 16, 2014, election results be overturned and a new election conducted at the "Jail Armory" with poll monitors from outside

the agency. They also requested that Ms. Broadus and Ms. Allen be reinstated as part of the Election Committee.

### III. Discussion

Complainants do not need to prove their case on the pleadings, but they must plead or assert allegations that, if proven, would establish a statutory violation of the CMPA. *Osekre v. American Federation of State, County, and Municipal Employees, Council 20, Local 2401*, 47 D.C. Reg. 7191, Slip Op. No. 623, PERB Case Nos. 99-U-15 and 99-S-04 (1998). The Board views contested facts in the light most favorable to the complainant in determining whether the complaint gives rise to a violation of the CMPA. *Id.* The Complainants are *pro se* litigants, who are entitled to a liberal construction of their pleadings when determining whether a proper cause of action has been alleged. *Thomas J. Gardner v. District of Columbia Public Schools and Washington Teachers' Union, Local 67, AFT AFL-CIO*, 49 DC. Reg. 7763, Slip Op. No. 677, PERB Case Nos. 02-S-01 and 02-U-04 (2002).

Pursuant to Board Rule 544.8, the Board conducted an investigatory conference with the Complainants to clarify the allegations in the Standards of Conduct Complaint. The Board has determined that the allegations in this Complaint are (1) that FOP violated D.C. Official Code § 1-617.03(a)(1), which requires labor organizations to maintain “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 (2) that the Union has violated D.C. Official Code § 1-617.03(a)(4) requiring fair elections. Specifically, the Complainants allege that the removal of Ms. Broadus and Ms. Allen from the Election Committee by Chairman Rosser violated Articles 9.2 and 9.3 of the Union’s bylaws. In addition, the Complainants alleged that Chairman Rosser did not properly resign from the Election Committee during the time period prescribed by the Union bylaws.

The Respondent argues that the Complainants have not identified how they are aggrieved nor have the Complainants provided information that the Complainants have been denied any rights under the Union’s bylaws. (Answer at 6). In addition, the Respondent asserts that, even if the Union’s bylaws were violated, that breach is not sufficient alone to find a standards of conduct violation. (Answer at 8).

Rule 544.2 provides: “Any individual(s) aggrieved because a labor organization has failed to comply with the Standards of Conduct for labor organizations may file a complaint with the Board for investigation and appropriate action.” This rule requires that Complainants not only be individuals but also “aggrieved” individuals. *Dupree v. F.O.P./Dep’t of Corrs. Labor Comm.*, 43 D.C. Reg. 5130, Slip Op. No. 465 at p. 2 n.2, PERB Case No. 96-U-05. In order to state a claim that they are aggrieved, complainants must allege an actual injury. *See Durant v. F.O.P./Dep’t of Corrs. labor Comm.*, 43 D.C. Reg. 5130, Slip Op. No. 430 at p. 1 n.2, PERB Case Nos. 94-U-18 and 94-S-02 (1998).

The Complainants have not alleged actual injuries that they suffered from the allegations for which a remedy can be granted by the Board. Specifically, the Complainants failed to indicate how the removal of Ms. Broadus and Ms. Allen from the Election Committee and the alleged improper notice of candidacy of Chairman Rosser would result in a violation of the standards of conduct provisions of the CMPA that created an actual injury to the Complainants. As the alleged violations are unsupported by any information of an actual injury by an aggrieved person, the Standards of Conduct Complaint fails to state a claim under the CMPA. As a result, the Board must dismiss the Complaint.

#### **IV. Conclusion**

Viewing the pleadings in the light most favorable to Complainants, the Board's review of the allegations in the Standards of Conduct Complaint reveals that even accepting the Complainants' allegations as true, the Complaint fails to state a cause of action under the standards of conduct provisions in D.C. Official Code § 1-617.03. Therefore, the Complaint is dismissed with prejudice.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The Standards of Conduct 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 unanimous vote of Board Chairperson Charles Murphy, Member Donald Wasserman, and Member Keith Washington

Washington, D.C.

July 24, 2014

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 14-S-04 was transmitted to the following Parties on the July 29, 2014.

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