On May 6, 1996, Ralph Mauro (Complainant) filed a complaint with the Connecticut State Board of Labor Relations (Labor Board) alleging that East Haven Supervisors, Local 8 18, Council 4, AFSCME, (Respondent), had engaged and was engaging in prohibited practices within the meaning of the Municipal Employee Relations Act (the Act). In substance, Mauro alleges that the Union has violated its duty of fair representation by filing internal union charges against him, and by expelling him from membership because of his alleged activity on behalf of a rival labor organization.

After the requisite preliminary steps had been taken, the case was brought before the Labor Board for a formal hearing on September 10, 1997. Mr. Mauro appeared on his own behalf and the Union was represented by counsel. Both parties were provided a full opportunity to adduce evidence, examine and cross-examine witnesses and make argument. At the conclusion of the hearing, the case was dismissed on the record. This decision constitutes the written discussion of that dismissal. Based on the entire record before us, we make the following findings of fact and conclusions of law and we dismiss the complaint.
FINDINGS OF FACT

1. The Respondent is an employee organization within the meaning of the Act.

2. At all times material, Respondent has been the exclusive bargaining representative for a unit of supervisory, administrative and professional employees employed by the Town of East Haven.

3. Ralph Mauro is employed by the Town of East Haven and was a member of the Union prior to his expulsion from membership by decision dated December 13, 1996.

4. At all times material herein, Michael J. Milici has been President of Respondent.

5. In May, 1995, Mauro had one or possibly two telephone conversations with Wayne Gilbert, Director of the Connecticut Independent Labor Union/Connecticut Independent Police Union. As far as Gilbert was concerned, Mauro was an interested person in East Haven inquiring about an alternative Union.

6. By letter dated March 15, 1996, Milici brought formal charges against Mauro for a violation of Article X, Section 2(E) of the AFSCME International Constitution, which states as follows:

   Article X

   Section 1
   Except as hereafter provided in this Article, any member of the Federation may file charges against any individual for actions taken while a member of the Federation. . .

   Section 2
   The following and no other shall constitute the basis for the filing of charges. . .

   E. Any activity which assists or is intended to assist a competing organization within the jurisdiction of the Union. (Ex. 3, 5)

7. By letter dated April 22, 1996, the International Union ordered a hearing on Milici’s charges.

8. On August 29, 1996, a hearing was held on the internal Union charges before a duly appointed representative, Rosetta Daylie.

9. By decision dated December 13, 1996, Daylie found Mauro guilty of violating Article X,
Section 2(F) [sic] of the International Constitution, and expelled him from membership in AFSCME. (Ex. 2)

10. By memo dated January 2, 1997, Milici informed Mauro as follows:
   Re: Union Expulsion

   Pursuant to the International Judicial Panel’s recent decision to terminate your membership from AFSCME (Case No. 96-57 Milici vs. Mauro), you are hereby notified that all your rights and privileges, other than your contractual right to representation, are revoked. Included are, but not limited to, attendance to all Local 818 meetings, contract discussion and ratification, and all aspects of the Union election process. Further you are forbidden to seek any Union Office whether elected or appointed.

   Please be advised that your attendance, disruption, or annoyance relative to any of the aforementioned functions will result in criminal prosecution.

   Sincerely,

   Michael J. Milici
   President (Ex. 6)

11. Mauro’s employment at the Town of East Haven has not been adversely effected by his expulsion from membership; the Union has not failed to represent him as a non-member.

12. Job vacancies are publicly posted, and there is no credible evidence that Mauro has been denied an opportunity to bid on other positions within the bargaining unit.

   **CONCLUSIONS OF LAW**

1. A Union violates Section 7-470(b)(3) of MERA by breaching their duty of fair representation.

2. The Respondent has not violated the statute by expelling Mauro from membership for engaging in activities on behalf of a rival Union.

   **DISCUSSION**

   The question before us is relatively simple: does an employee organization, pursuant to a properly adopted rule, have a lawful right to expel from membership individuals who engage in activities on behalf of rival employee organizations?

   The United States Supreme Court, in *Scofield v. NLRB* 344 U.S. 423, 70 LRRM 3 105
(1969) determined that the proviso to Section 8(b)(1) of the National Labor Relations Act as amended “leaves a union free to enforce a properly adopted rule which reflects a legitimate union interest, impairs no policy Congress has imbedded in the labor laws, and is reasonably enforced against union members who are free to leave the union and escape the rule.”

Here the Union argues that its conduct in expelling from membership individuals who engage in activities on behalf of a rival union is protected. First, because the action did not effect the members’ employment status, a prohibition prescribed by NLRB v. Allis-Chalmers Manufacturing Co., 388 U.S. 175, 65 LRRM 2449 (1967) at 2014: NLRB v. Boeing Co. 412 U.S. 67 83 LRRM 2183 (1974). Secondly, the Union contends that its action does not impair a policy which the Congress or the Connecticut State Legislature has imbedded in its labor laws. See, for example, NLRB v. Industrial Union of Marine and Shipbuilding Workers 391 U.S. 418, 68 LRRM 2257; NLRB v. Stationary Engineers Local 39 746 F2d 142, 90 LRRM 3240 (9th Cir 1975); Carpenters Local Union No. 22 (Graziano Construction Co.) 195 NLRB 1, 79 LRRM 1194 (1972).

Although Section 7-470(b)(1)(A) of MERA does not contain the proviso found in 8(b)(1)(A) of the NLRA, Section 7-468(9) of MERA and Section 7 of the NLRA are similar in their definition of rights of employees, and this Board has recognized that similarity. Local 1042, Council 4, AFSCME, AFL-CIO, John Mosby, Decision No. 3362 (1996). The judicial interpretation accorded the federal statutes when the State statutes contain similar language, will be of great assistance in interpreting the Connecticut statute. West Hartford Education Association v. DeCourcy 162 CONN 566, 579, Windsor v. Windsor Police Dept. Employees Association 154 Conn. 530,536. Although our courts are not bound by federal precedent, they have found that precedent to be of persuasive force. Kelsey v. Connecticut State Employees Association, 179 Conn. 606 (1980).

In Local 761, ZUE (General Electric), 220 NLRB 830, 90 LRRM 1445 (1975) the National Labor Relations Board described the parameters of a Union’s ability to take action against individuals. The Board stated:

A union may not fine or threaten to fine individuals “for supporting a rival labor organization by soliciting authorization cards for [such rival organization]” or “for soliciting fellow employees, to sign bargaining authorizations, for a rival union to support the filing of a petition with the Board for a certification petition.” District Lodge No. 837, International Association of Machinists and Aerospace Workers, AFL-CIO and International Association of Machinists and Aerospace

‘Section 8(b)(1)(A) states: “It shall be an unfair labor practice for a labor organization or its agents • (1) to restrain or coerce (A) employees in the exercise of their rights guaranteed in Section 7: Provided, that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein.
Workers, AFL-CIO, (McDonnell Douglas Corporation), 206 NLRB 662 (1973); Independent Shoe Workers of Cincinnati, Ohio (The United States Shoe Corporation), 208 NLRB 411 (1974). On the other hand, it is “appropriate disciplinary action” for a union to expel a member who seeks to displace it with another rival organization. Tawas Tube Products, Inc. 151 NLRB 46, 48 (1965); International Molders’ and Allied Workers Union, Local No. 125, AFL-CIO (Blackhawk Tanning Co., Inc), 178 NLRB 208,209 (1969). Local 761,220 NLRB at 83 1.

Not inconsistent with the above principles, this Board has found violations of § 7-470(b)(1)(A) when a Union has violated its duty of fair representation by taking various actions against members for engaging in internal union activities. Connecticut Employees Union Independent, Dec. No. 2464 (1986), Local 1042, AFSCME, Council 4, AFL-CIO, John Mosby, supra. The NLRB and federal courts have found violations of Section 8(b)(l)(A) for the same reasons. Hasting and Portable Engineers, Local 4 (Carlson Corp.), 76 LRRM 1592, enfd 456 F2d (1 st Cir 1972), Helton v. NLRB, 107 LRRM 2819.

In the instant case, Mr. Mauro was not fined, nor has any other adverse action been taken against him by the Union, nor has he suffered any adverse or discriminatory action in his employment by the Town. Per Exhibit 6, the Union has given assurance that they will represent Mauro as a member of the bargaining unit. Therefore, we conclude, under the substantial federal precedent in this matter that the Union has not violated the MERA in removing Ralph Mauro from membership.

ORDER

By virtue of and pursuant to the power vested in the Connecticut State Board of Labor Relations by the Municipal Employee Relations Act, it is hereby

ORDERED that the complaint filed herein be, and the same hereby is, DISMISSED.

CONNECTICUT STATE BOARD OF LABOR RELATIONS
s/John H. Sauter
John H. Sauter
Chairman

s/C. Raymond Grebey
C. Raymond Grebey
Board Member

s/Thomas G. Gutteridge
Thomas G. Gutteridge
Board Member
CERTIFICATION

I hereby certify that a copy of the foregoing was mailed postage prepaid this 21st day of
October, 1997 to the following:

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Katherine C. Foley, Acting Agent
CONNECTICUT STATE BOARD OF LABOR RELATIONS