

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD**

In the Matter of:)	
)	
Christina Lassiter)	
)	
Complainant)	PERB Case No. 25-S-01
)	
v.)	Opinion No. 1946
)	
American Federation of Government)	
Employees Local 1975)	
)	
Respondent)	
)	

DECISION AND ORDER

I. Statement of the Case

On January 15, 2025, the Complainant filed a Standards of Conduct complaint alleging that the American Federation of Government Employees, Local 1975 (Respondent), violated D.C. Official Code § 1-617.03(a)(1), (2), (3) and the duty of fair representation.¹ Upon review of the filing, PERB issued a deficiency notice and directed the Complainant to cure deficiencies. On February 4, 2025, the Complainant filed a Second Amended Complaint (Complaint).² On February 13, 2025, the Respondent filed an Answer to the Amended Complaint.³ On March 28, 2025, PERB conducted a mediation session for the parties. On April 4, 2025, the Complainant filed a statement regarding the breach of mediation confidentiality. On July 2, 2025, PERB held a hearing.⁴

On September 25, 2025, the Hearing Examiner issued a Report and Recommendations (Report), advising the Board to dismiss the Complaint. For the reasons stated herein, the Board remands this case to the Hearing Examiner.

¹ Report at 1.

² The Second Amended Complaint is titled Third Amended Pleading in the record.

³ Report at 2.

⁴ Report at 2.

II. Hearing Examiner's Report and Recommendations

A. Hearing Examiner's Factual Findings

The Hearing Examiner found that the Complaint contained three allegations:

Allegation #1:

On November 3, 2022, the District of Columbia Department of Motor Vehicles (the Agency) reassigned the Complainant to its processing center. The Complainant alleged that her reassignment violated the requirement to maintain fair and equal treatment under the Union's governing rules.⁵ The reassignment occurred 781 days prior to the filing of the Complaint. However, the Complainant asserted that she became aware of the Union's violation on December 9, 2024—58 days prior to the filing—during her investigation with the Office of Employee Appeals (OEA).⁶ The Respondent denied the allegation and stated that the Complainant provided no factual basis for this claim.

Allegation #2:

On February 23, 2024, Agency management placed the Complainant on administrative leave; it terminated her employment on April 26, 2024.⁷ The Complainant alleged that the Respondent failed to provide her with support during her administrative leave and termination proceedings.⁸ The Complainant contended that she became aware of the violation on October 28, 2024.⁹ The Respondent denied the allegation and stated that the Complainant provided no factual basis for this claim.

Allegation #3:

The Complainant alleged that the union publicly acknowledged the hostile working environment at the Agency in a television news broadcast aired on September 19, 2024, but failed to act to address the working conditions.¹⁰ The Respondent denied the allegation and stated that Complainant provided no factual basis for this claim.

The Hearing Examiner accepted the pleadings, evidence, and testimony presented by the Complainant. The Respondent did not introduce exhibits or witnesses. The Hearing Examiner determined that the issue of timeliness of the Complaint was dispositive of the case.

B. Hearing Examiner's Recommendations

⁵ Report at 4.

⁶ Report at 4.

⁷ Report at 4.

⁸ Report at 4.

⁹ Report at 4.

¹⁰ Report at 4.

The Hearing Examiner found that the Complainant was reassigned to the processing center on November 3, 2022 (781 days prior to the date of filing). The Complainant asserts that she became aware of the standard of conduct violation as December 9, 2024.¹¹ The Hearing Examiner found that the justification offered in the pleadings and at the hearing was insufficient to explain the delay in filing the instant charges.¹²

On February 23, 2024, the Agency placed the Complainant on administrative leave due to an ongoing dispute with two other employees.¹³ The Hearing Examiner found that the allegation related to administrative leave was untimely. The Hearing Examiner determined that the Complainant failed to provide evidence in the record to explain why the Complaint was not filed until January 5, 2025, some 348 days after Complainant was placed on administrative leave.¹⁴

On April 26, 2024, the Agency terminated the Complainant for alleged verbal and physical assault.¹⁵ The Hearing Examiner found that there were no records regarding representation or requests for representation that would sustain a finding of a violation of the duty of fair representation.

The Hearing Examiner admitted the Complainant's exhibits and considered the testimony and arguments presented by the parties. The Hearing Examiner held "that none of the evidence submitted or items included in the pleadings proves by a preponderance of the evidence that this untimely filing should be permitted."¹⁶

III. Standard of Review

The Board will adopt a Hearing Examiner's Report and Recommendation if it is reasonable, supported by the record, and consistent with Board precedent.¹⁷ The Board has held that "issues of fact concerning the probative value of evidence and credibility resolutions are reserved to the Hearing Examiner."¹⁸ The party asserting a violation of the CMPA, shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.¹⁹

IV. Discussion

¹¹ Report at 6.

¹² Report at 7.

¹³ Report at 8.

¹⁴ Report at 9.

¹⁵ Report at 8.

¹⁶ Report at 9.

¹⁷ *WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. 1668 at 6, PERB Case No. 15-U-28 (2018). *See AFGE, Local 1403 v. D.C. Office of the Attorney General*, 59 D.C. Reg. 3511, Slip Op. No. 873, PERB Case No. 05-U-32 and 05-UC-01 (2012).

¹⁸ *WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. No. 1668 at 5, PERB Case No. 15-U-28 (2018). *See Council of Sch. Officers, Local 4 v. DCPS*, 59 D.C. Reg. 6138, Slip Op. No. 1016 at 6, PERB Case No. 09-U-08 (2010).

¹⁹ *See*, Board Rule 550.1.

The Complainant filed several exceptions to the Report (Exceptions). The Complainant argues that the Hearing Examiner misapplied the timeliness standard by improperly anchoring the accrual date to the initial reassignment rather than to the date the Complainant discovered the Union's misconduct.²⁰ Further, the Complainant asserts that the Hearing Examiner failed to properly weigh evidence of the Union's misconduct by minimizing the probative value of unrebutted testimony and evidence.²¹ The Complainant contends that the Hearing Examiner erred by declining to address the claims of an alleged breach of mediation confidentiality and mischaracterizing claims as eliminated in the amended complaints

A. Standards of Conduct and Unfair Labor Practice Claims

The Board distinguishes standards of conduct from unfair labor practice violations. The Board has held that a breach by an exclusive representative of the duty to fairly represent its employees—an unfair labor practice—does not constitute a breach of the standards of conduct, and vice versa.²²

The CMPA's standards of conduct for labor organizations address standards for the internal operation of a union and the rights of union members' participation in such affairs, which arise from a union's duty to comply with D.C. Official Code § 1- 617.03(a). The Complainant claims that her reassignment constituted a breach of fair treatment under AFGE's governing rules. Therefore, the Complainant has asserted the necessary elements to establish a *prima facie* standards of conduct claim.

Separately, the right to be fairly represented arises from a union's role as an employee's collective bargaining representative.²³ An unfair labor practice alleging a breach of a union's duty of fair representation concerns infringements by the union of employees' statutory collective bargaining rights under the CMPA.²⁴

In the instant case, the Complainant captioned her Complaint as a standards of conduct complaint and not an unfair labor practice complaint. However, the Board has not required strict compliance with Board Rules for *pro se* complainants.²⁵ The Board has held that it will determine whether a union has breached its duty of fair representation based not on the competence of a

²⁰ Exceptions at 6.

²¹ Exceptions at 5.

²² *Renee Jackson v. Teamsters Local No. 639*, 63 D.C. Reg 7573, Slip Op. No. 1572 at 3, PERB Case No. 14-S-02(2016) (citing *Charles Bagenstose v. Washington Teachers Union, Local 6*, 43 D.C. Reg. 1397, Slip Op. No. 355, PERB Case Nos. 90-S-01 and 90-U-02 (1993)).

²³ *Renee Jackson v. Teamsters Local No. 639*, 63 D.C. Reg 7573, Slip Op. No. 1572 at 4, PERB Case No. 14-S-02 (2016) (citing *William H. Dupree v. FOP/DOC Labor Committee*, 46 D.C. Reg. 4034, Slip Op. No. 568, PERB Case Nos. 98-s-08 and 98-U-23 (1999)).

²⁴*Id.*

²⁵ *Renee Jackson v. Teamsters Local No. 639*, 63 D.C. Reg 7573, Slip Op. No. 1572 at 5, PERB Case No. 14-S-02 (2016).

union, but on whether a union's representation was in good faith.²⁶ The Board applies this test by determining whether a union engaged in conduct that was arbitrary, discriminatory, or in bad faith, or was based on considerations that are irrelevant, invidious, or unfair.²⁷ The Hearing Examiner did not reach consideration of the merits under this test after finding that the Complaint was untimely filed.

B. Timeliness

The Hearing Examiner held "that none of the evidence submitted or items included in the pleadings proves by a preponderance of the evidence that this untimely filing should be permitted." In her Exceptions, the Complainant argues that the Hearing Examiner misapplied the timeliness standard by improperly anchoring the accrual date to the initial reassignment rather than to the date the Complainant discovered the Union's misconduct. The Complainant asserts that undisputed discovery dates show that the Complainant filed the initial complaint well within the 120-day period after she became aware of the misconduct.

Under Board Rule 520.4 "[a]n unfair labor practice complaint must be filed no later than one hundred twenty (120) days after the date on which the alleged violation occurred or the date the complainant knew or should have known of the alleged violation, if later." The Board's one hundred twenty (120)-day time period for filing complaints is a claim processing rule.²⁸ Where a mandatory claim-processing rule is properly invoked by a party it must be enforced.²⁹ Notwithstanding, claims processing rules and the deadlines they set are waivable.

The Board has held that an answer to a complaint must state the respondents' affirmative defenses.³⁰ AFGE failed to assert the defense of timeliness in its answer, thereby waving its entitlement to the enforcement of that defense and the relief it provides.³¹ The Hearing Examiner improperly granted relief after waiver.

V. Conclusion

The Board finds that the Hearing Examiner's Report is inconsistent with precedent. The Board hereby remands this matter to the Hearing Examiner for a Report and Recommendation based on the merits of the Complaint.

ORDER

²⁶ *Id.*

²⁷ *Id.*

²⁸ *See, Vice Chairman Tyrone Jenkins and Stephanie McKinnon v. DOC*, 65 D.C. Reg. 4046, Slip Op. No. 1652 at 11, PERB Case No. 15-U-31 (2018) (incorporating the D.C. Court of Appeals' ruling that PERB's one hundred twenty (120)-day deadlines are claim-processing rules and that "[u]nless a party points out to the court that another litigant has missed such a deadline, the party forfeits the deadline's protection.").

²⁹ *See FOP/MPD Labor Comm. v. MPD*, 67 D.C. Reg. 11472, Slip Op. No. 1756 at 3, PERB Case No. 20-A-07 (2020) (citing *Neill v. D.C. Pub. Employee Relations Bd.*, 93 A.3d 229, n. 5 (D.C. 2014) (holding that "where a [] claim-processing rule is 'properly invoked [by a party] ... [it] must be enforced[.]'").

³⁰ *Vice Chairman Tyrone Jenkins and Stephanie McKinnon v. DOC*, 65 D.C. Reg. 4046, Slip Op. No. 1652 at 12, PERB Case No. 15-U-31 (2018).

³¹ *Id.*

IT IS HEREBY ORDERED THAT:

1. This matter is Remanded to the Hearing Examiner; and
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By vote of Chairperson Peter Winkler and Board members Douglas Warshof, Mary Anne Gibbons, and Renee Bowser

January 15, 2026

Washington, D.C.

