

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)	
)	
Fraternal Order of Police/Department of Corrections Labor Committee,)	
)	
Petitioner,)	PERB Case No. 01-N-01
)	
and)	Opinion No. 666
)	
District of Columbia Department of Corrections,)	
)	
Respondent.)	
)	

DECISION AND ORDER

This matter involves a Negotiability Appeal filed by the Fraternal Order of Police/Department of Corrections Labor Committee ("Petitioner" or "FOP") against the District of Columbia Department of Corrections (DOC). The Petitioner is requesting that the Board order DOC to bargain over the procedures for implementing a reduction-in-force (RIF).

In May 2001, the District issued RIF notices to employees represented by FOP. Subsequently, FOP requested impact and effect bargaining concerning the RIF. The parties acknowledge that an impact and effect bargaining session took place in June 2001. At the June bargaining session, FOP presented a proposal to DOC regarding the voluntary release of employees from their competitive level during DOC's upcoming RIF. In a letter dated June 22nd, DOC's representative informed FOP that their proposal was contrary to law and not a proper subject of bargaining. In light of the above, on June 29, 2001, FOP filed a "Negotiability Appeal".

Under FOP's proposal, "senior employees who voluntarily agree to be released from their competitive level position would not have their retention standing affected or changed and would retain all rights as an employee adversely affected by the RIF." (Neg. App. at p.3). Also, FOP asserts that the proposal specifically indicated that "nothing therein shall be construed to affect the involuntary release of any bargaining unit employee not otherwise scheduled for separation and release." (Neg. App. at p.2).

In addition, FOP claims that the RIF policies and procedures are appropriate matters for negotiation. (Neg. App. at p.4). Therefore, FOP argues that the June 4th proposal it submitted to DOC regarding the RIF, is negotiable because it is a proper subject for impact bargaining.

DOC contends that FOP's proposal is contrary to law and regulations. As a result, DOC argues that FOP's proposal concerns a matter which is not an appropriate subject of impact and effects bargaining.

The Petitioner is requesting that the Board make a determination concerning whether its proposal is within the scope of bargaining. DOC submitted a response to the Petitioner's Negotiability Appeal. The Negotiability Appeal is now before the Board for disposition.

In light of the above, the Board must determine whether FOP's proposal is negotiable. However, based on the parties' pleadings, we do not believe that there is sufficient information upon which to make a ruling as a matter of law.¹ Therefore, pursuant to Board Rule 532.4 (b), we are requesting that the parties submit briefs in support of their respective positions. The parties' briefs should satisfy the requirements of Board Rule. 532.

The briefs will provide both parties with an equal opportunity to present their views on the issue. Moreover, it will provide the Board with sufficient information upon which to make a determination.

¹In their submission, DOC has asked the Board for an opportunity to file a brief on the issue. Also, FOP submitted a brief in support of its position. However, FOP's brief was premature because the Board had not requested a brief from the parties. As a result, we could not consider FOP's brief without affording DOC an opportunity to submit a brief concerning their portion.

ORDER

IT IS HEREBY ORDERED THAT:

1. The parties shall submit briefs concerning this matter. The parties' briefs shall be filed fifteen (15) days from the service of this Decision and Order.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

November 21, 2001

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 01-N-01 was transmitted via Fax and/or U.S. Mail to the following parties on this 21th day of November 2001.

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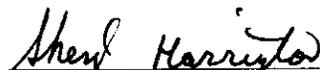
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