

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

Doctors' Council of the District
of Columbia,

Complainant,

v.

Government of the District of
Columbia,

Department of Human Services,

Department of Corrections,

and

Department of Public Works,

Respondents.

PERB Case No. 92-U-27
Opinion No. 353

DECISION AND ORDER

On October 19, 1992, the Public Employee Relations Board (Board) issued a Decision and Order denying a Request for Preliminary Relief filed by the Doctors' Council of the District of Columbia (DCDC), in conjunction with the instant Verified Unfair Labor Practice Complaint (Complaint).^{1/} The Complaint charges the Respondents with violating the Comprehensive Merit Personnel Act (CMPA), D.C. Code Sec. 1-618.4(a)(1) and (5) and D.C. Code Sec. 1-625.2(d). Specifically, DCDC alleged that Respondents refused to bargain over the impact and effects of any

^{1/} DCDC requested that the Board grant preliminary relief ordering Respondents to "rescind its announcement of furlough days and its individual furlough notices until it bargains with the Union over the impact and implementation of furloughs, that the Employer immediately cease and desist from dealing directly with individual employees, and that the Employer immediately provide relevant and necessary information to the Union." (See Opinion No. 333 in this case.)

aspect of the furlough days imposed in FY' 93, pursuant to the Omnibus Budget Support Temporary Act of 1992, Title II (OBSTA).^{2/} The Complainant alleges further violation of these provisions of the CMPA by Respondents' (1) refusal to apply contractual provisions to the implementation of furloughs, (2) direct dealing with employees for whom DCDC is the exclusive bargaining representative and (3) failure to provide information necessary and relevant to bargaining over the furloughs.

Upon denying DCDC's request for preliminary relief pursuant to Board Rule 520.15, the Board ordered an expedited pleading schedule, as well as an expedited hearing proceeding, before a duly designated hearing examiner in accordance with Board Rule 501.1. See Doctors' Council of the District of Columbia v. Government of the District of Columbia, Department of Human Services, Department of Corrections, and Department of Public Works, ___DCR___, Slip Op. No. 333, PERB Case No. 92-U-27 (1992).

In his Report and Recommendation, the Hearing Examiner concluded that Respondents violated D.C. Code Sec. 1-618.4 (a)(1) and (5) by "fail[ing] to meet their obligation to bargain with the Union issues related to the impact and effects of the FY 93 OBSTA-mandated furloughs... ." (R&R at 9.) The Hearing Examiner, however, dismissed the claim that by this same conduct Respondents violated D.C. Code Sec. 1-625.2(d).

With respect to the other issues, the Hearing Examiner concluded that "Respondents' dealt directly with many bargaining unit employees in connection with the scheduling of FY 93 furlough days" and that engaging in such action "while refusing to bargain on that same matter with the Union clearly is violative of the duty to bargain in good faith imposed by [D.C. Code Sec.] 1-618.4(a)(1) and (5) of the CMPA and of the Union's status as exclusive representative pursuant to [D.C. Code Sec.] 1-618.11(a)... ." (R&R at 11.) The Hearing Examiner also concluded that the "Union was entitled to information designed to permit meaningful bargaining and/or challenge through the negotiated grievance and arbitration procedures, the PERB's procedures, and/or other available statutory procedures, of Respondents' determination as to whether bargaining unit employees properly were treated as qualifying/not qualifying for the section 202(c)(7) exemption [under the OBSTA]." (R&R at 14 and 15.) The refusal to provide this information, the Hearing Examiner found, constituted an additional violation of D.C. Code

^{2/} We note, for future reference, Complainant's clarification that the OBSTA was made permanent by the Council of the District of Columbia as of September 10, 1992, and is now known as D.C. Law 9-145, "Omnibus Budget Support Act of 1992".

Sec. 1-618.4(a)(1) and (5).

The Hearing Examiner recommended the same relief as that ordered by the Board in D.C. Council 20, American Federation of State, County and Municipal Employees, AFL-CIO, et al. v. Government of the District of Columbia, et al., DCR, Slip Op. No. 343, PERB Case No. 92-U-24 (1993) (hereinafter PERB Case No. 92-U-24). In that case, the Board was confronted with the identical issue in this case concerning a refusal to bargain by District agencies over the impact and effect of implementing furloughs pursuant to the OBSTA and its amendment, i.e., the Furlough Schedule Clarification Emergency Amendment Act (FSCEAA). The Board, while recognizing the authority accorded District agencies under the OBSTA to furlough affected employees, as mandated by the Act, ordered Respondent agencies to cease and desist from initiating the implementation of any other furloughs pursuant to any other laws, rules and/or regulations, without first providing an opportunity to the exclusive representatives of affected bargaining-unit employees to bargain over the implementation. We further ordered Respondent agencies to bargain --on an expedited basis and with retroactive effect-- over the impact and effects resulting from the implementation of the furloughs scheduled pursuant to the OBSTA and FSCEAA.

This matter is now before the Board on exceptions and oppositions thereto, from both parties, to the Hearing Examiner's Report and Recommendation.^{3/} After reviewing the entire record, the Board finds no merit in any of the exceptions filed by either party except for (1) a mischaracterization of DCDC's position, meriting correction of the record, but having no effect on the Hearing Examiner's, or our ultimate conclusion^{4/}; and (2) a

^{3/} The history and issues in this case are set out by the Hearing Examiner in his Report and Recommendation (R&R), a copy of which is appended to this Decision and Order as Appendix A. The hearing in this case was held on January 11, 1993. At the hearing, the Complaint allegations were narrowed and clarified. There were no witnesses presented. The parties agreed to an extensive stipulated record of facts and thereafter filed post-hearing briefs. It is upon this record that the Hearing Examiner based his Report and Recommendation which was submitted to the Board on April 7, 1993.

^{4/} DCDC excepted to the Hearing Examiner's asserted misstatement of one of its contentions as set forth in his Report and Recommendation. In his summation of DCDC's position, the Hearing Examiner stated one of DCDC's contentions as follows:
"The Union maintained that there may have been 'consultation'

(continued...)

reconsideration of the effect of one aspect of our ruling in PERB Case No. 92-U-24. We find the Hearing Examiner's analysis and reasoning to be thorough, well-reasoned and persuasive, and adopt his findings of fact, conclusions of law and recommendations to the extent consistent with this decision and order as set forth below.

Respondents' first exception merely repeats an exception its representative, the Office of Labor Relations and Collective Bargaining (OLRCB), made on behalf of the Respondent agencies in PERB Case No. 92-U-24, i.e., the Hearing Examiner's asserted failure to "adequately take into account the [D.C.] Court of Appeals Decision upholding the furloughs."^{5/} OLRCB presents no facts or circumstances distinguishing the issues in this case from PERB Case No. 92-U-24, nor any new authority to support a change in the Board's prior ruling. For the reasons discussed in PERB Case No. 92-U-24, we find no merit in this exception and deny it.

Next, Respondents except to the Hearing Examiner's conclusion that information requested by DCDC "such as Service Computation Dates for employees determined to be exempt under Section 202(c)(7) of the OBSTA, or requested information, such as retention registers (which did not exist), was necessary and relevant either for bargaining or to the claimed violations of the collective bargaining agreement." (Resp. Except. at 3.)

^{4/}(...continued)
prior to the direct dealing [sic] served to protect Respondent's actions from being found violative of the CMPA." (R&R at 10.) Respondents, in their Opposition, acknowledges the asserted misstatement as error and stipulates to DCDC's requested correction as follows: "The Union maintained that there may have been 'consultations' prior to the direct dealing did not serve to protect" (emphasis added.) Notwithstanding the inconsequential effect of this misstatement on the Hearing Examiner's ultimate finding of the alleged violation, we grant this exception and correct the record, in accordance with the parties' agreement.

^{5/} Reference is made by Respondents to the D.C. Court of Appeals decision issued on January 15, 1993, which upheld the legality of the furlough legislation, i.e., OBSTA. See, District of Columbia, et al. v. American Federation of Government Employees, et al., No. 92-CV-1275 and District of Columbia Board of Education, et al. v. American Federation of State, County and Municipal Employees, et al., No. 92-CV-1276 (January 15, 1993).

Respondents base this exception on the contention that the "record is devoid of any evidence" as to why this requested information is necessary and relevant. *Id.* The exception ignores, however, the Hearing Examiner's finding --based on the parties' factual stipulations and joint exhibits-- that the above-noted information request was made in conjunction with DCDC's processing of a grievance. That grievance, the Hearing Examiner states, concerns the alleged violation by Respondents Department of Human Services (DHS) and Department of Corrections (DOC) of certain provisions of the parties' collective bargaining agreement, i.e., "the failure to prepare retention registers and the refusal to let non-exempt employees bump less senior exempt employees" pursuant to Article XXXIX. (R&R at 3.) As cited by the Hearing Examiner, the Board has ruled that "the employer's duty under the CMPA includes furnishing information that is 'both relevant and necessary to the Union's handling of the grievance'" University of the District of Columbia v. University of the District of Columbia Faculty Association, 38 DCR 2463, Slip Op. No. 272 at 4, PERB Case No. 90-U-10 (1991).

We have held that it is not the Board's role to determine the merits of a grievance as a basis for determining the relevancy or necessity of information requested by a union in the processing of a grievance. Slip Op. No. 272 at n. 6. Respondents' contention that the requested information is not relevant or necessary because the "furlough legislation preempted contractual or other procedures for determining which employees were to be furloughed" is merely a challenge to the grievability or arbitrability of the subject of the grievance. These issues, we have stated, present "an initial question for the arbitrator to decide... ." American Federation of State, County and Municipal Employees, D.C. Council 20, AFL-CIO v. District of Columbia General Hospital, et al., 36 DCR 7101, Slip Op. No. 227 at 5, PERB Case No. 88-U-29 (1989). We find nothing in the record to warrant a reversal of the Hearing Examiner's finding of fact that the requested information is necessary and relevant to DCDC's representational responsibilities with respect to the impact and effect of the furloughs on bargaining-unit employees.

Respondents' final exception makes two objections to the Hearing Examiner's recommended remedy. First, Respondents argue that the scheduling and the frequency of the bargaining sessions should be left to the parties rather than the recommended bargaining "on a daily basis (unless otherwise agreed-upon)". We rejected the same argument in PERB Case No. 92-U-24, and do so here, since time is of the essence and the parties are always free to agree to a mutually acceptable schedule.

Secondly, Respondents argue that the proposed Order should be revised to delete the requirement that they provide DCDC with

retention registers and the service computation dates of exempt employees. Respondents' argument is based on its earlier discussed contention that this information is not necessary and relevant. We believe our discussion of Respondents' second exception is dispositive of this objection to the proposed order and, consequently, we deny it as well.^{6/}

Complainant's exceptions, in the main, restate the exceptions raised by Complainant's counsel in PERB Case No. 92-U-24.^{7/} The only exception meriting our reconsideration takes issue with the Hearing Examiner's conclusion that "the holdings in [PERB] Case No. 92-U-24 are both persuasive and dispositive" to support his recommended remedy rejecting as appropriate certain requested relief, i.e., an Order (1) enjoining the implementation of future FY 93 furloughs under the OBSTA and (2) providing back pay to affected employees for furlough days incurred prior to the discharge of Respondents' bargaining obligation.

In PERB Case No. 92-U-24, we concluded that the enjoining of future furloughs would frustrate the OBSTA's objective, mandated by law, of achieving 12 furlough days in FY 93 at the rate of one

^{6/} Respondents had also argued that if the proposed Order is adopted, it would require the Respondents to provide information that does not exist, i.e., retention registers. Respondents did not make this contention before the Hearing Examiner; on the contrary, Respondents contended that the information requested became available once DHS "completed the process of identifying essential and exempt employees for the purpose of the Departmental furlough plans." (R&R at 12.) Moreover, notwithstanding the contention that the requested retention registers do not exist, Respondents have not established that the kind of information that would be contained in retention registers did not exist or could not be furnished without undue burden. See, University of the District of Columbia Faculty Association, NEA v. University of the District of Columbia, 38 DCR 2463, Slip Op. No. 272, PERB Case No. 90-U-10 (1991).

^{7/} See our discussion of and ruling on Complainants' last exception in PERB Case No. 92-U-24. Slip Op, at 12- 14. We note that counsel for DCDC was the lead counsel who filed exceptions and supporting arguments on behalf of Complainants in PERB Case No. 92-U-24.

a month.^{8/} With respect to the "Furlough Schedule Clarification Emergency Amendment Act of 1993" (FSCEAA), we ruled that another rate could be established if the agency determined that an emergency existed, i.e., another rate is necessary to "minimize the impact of the furlough on agency services." We ruled that the term "Emergency" in the FSCEAA referenced a management right under D.C. Code Sec. 1-618.8(a)(6) --which authorizes management "[t]o take whatever actions may be necessary to carry out the mission of the District government in emergency situations". As such, we ruled that the FSCEAA did not alter our ruling denying the enjoinder of future furloughs.

With respect to the issue raised by Complainant's second objection, we based our decision denying back pay in PERB Case No. 92-U-24 on our conclusion that providing back pay "conflict[s] with OBSTA's mandate of placing furloughed employees 'in a non-pay and non-duty status'." Slip Op. at 12.

With the exception of Respondent agencies that may determine, as provided by the FSCEAA, that another rate is necessary, Complainant presents no arguments, law or factual distinctions in support of this exception that warrants abandoning our rulings on these issues rendered in our Decision and Order in PERB Case No. 92-U-24.^{9/} With respect to our rulings in PERB Case No. 92-U-24 on the effects of the FSCEAA, upon reconsideration, we find that there is an insufficient basis, as Complainant argues, for imputing that the term "Emergency" in the amendment's title was directed to the subject matter or content of the amendment rather than to denote the

^{8/} We have previously ruled that such statutory pronouncements establishing terms and conditions of employment removes those specific items from the sphere of matters that are negotiable under the CMPA. See, e.g., Fraternal Order of Police/MPD Labor Committee and Metropolitan Police Department, 38 DCR 847, Slip Op. No. 261 (Proposal No. 3), PERB Case No. 90-N-05 (1990) and Teamsters Local Union No. 639 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO and District of Columbia Public Schools, 38 DCR 1586, Slip Op. No. 263 (Proposal No. 6), PERB Case No. 90-N-02, 03 and 04 (1990).

^{9/} For the reasons cogently stated by the Hearing Examiner in his Report, the finding of two additional violations not a part of the complaint allegations in PERB Case No. 92-U-24 provides no bases for Complainant's exceptions to the recommended remedy.

nature of the legislation the amendment represents.^{10/} This acknowledgment notwithstanding, we conclude that the subject of the amendment, i.e., "to minimize the impact of the furlough on agency services, nevertheless, does fall under management's sole right under D.C. Code 1-618.8(a)(5) "[t]o maintain the efficiency of the District government operations entrusted to them[.]"

In this regard, we affirm our previous ruling that the amendment reserves to management the right to determine that another rate is necessary and what that rate will be. We now further rule, however, that any agency that decides to exercise that right must bargain with affected employees' bargaining representative over the impact and effects of implementing the non-statutorily-mandated, management-determined furlough rate on employees' terms and conditions of employment before implementing its decision. International Brotherhood of Police Officers, Local 446, AFL-CIO/CLC v. District of Columbia General Hospital, DCR, Slip Op. No. 322, PERB Case No. 91-U-14 (1992) and International Brotherhood of Police Officers, Local 446, AFL-CIO/CLC v. District of Columbia General Hospital, DCR, Slip Op. No. 312, PERB Case No. 91-U-06 (1992).^{11/} Therefore, Respondent agencies who have established a rate pursuant to the FSCEAA, other than the statutory rate established by law under the OBSTA, i.e. one furlough a month, shall cease and desist from implementing furloughs pursuant to that rate until their statutory obligation to bargain has been met.

We note that our ruling is not to be interpreted as frustrating the OBSTA's mandate that each agency furlough each affected employee for 12 days during FY 93 "in a non-pay and non-duty status". Moreover, we adhere to our conclusion in PERB Case No. 92-U-24 that, (1) back pay for employees furloughed pursuant to both the OBSTA and FSCEAA and prior to impact bargaining and (2) enjoining of furloughs implemented at the statutory rate of one a month, is inappropriate.

^{10/} See D.C. Code Sec. 1-229(a)

^{11/} Notwithstanding the fact that furloughing employees under the FSCEAA at a rate not established by law, e.g., OBSTA, is a sole management right, the impact and implementation of that right on employees' terms and conditions of employment is not. Since the implementation of the former cannot be severed from the resultant implementation of the latter, any cease-and-desist order enforcing the statutory obligation to bargain impact and effects of implementing a management right necessarily embraces the antecedent management right until the bargaining obligation is fulfilled.

Upon the issuance of this Decision and Order, however, subsequent furloughing of employees pursuant to a rate established under the FSCEAA, prior to bargaining, would be a violation of this Decision and Order. To this limited extent, we grant Complainant's exception. In all other respects, however, Complainant's exceptions are denied for the reasons set forth in our Decision and Order in PERB Case No. 92-U-24.^{12/}

Notwithstanding the clarification and additional ruling,

^{12/} Complainant's final exception also takes issue with the recommended remedy. Specifically, Complainant excepts, as did the Complainants in PERB Case No. 92-U-24, to "the inclusion of the word non-compensation in the proposed order ... to the extent that inclusion of that word implies that there can be no 'compensation' issues in conjunction with FY 1993 OBSTA furloughs... ." We find that our discussion of and ruling on the issues raised by this exception in its various forms in PERB Case No. 92-U-24 is dispositive here. Our ruling there, in pertinent part, was as follows:

"The facts and issues in this case do not warrant a ruling with respect to whether or not there may exist valid impact-and-effects proposals that concern compensation and that may properly be negotiated in compensation negotiations. Suffice it to say that our ruling in Opinion No. 330, read in context, preempted collective bargaining concerning "any form of compensation" to the extent it conflicts with the OBSTA's mandate of placing furloughed employees "in a non-pay and non-duty status." Title II, Sec. 202(f) of the OBSTA. The lack of findings on this record with respect to specific impact-and-effect proposals concerning compensation renders inappropriate a ruling as to whether or not the OBSTA or its amendment leaves room for such proposals. Any challenge Respondents [or Complainants] may wish to make to the validity of any particular impact-and-effects proposals under their duty to bargain, as determined in this proceeding, remains intact through an appropriate action before the Board for resolving such challenges, i.e., negotiability appeals. PERB Case No. 92-U-24, Slip Op. at 10.

discussed above, we find the Hearing Examiner's analysis, reasoning and findings to be thorough, cogent and reasonable and, except as noted, adopt them in their entirety. We further adopt his conclusions with respect to the Complaint allegations that by Respondents' (1) refusal to bargain with DCDC over the impact and effects of the OBSTA furloughs, (2) direct dealing with employees over their terms and conditions of employment (thereby bypassing DCDC as employees' exclusive representative), and (3) refusal to furnish DCDC information necessary and relevant to its role as employees' representative under the CMPA, Respondents violated D.C. Code Sec. 1-618.4(a)(1) and (5). Finally, we adopt the Hearing Examiner's finding that Respondents' refusal to bargain over the impact and effect of furloughs implemented pursuant to the OBSTA or FSCEAA, did not violate D.C. Code Sec. 1-625.2(d), for the reasons set forth in PERB Case No. 92-U-24.^{13/} We further find that Respondents implementation of furloughs at rates other than the statutory rate of one a month prior to bargaining its impact and effects with DCDC constitutes a violation of D.C. Code 1-618.4(a)(1) and (5).

ORDER

IT IS HEREBY ORDERED THAT:

1. The alleged violation of D.C. Code Sec. 1-625.2(d) by Respondents is dismissed.
2. The Departments of Human Services, Corrections and Public Works (Respondents) shall cease and desist from unilaterally implementing future furloughs pursuant to laws, rules and regulations (other than furloughs implemented pursuant to the Omnibus Budget Support Act (OBSA)) (see n.2) without first providing notice and an opportunity, upon the Doctor's Council of the District of Columbia's (Complainant's) request, to bargain the impact and effect of implementing the furloughs on the terms and conditions of employment of affected employees in the Complainant's respective bargaining units.

^{13/} D.C. Code Sec. 1-625.1 and 625.2 expressly concern, inter alia, furloughs promulgated by rule and regulations issued by the Mayor and the District of Columbia Board of Education. The OBSTA and any amendments thereto are neither part of the CMPA, nor rules and regulations promulgated under Section 1-625.1, but rather separate legislation enacted by the District Council. Furloughs promulgated by such legislation are not subject to the provisions of Section 1-625.1 or 625.2(d).

3. Respondents shall cease and desist from interfering with Complainant's rights under the Comprehensive Merit Personnel Act (CMPA), as the exclusive bargaining representative of employees, by bypassing Complainant and dealing directly with employees concerning their terms and conditions of employment.
4. Respondents shall cease and desist from refusing to promptly furnish the Complainant, pursuant to its role as employees' bargaining representative under the negotiated grievance-arbitration process, with information relevant and necessary to (1) bargaining over the impact and effects of furloughs on employees' terms and conditions of employment and (2) the investigation and presentation of grievances, respectively, including (1) a list of those essential employees who would not be exempt from furloughs, (2) the service computation dates for all furlough-exempt employees and (3) retention registers or documents reflecting information that would ordinarily be contained in retention registers.
5. Respondents shall cease and desist from implementing furloughs, pursuant to rates established in accordance with the Furlough Schedule Clarification Emergency Amendment Act (FSCEAA), following the issuance of this Decision and Order, without first providing notice and an opportunity, upon Complainant's request, to bargain the impact and effect of implementing furloughs upon the terms and conditions of employment of affected employees in the Complainant's respective bargaining units.
6. Respondents shall cease and desist from interfering, in any like or related matter, with the rights guaranteed employees by the CMPA, by unilaterally implementing furloughs without first providing notice and an opportunity, upon request, to bargain with Complainant, the exclusive representative of affected bargaining-unit employees.
7. Respondents shall negotiate in good faith with Complainant, upon request, about the impact and effect of the implemented and the future implementation of furloughs on bargaining-unit employees' terms and conditions of employment pursuant to the OBSA and its amendment, i.e., the Furlough Schedule Clarification Emergency Amendment Act of 1993 (FSCEAA).
8. Respondents shall cease and desist from implementing furloughs, pursuant to future laws, rules and regulations, before fulfilling its obligation to bargain with Complainant, upon request, the impact and effects of implementing the furloughs on bargaining-unit employees' terms and conditions of employment.
9. Representatives of Respondents and Complainant shall meet within seven (7) calendar days of the date of Complainant's

request(s) for bargaining as provided under paragraph 3 of this Order. The representatives shall meet on a daily basis (unless otherwise agreed-upon) until agreement is reached or their efforts result in impasse. Any provision of the resulting agreement between the parties or ultimate award imposed by interest arbitration concerning the impact and effects of furloughs described under paragraph 3 that do not conflict with the mandates of the OBSA and FSCEAA shall, at the election of Complainant, take effect retroactively to October 23, 1992, the date the first furlough was implemented. If, after 30 days of bargaining, total agreement is not reached, either party may make a request for impasse resolution concerning noncompensation impact-and-effect matters, or upon its own motion, the Board may declare an impasse pursuant to Board Rule 527.1.

10. The Board shall be notified of the date(s) of commencement of all bargaining pursuant to this Order. Thirty days after the date bargaining commences, the respective parties to the bargaining shall provide a summary report on the negotiations with respect to whether or not settlement has been reached and, if not, the likelihood of imminent settlement.

11. Respondents shall, within ten (10) days from the service of this Decision and Order, post the attached Notice conspicuously on all bulletin boards where notices to these bargaining unit employees are customarily posted, for thirty (30) consecutive days.

12. Respondents shall notify the Public Employee Relations Board, in writing, within fourteen (14) days from the issuance of this Decision and Order, that Notices have been posted accordingly.

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

May 20, 1993



Public
Employee
Relations
Board

Government of the
District of Columbia



415 Twelfth Street, N.W.
Washington, D.C. 20004
[202] 727-1822/23
Fax: [202] 727-9116

NOTICE

TO ALL EMPLOYEES REPRESENTED BY DOCTORS' COUNCIL OF THE DISTRICT OF COLUMBIA, AT RESPONDENT AGENCIES, DEPARTMENT OF HUMAN SERVICES, DEPARTMENT OF CORRECTIONS AND DEPARTMENT OF PUBLIC WORKS: THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 353, PERB CASE NO. 92-U-27.

WE HEREBY NOTIFY our employees that the Public Employee Relations Board has found that we violated the law and has ordered us to post this notice.

WE WILL cease and desist from implementing furloughs pursuant to future laws, rules and regulations without providing an opportunity to bargain to the Doctors' Council of the District of Columbia (DCDC) concerning the impact and effects on bargaining-unit employees' terms and conditions of employment.

WE WILL cease and desist from implementing furloughs at agency-determined rates pursuant to the Furlough Schedule Clarification Amendment Act (FSCEAA), without first fulfilling our obligation to bargain with DCDC concerning the impact and effects thereof on bargaining-unit employees' terms and conditions of employment.

WE WILL cease and desist from interfering with DCDC's rights under the Comprehensive Merit Personnel Act (CMPA), as the exclusive bargaining representative of employees, by bypassing employees' exclusive representative and dealing directly with employees concerning the determination of their terms and conditions of employment.

WE WILL cease and desist from refusing to furnish, and promptly provide, DCDC with information relevant and necessary to (1) bargaining over the impact and effects of furloughs on employees' terms and conditions of employment and (2) the investigation and presentation of grievances.

WE WILL bargain collectively in good faith with DCDC over the impact and effects on employees' working conditions resulting from the implementation of furloughs pursuant to the Omnibus Budget Support Act of 1992 and Furlough Schedule Clarification Emergency Amendment Act of 1993.

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WE WILL NOT in any like or related manner interfere with the rights guaranteed to employees by the Comprehensive Merit Personnel Act to bargaining unit employees employed by the above-captioned Respondents.

Date: _____

By: _____

Director
Department of Human
Services

By: _____

Director
Department of Corrections

By: _____

Director
Department of Public
Works

This Notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning the Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, whose address is: 415-12th Street, N.W., Room 309, Washington, D.C. 20004. Phone: 727-1822

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and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139."

2. Furthermore, an election shall be held in accordance with the provisions of D.C. Code Sec. 1-618.10 and Sections 510-515 of the Rules of the Board to determine (1) whether or not eligible professional employees wish to be included in the consolidated unit with the non-professional employees; and (2) whether or not all eligible employees desire to be represented for bargaining on terms and conditions of employment by the American Federation of Government Employees, Local 631, AFL-CIO.

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

May 10, 1993