

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:	)	
Council of School Officers,	)	
Complainant,	)	PERB Case No. 82-U-06
	)	Opinion No. 52
and	)	
District of Columbia Public Schools,	)	
Respondent.	)	

DECISION AND ORDER

On July 26, 1982, the Council of School Officers (CSO) filed an Unfair Labor Practice Complaint with the District of Columbia Public Employee Relations Board (Board) against the District of Columbia Public Schools (Employer). CSO alleged in its Complaint violations of the District of Columbia Comprehensive Merit Personnel Act (CMPA), Section 1704(a)(1)(2)(3) and (5) by the Employer based upon the Employer's unilateral decision to make term appointments of principals and assistant principals. CSO cites the District of Columbia Code Section 31-1512 as the basis for its position.

The Employer points out that the District of Columbia Code Section 31-1512 was renumbered Section 31-1112 in the 1981 Edition of the District of Columbia Code and that Section 31-1112 was subsequently repealed by the Council of the District of Columbia on March 16, 1982. Further, the Employer cites the District of Columbia Code Section 1-609.1(b)(2)(F) as the authority for its actions.

The District of Columbia Code Section 1-609.1(b)(2)(F) provides that:

"b) The Boards shall issue rules and regulations governing employment, advancement, and retention in the Educational Service, which shall include all educational employees of the District of Columbia employed by the Boards. The rules and regulations shall be indexed and cross referenced as to the incumbent classification and compensation system...

(2) The Board of Education - The Board of Education shall issue rules and regulations which shall provide for the following: ...

(F) Temporary and other time-limited appointments in appropriate cases which do not confer permanent status, but are to be made, insofar as practicable, in accordance with subparagraph (d) of this paragraph;..."

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Finally, the Employer states that, pursuant to its statutory authority cited above, it gave notice of proposed and emergency rulemaking action on May 7, 1982, and notice of final rulemaking on September 17, 1982, which provides, among other things, that:

"342.6 Persons hereafter appointed to a position as Principal or Assistant Principal, pursuant to this section, shall serve for a term of three (3) years, without any right to tenure in such position..."

The Board's investigation confirms the renumbering of D.C. Code Section 31-1512, the subsequent repeal of D.C. Code Section 31-1112, the enactment of D.C. Code Section 1-609.1 (b)(2)(F) and publication of rules by the Employer. Based on an analysis of these factors and the record in this matter, it does not appear that CSO has stated facts sufficient to constitute a violation of the CMPA as required by Board Rules 103.1 and 103.2 (c).

O R D E R

IT IS ORDERED THAT:

The Complaint be dismissed without prejudice, pursuant to Board Rule 103.6.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

November 24, 1982