GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:	
University of the District of Columbia Faculty Association/NEA,	
Complainant,	
v.	
University of the District of Columbia,	**PERB Case No. 97-U-12**
	Opinion No. 517
Respondent.	

DECISION AND ORDER

On March 3, 1997, an Unfair Labor Practice Complaint was filed by the University of the District of Columbia Faculty Association/ NEA (UDCFA) against the University of the District of Columbia (UDC). UDCFA asserts that UDC committed an unfair labor practice by violating D.C. Code § 1-618.17(f) under the Comprehensive Merit Personnel Act (CMPA) by announcing a six-day furlough while the implementation of the parties' arbitrated collective bargaining agreement remains pending. UDCFA contends that once the impasse procedures of Section 1-618.17(f)(1), (2) and (3) have been implemented, Section 1-618.17(f)(4) requires that there be no change in the status quo. UDCFA asserts that the furloughs would constitute a change in employees' compensation by reducing it while the parties' arbitrated compensation/non-compensation agreement is pending passage by the District of Columbia City Council (City Council).

After reviewing the pleadings, attachments, applicable statutes and Board precedent, we find that the material facts underlying the alleged violations are not genuinely in dispute. Therefore, pursuant to D.C. Code § 1-605.2(3) and Board Rule 520.10, a hearing is not necessary for disposition of this case.

The facts of this case and the issues presented do not differ significantly from a previous case involving the same parties,

i.e., University of the District of Columbia Faculty Association/NEA and University of the District of Columbia, Slip Op. No. 485, PERB Case No. 96-U-14 (1996). There, we held that UDC's failure to maintain the status quo pursuant to D.C. Code § 1-618.17(f)(4), pending passage by the City Council of an arbitrated award, undermined the collective bargaining process under the CMPA. We further held that "barring legal justification, UDC's actions would violate the general duty to bargain in good faith, an unfair labor practice over which we have jurisdiction under the CMPA pursuant to D.C. Code §§ 1-605.2(3) and D.C. Code § 1-618.4(a)(5)." The question remains whether or not UDC's action violated this duty under the instant circumstances.

D.C. Code § 1-618.17(f)(4) provides in pertinent part that once the impasse procedures of Section 1-618.17(f)(1), (2) and (3) "are implemented, no change in the status quo shall be made pending the completion of mediation and arbitration, or both". UDC does not deny that the impasse procedures have been implemented and that an award has issued with respect to both compensation and non-compensation terms and conditions of employment. Furthermore, UDC does not deny that it announced it would implement 6 furloughs while the award awaits implementation. The parties, however, disagree over whether the furloughs constitute a violation of D.C. Code § 1-618.17(f)(4) and thereby, an unfair labor practice under the CMPA.

UDC contends its management right under D.C. Code § 1-618.8(a)(3) gives it the legal authority to furlough, and the only obligation it has to bargain is with respect to the impact and effects of exercising its authority to furlough. We agree. Management's authority to furlough its employees is codified under D.C. Code § 1-618.8(a)(3), to "relieve employees of duties because of lack of work or other legitimate reasons." AFSCME, D.C. Council 20, AFL-CIO, et al. v. Government of the District of Columbia, 43 DCR 1148, Slip Op. No. 343, PERB Case No. 92-U-24 (1993).

There exists no obligation under the CMPA to determine through collective bargaining a decision to furlough employees. UDC's obligation is limited to bargaining, upon request, over the impact and effects, which include the procedures for implementing a management right, e.g., furloughing employees. UDCFA v. UDC, 43 DCR 5594, Slip Op. 387, PERB Case No. 93-U-22 and 93-U-23 (1994). The obligation to maintain the status quo pursuant to D.C. Code § 1-618.17(f)(4) extends to those pre-existing terms and conditions of employment subject to the CMPA's collective bargaining and impasse resolution process and covered by the pending agreement or award. See, e.g. AFGE, AFL-CIO, et al. v Government of the District of Columbia, et al., Slip Op. No. 501, PERB Case No. 97-U-01 (1997).

The implementation of a furlough, by definition, reduces the total compensation employees would otherwise receive during the life of an agreement. Nevertheless, UDCFA's right and UDC's corresponding duty under the CMPA is limited to bargaining over the impact and effects of the furloughs on compensation as well as other terms and conditions of employment. UDCFA, neither asserts a refusal by UDC to bargain over the impact and effects of the furloughs nor alleges that it made any request to bargain over such matters.

Therefore, for the foregoing reasons, we dismiss the Complaint.

ORDER

IT IS HEREBY ORDERED THAT:

The Complaint is dismissed.

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

May 15, 1997

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 97-U-12 was faxed and/or mailed (U.S. Mail) to the following parties on this the 15th day of May, 1997.

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