

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

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In the Matter of:	)	
	)	
American Federation of Government	)	
Employees, Local 2741,	)	PERB Case No. 98-U-03
	)	Opinion No. 553
Complainant,	)	
	)	
v.	)	
	)	
District of Columbia Department	)	<b>FOR PUBLICATION</b>
of Recreation and Parks,	)	
	)	
Respondent.	)	
	)	
	)	

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DECISION AND ORDER

On December 17, 1997, the American Federation of Government Employees, Local 2741 (AFGE), filed an Unfair Labor Practice Complaint against the District of Columbia Department of Recreation and Parks (DRP). AFGE charged that by certain acts and conduct, DRP committed unfair labor practices under the Comprehensive Merit Personnel Act (CMPA), as codified under D.C. Code § 1-618.4(a)(1). No Answer was filed by DRP. Therefore, in accordance with Board Rule 520.7, DRP is deemed to have admitted the material facts alleged in the Complaint and to have waived a hearing.

AFGE asserts that DRP officials interfered with the selection of its representatives to a local Labor-Management Partnership Council (LMPC) formed at the DRP by a city-wide LMPC.<sup>1/</sup> AFGE 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.) AFGE further states that "[t]he city wide LMPC identifies Agency/Departments with immediate needs and a LMPC is formed at that level, with participating

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<sup>1/</sup> 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." (Comp. at 2.)

Agency/Department Managers and Labor Representatives." (Comp. at p. 2.) AFGE asserts that it was accorded the right to select its own representatives to serve on the LMPC. (Comp. at para. 5.)

AFGE also alleges violations of D.C. Code Sec. 1-618.4(a)(1) by DRP against its president, Deborah Jackson, by the following acts and conduct: (1) reprimanding her for questioning DRP officials about their interference with AFGE's selection of its LMPC representatives; (2) barring her from certain worksites stemming from her LMPC activity; and (3) defaming her reputation by informing DRP administrators of her asserted transgressions while engaged in LMPC activity. AFGE states that DRP officials alleged that the above-noted actions taken against Ms. Jackson resulted from her violation of a provision in the parties' collective bargaining agreement.

D.C. Code Sec. 1-618.4(a)(1) prohibits the District, its agents and representatives from "interfering, restraining, or coercing any employee in the exercise of the rights guaranteed by this subchapter[.]" Employee rights under this subchapter are prescribed under D.C. Code Sec. 1-618.6 and consist of the following: (1) "[t]o organize a labor organization free from interference, restraint, or coercion; (2) [t]o form, join, or assist any labor organization; (3) [t]o bargain collectively through a representative of their own choosing..."; and (4) "present a grievance at any time to his or her employer without the intervention of a labor organization[.]"

After reviewing the pleadings in a light most favorable to the Complainant, the Board finds, pursuant to Board Rule 520.10, that the Complaint does not give rise to the asserted unfair labor practice. Therefore, for the reasons that follow, we dismiss the Complaint.

Even assuming that the LMPC is subject to the CMPA, there are no facts alleged that if proven would suggest an unfair labor practice. The Complainant asserts that a DRP office manager recommended to a shop steward that AFGE select a particular bargaining unit employee as one of its representative on the LMPC. The shop steward, in turn, passed on the recommendation to AFGE's Local president. During an impromptu visit to a DRP facility, AFGE's president had occasion to discuss the selection with a DRP official, who presumably had authority to agree to AFGE's choice. During their discussion, AFGE's president discovered that the same office manager had made the same recommendation to the DRP official, vis-a-vis, his secretary.

Nothing the Complainant asserts indicates that DRP, or its officials, interfered with, coerced or restrained AFGE's

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autonomous right to exercise its discretion to select its representative to the LMPC. As such, no infringement upon employee or union rights are implicated by these alleged acts and conduct. See, e.g., 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) and AFGE, Local 872 v. D.C. Dept. of Public Works, 38 DCR 1625, Slip Op. No. 264, PERB Case No. 89-U-12 (1991).

Allegations that DRP officials barred AFGE's president from unit members' work sites are based on an asserted failure by AFGE to comply with the parties' collective bargaining agreement. (Comp. at para. 10.) If so, AFGE's relief is not statutory but contractual, vis-a-vis, the parties' negotiated grievance-arbitration procedure. See, Fraternal Order of Police v. D.C. Metropolitan Police Dept, Slip Op. No. 384, PERB Case No. 94-U-23 (1994) 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). Similarly, any relief from the alleged defamation to the character of AFGE's president resulting from DRP's actions would be sought in that forum. Moreover, we have held that derogatory remarks by management officials concerning a union officials representation of bargaining unit employees does not, standing alone, abridge the union's right to represent employees under the CMPA. See, e.g., Jones v. D.C. Dept of Corrections, 32 DCR 1704, Slip Op. No. 100, PERB Case No. 84-U-14 (1985).

Based on our discussion above, no act and conduct violative of D.C. Code Sec. 1-618.4(a)(1) has been alleged. Therefore, the Complainant fails to state the asserted cause of action under the CMPA. Accordingly, the Complaint is dismissed.

ORDER

IT IS HEREBY ORDERED THAT:

The Complaint is dismissed.

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

April 30, 1998