GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:	
American Federation of Government Employees, Local 2741, Petitioner,	PERB Case No. 98-U-03 Opinion No. 556
and	MOTION FOR RECONSIDERATION
District of Columbia Department of Recreation and Parks, Respondent.	

DECISION AND ORDER

The Board's Decision and Order on the American Federation of Government Employees, Local 2741's (Petitioner), Unfair labor Practice Complaint, Opinion No. 553, was issued on April 30, 1998. On May 15, 1998, pursuant to Board Rule 559.2, the Petitioner filed the instant "Motion for Reconsideration." No response was filed by the Respondent District of Columbia Department of Recreation and Parks (DRP). The issues presented by this case are set forth in Opinion No. 553. In that Opinion we found, among other things, that "[n]othing the Complainant assert[ed] indicate[d] that DRP, or its officials, interfered with, coerced or restrained AFGE's autonomous right to exercise its discretion to select its representative to the L[abor] M[anagement] P[arnership] C[ouncil].[1]/ (Slip Op. at 2-3.) As such, no infringement upon

[1]/The city-wide LMPC is comprised of the Leadership of certain D.C. Labor Unions, representatives of Agency managers, the Office of the Mayor, City Administrator, Council of the District of Columbia and the D.C. Financial Authority. In its Complaint, the Petitioner states that "the purpose of the city-wide LMPC is to establish a forum for communication and cooperation in support of a joint mission to deliver high quality, cost effective services to the residents and visitors to the District of Columbia." (Comp. at p. 2.) The city wide LMPC identified DRP as an agency with immediate needs and a LMPC was formed at that level with participating agency managers and labor representatives. AFGE asserts that DRP officials interfered with its right to select its own representatives to serve on the LMPC.

(continued...)

employee or union rights was found by the alleged acts and conduct. Based on our findings we concluded that no violation of D.C. Code Sec. 1-618.4(a)(1) had been alleged and dismissed the Complaint for failure to state the asserted cause of action under the Comprehensive Merit Personnel Act.

The Petitioner states that its Complaint allegations were misrepresented and/or misinterpreted in our findings and conclusion. Specifically, the Petitioner states that we erroneously characterized the basis upon which DRP: (1) barred its president from an office where bargaining unit employees are located; and (2) "reprimanded" and "defamed" her. The Petitioner states that DRP barred its president from entering the office in question because she "did not have an appointment to do so, not because of LMPC activity as reflected in the decision." (Mot. at 4-5.) Additionally, the Petitioner states, "DRP defamed the reputation and character of President Jackson by sending the letter of reprimand to all Administrators alleging that her conduct was not in compliance with the Collective Bargaining Agreement - Article 4, Section 4 (Union Rights) and that this letter was based on false information." Id.[2]

Notwithstanding the distinctions made by the Petitioner, we have held that an employer does not violate the rights of employees or its bargaining representative under the CMPA by actions taken pursuant to the terms of a collective bargaining agreement when the parties have subjected the right in question to the terms of the collective bargaining agreement. International Brotherhood of Teamsters, Local 1714 v. D.C. Dept of Corrections, 43 DCR 2661, Slip Op. No. 360, PERB Case No. 92-U-09 (1993)(Employer did not violate D.C. Code Sec. 1-618.4(a)(1) when its manager threaten to throw a union shop steward out of his office when he insisted on remaining to discuss a grievance not scheduled in accordance with the terms of the parties agreement.) and Forbes v. D.C. Department of Corrections and International Brotherhood of Teamsters, Local 1714,37 DCR 2570, Slip Op. No. 244, PERB Case Nos. 87-U-05 and 87-U-06 (1990)(Employer does not violate the CMPA by prohibiting dissemination of internal union material and restricting such activity to terms of the parties' collective bargaining agreement.)

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[1](...continued)

[2]/The Petitioner also noted that we referred to an individual with whom its president spoke as an "agency official" rather than an "office manager." In view of our discussion above, this characterization has no significance on our determination that the incident failed to state a violation.

With respect to the Petitioner's latter claim, we have held that derogatory remarks concerning a union representative's representation of bargaining unit employees, standing alone, do not constitute an abridgement of the representative's right to represent bargaining unit members. Deborah Jones v. D.C. Dept of Corrections, 32 DCR 1704, Slip Op. No. 100, PERB Case No. 84-U-14 (1985).

The Board, having considered the Motion, finds that the Petitioner raises no factors or supporting arguments that were not considered and/or controlled by the rationale in Board precedent discussed in our initial determination. Therefore, the Petitioner's Motion for Reconsideration of Opinion No. 553 is hereby denied.

ORDER

IT IS HEREBY ORDERED THAT:

The Petitioner's Motion for Reconsideration is denied.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

June 12, 1998

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 98-U-03 was served, via (U.S. Mail), on the following parties on this the 12th day of June, 1998.

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