GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:	
American Federation of Government Employees, Local Union Nos. 631, 872, 1972 and 2553, Complainants,	
v.	PERB Cases No. 94-U-02, 94-U-08
District of Columbia Department of Public Works, Respondent.	Opinion No. 306 (Motions to Consolidate and Amend)

DECISION AND ORDER

On October 19, 1993, the American Federation of Government Employees, Local Union Nos. 631, 872, 1975 and 2553 (AFGE) filed a Complaint (PERB Case No. 94-U-02) alleging that by failing and refusing to provide requested information and to bargain with Complainants over a reduction in force (RIF), the D.C. Department of Public Work's (DPW) violated the Comprehensive Merit Personnel Act (CMPA), D.C. Code Sec. 1-618.4(a)(1) and (5). AFGE concurrently filed a Motion seeking preliminary relief based upon the Complaint allegations; however, the request was subsequently withdrawn before the Board had an opportunity to consider and dispose of the Motion.

On January 26, 1994, AFGE filed a second unfair labor practice complaint (PERB Case No. 94-U-08) alleging violations of the CMPA, D.C. Code Sec. 1-618.4(a)(1) and (5), by DPW, for its alleged refusal to provide requested information regarding personnel actions under DPW's revised RIF procedures. AFGE claimed that the requested information was relevant and necessary to its preparation for an arbitration hearing related to the RIFs.

Both Complaints are presented to the Board for action upon a Motion by AFGE to consolidate these proceedings and a request for leave to amend the Complaint in PERB Case No. 94-U-02. For the reasons that follow, we grant AFGE's Motion.

The Board's determination whether or not to consolidate matters properly before it is essentially a matter of policy. See, e.g., Service Employees International Union, Local 722, AFL-CIO v. Dep't of Human Services, Slip Op. No. 344, PERB Case Nos. 93-R-01 and 93-U-09 (1993)(two cases involving the same parties and related issues in different proceedings were consolidated based on considerations of efficiency and economy of the Board's processes). It is not governed by statute or rule.

The Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of DPW, filed an Opposition to AFGE's Motions. While conceding that the two cases "revolve" around DPW's "proposed" and "actual" reduction in force, OLRCB, nonetheless, contends that the cases are not "so intertwined that they may be consolidated." (Resp. at 2.) OLRCB's opposition, in the main, turns on its assertion that, unlike the allegations contained in the Complaint in PERB Case No. 94-U-02, the allegations in PERB Case No. 94-U-08 can be determined on the pleadings. Conversely, since PERB Case No. 94-U-02 may require a hearing on issues of fact, OLRCB urges that the Board decide that case separately from the issues outlined in PERB Case No. 94-U-08.

OLRCB's arguments, however, merely dispute the merits of the allegations made by AFGE in its Complaint. AFGE is not required to prove its Complaint upon the pleadings as long as the complaint states a cause of action under the CMPA with respect to the alleged unfair labor practice; which AFGE has done in these Complaints. Based on these pleadings, a determination cannot be made without a further development of the record, including an opportunity to present evidence establishing the respective positions of the parties.

In sum, OLRCB has not provided any valid reason why the consolidation of these admittedly related Complaints should not, as a matter of policy, be granted.

With respect to AFGE's Motion to amend the Complaint in PERB Case No. 94-U-02, OLRCB's Response does not contain any arguments directed specifically to this Motion. In our view, the amendment does not present a problematic issue such as an unrelated or separate and distinct matter. Compare, Washington Teachers' Union, Local 6, AFL-CIO v. D.C. Public Schools, 38 DCR 2650, Slip Op. No. 258, PERB Case No. 90-U-13 (1991)(Union's attempt to amend complaint treated as a separate complaint since it

concerned a "separate and distinct" conduct by the Employer occurring 8 months after the violation initially alleged in the complaint). AFGE's Motion merely amends the requested relief -- requesting a status quo ante remedy-- to reflect the changed circumstances since the Complaint was filed. The other amendment reflects the AFGE's attempt to comply Board Rule 520.3(f), that the Complaint state the existence of any related proceeding, i.e., a grievance-arbitration proceeding concerning the RIFs.

In view of the above, the Board grants the Motion to Consolidate the Complaints in PERB Case Nos. 94-U-02 and 94-U-08 and the Motion to Amend the Complaint, as discussed above, in PERB Case No. 94-U-02.[1]/

ORDER

IT IS HEREBY ORDERED THAT:

The Motion to Consolidate PERB Cases No. 94-U-02 and 94-U-08 is granted; the Motion for leave to amend the Complaint in PERB Case No. 94-U-02 is granted.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.
August 9, 1994

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[1]/ If, upon completion of the Board's investigation of these Complaints, it becomes appropriate to dispose of one, and not the other, on the pleadings, we will sever the cases at that time.