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

In the Matter of:

John H. Williams,

Complainant,

and

PERB Case No. 84-S-02 Opinion No. 82 As amended June 7, 1984

Local 383, American Federation of Government Employees,

Respondent.

## DECISION AND ORDER

On January 13, 1984, John H. Williams (Complainant) filed a Complaint alleging a violation of the Standards of Conduct for Labor Organizations against Local 383, American Federation of Government Employees (AFGE). The Complaint alleges that AFGE failed to represent Complainant, a service fee member, in appealing to the District of Columbia Office of Employee Appeals (OEA) in three personnel actions taken against him by the District of Columbia Department of Human Services at Forest Haven (Employer). It appears from the supporting documents that Complainant desires representation by an AFGE attorney in pursuing the appeals he has filed with OEA.

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On February 22, 1984, AFGE filed a response with the Board contending that Complainant never properly requested representation by it. AFGE further contends that the "[c]omplaint is without proper justification, is unwarranted and lacking in evidence to charge Local 383 [with] nonrepresentation."

The issue before the Board is whether or not AFGE has violated the Standards of Conduct for Labor Organizations' provisions of the Comprehensive Merit Personnel Act by failing to represent a service fee member in appealing a personnel grievance to OEA.

The essential facts are that, on July 12, 1982, the Complainant filed a classification grievance and a harassment grievance against the Employer with OEA. On April 8, 1983, Complainant was removed from his position as a Recreation Therapist. On April 23, 1983, the Complainant appealed his removal by Employer to OEA. To date, no decision has been issued by OEA on any of these three matters.

A chronology of Complainant's contact with AFGE reveals that, on December 27, 1982, Complainant wrote to the president of AFGE, Local 383, informing him that he did not wish to become a union member, returned a union membership card and requested that his service fee be returned. On December 30, 1982, the AFGE president acknowledged receipt of the letter and informed Complainant that the service fee deduction was required and could not be refunded. Case No. 84-S-02 Opinion No. 82 Page 2

On January 4, 1983, the Complainant wrote to the AFGE Local president requesting that an AFGE attorney be assigned to represent him in the classification and harassment grievances. On January 12, 1983, the president informed him that AFGE was not obligated to provide representation by an attorney under existing circumstances.

The Board's investigation of this matter reveals that the Complainant's specific request was for representation by an AFGE attorney and that AFGE's policy is that "[r]epresentation from an attorney is only given after the National Vice-President reviews a case and feels the case requires an attorney." This policy applies to all members of the bargaining unit regardless of union affiliation. Also, "[n]ational representatives...only become involved in representation upon authorization of local presidents."

The Board finds that Article 5 of the negotiated Agreement between the parties to be particularly relevant. It provides that:

"The Union as the exclusive representative of all employees in the unit has the right as provided in Section 1711(a) of D.C. Law 2-139 to act for and negotiate agreements covering all employees in the unit and is responsible for representing the interests of all such employees without discrimination and without regard to membership in the labor organization."

The Board finds, therefore, that the Complainant is entitled to representation in matters such as those involved here, but is not entitled to demand representation by an AFGE attorney. The Complainant is required to follow the internal AFGE procedures summarized above.

## ORDER

## IT IS ORDERED THAT:

AFGE, pursuant to its internal procedures, is directed to provide the Complainant with appropriate representation before OEA, with whatever legal representation, if any, would be provided in similar cases involving other union members.

BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD June 7, 1984