

DECISION OF CLARIFICATION

On March 20, 1998, counsel for the Fraternal Order of Police/Department of Corrections Labor Committee (FOP) filed a letter with the Board which, among other things, raised questions concerning the significance of the language contained in certain provisions of two recent Decisions and Orders, i.e., Opinion Nos. 536 and 541, issued in the above-captioned cases. In response to the issues raised by Counsel, on our own motion, we issue this Opinion to clarify the effects of the Orders issued.

With respect to PERB Case No. 98-S-01, Opinion No. 541, FOP states that the Board "enjoins the Labor Committee from taking any action to hold this group of individuals [(the Complainants)] accountable for their unlawful conduct." In pertinent part, opinion No. 541 states as follows:

1. The Fraternal Order of Police/Department of Corrections Labor Committee (FOP), and its officers and agents, shall cease and desist from denying fair process in disciplinary proceedings under the governing rules of FOP to Complainants Clarence Mack, Hazel Lee and Shirley Simmons and other elected officers and members of the FOP/DOC Labor Committee by: (a) instituting, in bad faith, disciplinary charges against them to circumvent the democratic process of FOP; (b) conducting disciplinary proceedings inconsistent with its governing rules in furtherance of this violative objective; and, (c) otherwise violating the Comprehensive Merit Personnel Act (CMPA) standards of conduct for labor organizations as codified under D.C. Code § 1-618.3(a)(1).

2. The FOP, and its officers and agents, shall cease and desist from failing to adopt, subscribe, or comply with the standards of conduct for labor organizations prescribed under the CMPA in any like or related manner.

3. The preliminary relief ordered in this proceeding in Slip Op. No. 516 reinstating Complainants Lee and Simmons as treasurer and executive secretary, respectively, of FOP and (2) authorizing Complainant Mack to assume the office of chairperson of FOP is hereby continued as part of our permanent relief herein.

We interpret this language to mean that FOP is enjoined only from taking action that violates either its governing rules and regulations or the CMPA's standards of conduct. In Opinion No. 516, we granted preliminary relief, which in pertinent part,

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directed FOP to refrain from "taking any retaliatory actions or reprisals against former or current officers for actions arising from PERB Cases Nos. 95-S-02, 95-S-03 and 97-S-01, pending our disposition of the Complaint in PERB Case No. 97-S-01." (Emphasis added.) Slip Op. No. 516, at p. 8. The intent of this provision of the Order was to maintain the status quo within FOP's executive board over the period of time required for: (1) the Hearing Examiner to issue to the Board his Report and Recommendation in PERB Case No. 97-S-01; and (2) disposition of the case by the Board. The Board made a final disposition of that case in Opinion No. 541 where we, in the main, adopted the Hearing Examiner's findings, conclusions and recommendations.

With respect to Board Rule 559, when we specify that a Decision and Order is final pursuant to Board Rule 559.1, it is final in the sense that the parties must immediately comply. The Board retains the right to reconsider its Decision and Orders. If the Opinion has been designated as final, the filing of a timely motion for reconsideration will not stay the Board's Decision and order. However, such a declaration does not preclude the timely filing of an appropriate Motion for Reconsideration in accordance with Board Rule 559.2.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

April 17, 1998