

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 formal 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:	)	
	)	
Washington Teachers' Union,	)	
Local 6, AFT, AFL-CIO,	)	
	)	
Complainant,	)	
	)	
v.	)	PERB Case No. 96-U-18
	)	Opinion No. 478
	)	
District of Columbia	)	
Public Schools,	)	
	)	
Respondent.	)	
	)	
	)	
	)	

**DECISION AND ORDER ON  
REQUEST FOR PRELIMINARY RELIEF** <sup>1/</sup>

On July 9, 1996, Counsel, on behalf of Complainant Washington Teachers' Union, Local 6, AFT, AFL-CIO (WTU), filed an Unfair Labor Practice Complaint with the Public Employee Relations Board (Board). The Complaint charges that Respondent D.C. Public Schools (DCPS) violated the Comprehensive Merit Personnel Act (CMPA), D.C. Code § 1-618.4. Specifically, the Complainant alleges that Respondent is (1) refusing to bargain over the impact and effects of a reduction in force (RIF); (2) failing to provide requested information necessary for WTU to ensure compliance with the parties' collective bargaining agreement; and (3) retaliating against union members that possess the greatest seniority on the basis of their membership and activities on behalf of WTU. Complainant has requested that the Board grant preliminary relief enjoining DCPS from implementing the RIF until DCPS has engaged in and completed good faith bargaining on the impact and implementation of the RIF. (Comp. at 4.)

DCPS filed a Response to the request for preliminary relief on July 22, 1996. DCPS denies that it did not bargain over the impact and implementation of the RIF or that it failed to provide WTU with requested information as soon as it became available. DCPS denies that it has committed any unfair labor practice.

In view of these disputed facts and circumstances, DCPS asserts that pursuant to Board Rule 520.15, the case does not support the criteria for granting preliminary relief.

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<sup>1/</sup> Board Member Leroy Jenkins did not participate in the consideration or disposition of this case.

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We have held that "[a]lthough irreparable injury need not be shown, ... the supporting evidence must 'establish that there is reasonable cause to believe that the [CMPA] has been violated, and that remedial purposes of the law will be served by pendente lite relief.'" AFSCME D.C. Council 20, et al. v. D.C. Gov't. et al., Slip Op. No. 330 at 4, PERB Case No. 92-U-24, citing Automobile Workers v. NLRB, 449 F.2d 1046 at 1051 (CA DC 1971). While Complainant has provided an affidavit by its president supporting the Complaint allegations, DCPS has presented documented evidence that significantly contradicts the Complaint allegations and therefore precludes pendente lite relief. Therefore, we do not believe that the remedial purposes of the CMPA will be served by granting Complainant's request in view of the evidence presented. For the reasons we articulated in AFSCME D.C. Council 20, et al. v. D.C. Gov't. et al., 42 DCR 3430, Slip Op. No. 330, PERB Case No. 92-U-24 (1992), we deny WTU's request for preliminary relief as inappropriate under the criteria articulated by the D.C. Court of Appeals in Automobile Workers v. NLRB, 449 F.2d 1046 (CA DC 1971). However, we shall investigate this Complaint as expeditiously as is feasible, in accordance with Board Rule 501.1 and as set forth in our Order below.

ORDER

IT IS HEREBY ORDERED THAT:

1. The request for preliminary relief is denied.
2. The Notice of Hearing shall issue seven (7) days prior to the scheduled date of the hearing.
3. Following the hearing, the designated hearing examiner shall submit a report and recommendation to the Board not later than twenty (21) days following the conclusion of closing arguments (in lieu of post-hearing briefs).
4. Parties may file exceptions and briefs in support of the exceptions not later than seven (7) days after service of the hearing examiner's report and recommendation. A response or opposition to exceptions may be filed not later than five (5) days after service of the exceptions.

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

August 14, 1996



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