

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**

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In the Matter of:	)	
	)	
American Federation of Government	)	
Employees, Local 1975	)	
	)	PERB Case No. 25-U-08
Complainant	)	
	)	Opinion No. 1937
v.	)	
	)	CORRECTED
District of Columbia Department of	)	
Motor Vehicles	)	
	)	
Respondent	)	

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**DECISION AND ORDER**

**I. Statement of the Case**

On March 13, 2025, the American Federation of Government Employees, Local 1975 (AFGE) filed a second amended<sup>1</sup> unfair labor practice complaint (Complaint) against the District of Columbia Department of Motor Vehicles (DMV). The Complaint asserts that DMV violated D.C. Official Code §§ 1-617.04(a)(1) and (5) of the Comprehensive Merit Personnel Act (CMPA), as well as the parties' collective bargaining agreement (CBA) and the District Personnel Manual (DPM), by refusing to provide AFGE with the disciplinary records for a bargaining unit employee who was not represented by the Union during her disciplinary proceedings. AFGE requests that the Board order DMV to produce the requested records, cease and desist from interfering with the Union's representational duties, and post a notice of the violation.<sup>2</sup> On April 1, 2025, DMV filed its Answer, asserting that the Complaint should be dismissed for failure to state a claim upon which relief may be granted, and because it concerns a contractual dispute outside of PERB's jurisdiction.<sup>3</sup>

On June 26, 2025, the parties participated in a mediation conference but did not reach settlement. On October 14, 2025, AFGE filed a motion for a decision without a hearing (Motion).

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<sup>1</sup> The second amended complaint cured deficiencies identified in the initial complaint, filed February 13, 2025, and the first amended complaint, filed February 19, 2025.

<sup>2</sup> Complaint at 3-4.

<sup>3</sup> Answer at 3.

The Motion argues that a decision on the pleadings is warranted in this case because there are no disputes of material fact.<sup>4</sup> DMV did not file an opposition.

The Motion is hereby GRANTED. For the reasons discussed herein, the Board finds that DMV violated sections 1-617.04(a)(1) and (5) of the CMPA.

## I. Background

The following facts are undisputed. DMV took disciplinary action against two bargaining unit employees who were involved in a workplace incident.<sup>5</sup> One employee chose to be represented by AFGE, while the other opted for independent representation.<sup>6</sup> On December 6, 2024, AFGE sent DMV a request for the disciplinary records of the independently represented employee.<sup>7</sup> DMV refused to provide the requested records, asserting that the independently-represented employee had signed a document stating she only wanted those records shared with her representative.<sup>8</sup> The Agency informed AFGE that it could request the disciplinary records if and when the employee filed a grievance.<sup>9</sup>

## II. Discussion

As a preliminary matter, the Board addresses AFGE's claims that DMV violated the parties' CBA and the DPM. PERB does not have jurisdiction over alleged violations of a collective bargaining agreement, as such disputes are strictly contractual in nature and must be deferred to the parties' negotiated grievance process.<sup>10</sup> Additionally, the Board has held that alleged violations of the DPM are outside its jurisdiction and must be brought in another forum.<sup>11</sup> Accordingly, those aspects of the Complaint are dismissed.

The Board turns to AFGE's remaining allegation, that DMV violated sections 1-617.04(a)(1) and (5) by refusing to produce the requested disciplinary records, thereby interfering with, restraining, or coercing employees in the exercise of their rights guaranteed under the CMPA.<sup>12</sup> The Board has held that where an agency refuses to provide the representative union with information relevant and necessary to its legitimate collective bargaining duties, the agency has committed an unfair labor practice unless the union's interest is outweighed by confidentiality concerns.<sup>13</sup> The Board has emphasized that an agency's burden to demonstrate the need for

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<sup>4</sup> Motion at 5 (citing Board Rule 520.6).

<sup>5</sup> Motion at 4.

<sup>6</sup> Complaint at 2.

<sup>7</sup> Complaint at 2; Motion at 2.

<sup>8</sup> Complaint at 2.

<sup>9</sup> Motion at 5.

<sup>10</sup> *E.g.*, *FOP/MPD Labor Comm. v. MPD*, 62 D.C. Reg. 13348, Slip Op. No. 1534 at 8, PERB Case No. 08-U-22 (2015); *Rodriguez v. MPD*, Slip Op. No. 906 at 3, PERB Case No. 06-U-38 (2008).

<sup>11</sup> *AFGE, Local 2731 v. D.C. Fire Dep't*, 39 D.C. Reg. 8599, Slip Op. No. 287 at 26, PERB Case No. 90-U-11 (1992).

<sup>12</sup> Complaint at 3.

<sup>13</sup> *FOP/DYRS Labor Comm. v. DYRS*, 63 D.C. Reg. 8969, Slip Op. No. 1570 at 6, PERB Case No. 14-U-09 (2016) (finding that the agency violated the CMPA by refusing to provide the union with disciplinary records which were relevant and necessary to its legitimate collective bargaining duties); *FOP/MPD Labor Comm. v. MPD*, 62 D.C. Reg.

documents to be kept confidential from the representative union is much higher than the burden to show they must be kept confidential from the public.<sup>14</sup> Where an agency denies a union relevant and necessary information, it must present a “viable defense.”<sup>15</sup> The Board will make determinations regarding the need for confidentiality on a case by case basis.<sup>16</sup>

The Board has previously rejected agencies’ assertions of confidentiality where representative unions have sought disciplinary records pertaining to unit members, finding that such records are relevant and necessary to a union’s legitimate collective bargaining duties.<sup>17</sup> The Board has established that a union’s interest in obtaining disciplinary records is especially strong where the requested records belong to multiple employees who were involved in the same or similar disciplinary incidents, as those records may be used to compare the respective discipline imposed.<sup>18</sup> Board precedent establishes that a lack of written permission from a disciplined employee does not erase the agency’s obligation to turn over that employee’s disciplinary records to the representative union.<sup>19</sup>

In the instant case, AFGE asserts that it requested the independently represented employee’s disciplinary records “to assess whether the discipline was in compliance with the CBA, applicable regulations, and principles of progressive discipline.”<sup>20</sup> AFGE argues that it has a “statutory right to access information relevant to its representation duties, including disciplinary records necessary to determine whether disparate treatment or inconsistencies exist in the disciplinary actions taken against bargaining unit employees.”<sup>21</sup> When DMV denied AFGE’s records request, the Agency cited the employee’s written desire for the requested documentation to only be shared with her chosen representative.<sup>22</sup> DMV has not presented any additional arguments to support its position.

The Board finds that DMV’s asserted confidentiality defense is not viable. The requested disciplinary records are relevant and necessary to AFGE’s legitimate collective bargaining duties. The Union’s interest in determining whether the employee it represents has experienced disparate treatment outweighs the asserted confidentiality concern. DMV has not met its burden to show

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16524, Slip Op. No. 1553 at 5, PERB Case Nos. 12-U-05, 12-U-10, & 13-U-28 (2015); *UDC Faculty Ass’n/NEA v. UDC*, 36 D.C. Reg. 3333, Slip Op. No. 215 at 3, PERB Case No. 86-U-18 (1989) (citing *NLRB v. ACME Industrial Co.*, 385 U.S. 432 (1967)).

<sup>14</sup> *FOP/DYRS Labor Comm.*, Slip Op. No. 1570 at 6.

<sup>15</sup> *See id.* at 6-7 (finding that the agency’s confidentiality defense was not viable).

<sup>16</sup> *FOP/MPD Labor Comm.*, Slip Op. No. 1553 at 7.

<sup>17</sup> *FOP/MPD Labor Comm. v. MPD*, 59 D.C. Reg. 11371, Slip Op. No. 1302 at 20-23, PERB Case Nos. 07-U-49, 08-U-13, & 08-U-16 (2012).

<sup>18</sup> *See FOP/MPD Labor Comm.*, Slip Op. No. 1553 at 2, 7 (finding that the agency was not obligated to produce disciplinary records for an employee whose misconduct was dissimilar to that of the employee whom the union was defending, as it was not relevant and necessary).

<sup>19</sup> *See FOP/DYRS Labor Comm.*, Slip Op. No. 1570 at 5-7 (holding that the agency violated the CMPA by refusing to provide employees’ disciplinary records to the union, despite lacking written authorization from the employees); *but see FOP/MPD Labor Comm.*, Slip Op. No. 1553 at 6 (finding employees’ written authorization for disclosure to be a factor weighing in the union’s favor).

<sup>20</sup> Complaint at 2.

<sup>21</sup> Complaint at 2.

<sup>22</sup> Complaint at 2.

that the independently represented employee's records must be kept confidential from AFGE, the union of which she is a member.

### **III. Conclusion**

The Board finds that DMV violated D.C. Official Code §§ 1-617.04(a)(1) and (5) of the CMPA by refusing to provide AFGE with the requested disciplinary records.

## **ORDER**

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

1. The District of Columbia Department of Motor Vehicles shall cease and desist from refusing to bargain in good faith by failing to provide the requested disciplinary records.
2. The District of Columbia Department of Motor Vehicles shall furnish the American Federation of Government Employees, Local 1975 with the requested disciplinary records.
3. The District of Columbia Department of Motor Vehicles shall conspicuously post the attached Notice where notices to employees are normally posted. The Notice shall be posted within ten (10) days from the issuance of this Decision and Order and shall remain posted for thirty (30) consecutive days.
4. Within fourteen (14) days from the date of this Decision and Order, the District of Columbia Department of Motor Vehicles shall notify the Public Employee Relations Board in writing that the attached Notice has been posted accordingly.
5. 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.

December 18, 2025

**Washington, D.C.**

## **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 file an appeal.