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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD**

In the Matter of:)	
)	
John Rosser)	
)	
and)	PERB Case Nos. 99-S-07
)	and 99-U-39
Carlton Butler,)	
)	Opinion No. 608
Complainants,)	
)	
v.)	(Request for Prelimi-
)	nary Relief and Mo-
Fraternal Order of Police/ Department of Corrections Labor Committee,)	tion to Dismiss)
)	
Respondent.)	
)	
)	
)	

DECISION AND ORDER

On August 26, 1999, Complainants Carlton Butler and John Rosser, III, filed a document styled "Complainant's Standards of Conduct Complaint and Request for Emergency Interim Relief", against the Fraternal Order of Police/Department of Corrections Labor Committee (FOP). This Complaint is the latest in a series of Complaints filed over the past four (4) years by former/current executive board members and members of FOP. This Complaint charges the current FOP administration has committed acts of retaliation and reprisals against them in violation of the standards of conduct for labor organizations under the

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Comprehensive Merit Personnel Act (CMPA) as codified under D.C. Code § 1-618.3(a)(1). Complainants also assert that the alleged standards of conduct violations constitute unfair labor practice violations under D.C. Code § 1-618.4(a)(1), (2) and (4) and 1-618.4(b)(1). In addition, Complainants have filed a Request for Preliminary Relief.

On September 7, 1999, FOP filed a Response to the Complainants' Request for Preliminary Relief. On September 10, 1999, FOP filed an Answer and a Motion to Dismiss the Complaint. The Complainants filed an Opposition to the Motion to Dismiss. The Complainants' Request for Preliminary Relief and FOP's Motion to Dismiss are now before the Board for disposition.^{1/}

The Complainants allege that FOP chairperson Clarence Mack, together with Complainants' political rivals, brought internal union charges against them not consistent with FOP by-laws. These charges resulted in the their being ineligible to seek or hold elected office within FOP.^{2/} The Complainants further allege that the internal charges against them are based on claims that were the subject of Board proceedings. The Complainants assert that FOP's conduct fails to comply with D.C. Code § 1-618.3(a)(1).^{3/}

^{1/} The Complainants also filed a Motion requesting that the Board enter a default judgment based on their assertion that FOP failed to file an Answer. The instant complaint was filed with the PERB and served by mail on FOP on August 26, 1999. Pursuant to Board Rules 520.6 and 501.4, FOP's Answer was due and was in fact filed on September 10, 1999. Therefore, there is no merit to the Complainants' Motion.

^{2/} As a result of the findings made concerning the charges, "Carlton Butler and Jack Rosser [were] Expelled and permanently disqualified from all rights of union membership, including the right to hold office." (Comp. Attach.)

^{3/} Section 1-618.3(a)(1) provides that "[t]he maintenance of 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

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The internal union charges concern conduct by the Complainants that we determined in prior cases to be violations of the standards of conduct for labor organizations. The Complainants contend that FOP cannot file internal charges based on the same conduct.

We find nothing inherently unlawful about internal union proceedings being brought against union members/officers for conduct which we have found to be improper. FOP filing such charges, standing alone, fails to state a standards of conduct cause of action or an unfair labor practice violation.^{4/}

The Complainants allege that Mr. Jones (the member who initiated the charges) is a "long standing political confederate of [FOP Chairman] Mack." (Comp. at 2.) The Complainants conclude that a conspiracy against the Complainants was born from this alleged alliance between Mr. Jones and Chairman Mack's majority faction of FOP board members. We find no basis for this claim.

What remains of the Complaint is the claim that FOP manipulated and/or violated FOP by-laws in processing these charges. (Comp. at 2.) We have held that a breach of union by-laws or constitution is not, standing alone, sufficient to find a

and equal treatment under the governing rules of the organization, and to fair process in the disciplinary proceedings."

^{4/} The Complainants assert that FOP's acts and conduct constitute unfair labor practice violations pursuant to D.C. Code § 1-618.4(a)(1), (3) and (4). Section 1-618.4(a) of the CMPA proscribes as unfair labor practices certain acts and conduct by "[t]he District, its agents, and representatives... ." In the instant case, the Complaint was not brought against a District of Columbia agency. Instead, the instant Complaint was filed against a labor organization. We have held that allegations that assert violations under D.C. Code § 1-618.4(a) against a labor organization fail to state a cause of action. See, e.g. Lloyd Forrester v. American Federation of Government Employee, Local 2725, et al., 45 DCR 4048, Slip Op. 577, PERB Case No. 98-U-01 (1998) and Brenda Beeton v. Fraternal Order of Police/DOC Labor Committee, et al., 45 DCR 2078, Slip Op. No. 538, PERB Case No. 97-U-26 (1998).

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standards of conduct violation. William Corboy, et al. v. FOP\MPD Labor Committee, Slip Op. No. 391, at n. 3, PERB Case No. 93-S-01 (1994). The Complainants' allegations that FOP violated and misapplied its by-laws in the processing of the charges, even if true, do not state a cause of action.

The Board, after reviewing the pleadings in the light most favorable to the Complainants, hereby grants FOP's Motion to Dismiss the Complaint for failure to state a claim. Consequently, the Complainants' request for preliminary relief based on the claims made in the Complaint is also dismissed.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Department of Corrections Labor Committee's (FOP) Motion to Dismiss the Complaint is granted.
2. The Complaint and the Complainants' request for preliminary relief are dismissed.
3. Pursuant to Board Rule 559.2, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

November 19, 1999

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CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case Nos. 99-S-07 and 99-U-39 was transmitted via facsimile and first class mail to the following parties on this the 19th day of November, 1999.

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