



Public
Employee
Relations
Board



1100 4th Street S.W.
Suite E630
Washington, D.C. 20024-4451
Business: (202) 727-1822
Fax: (202) 727-9116
Email: perb@dc.gov

July 28, 2016

MINUTES

The regular monthly meeting of PERB was held on July 27, 2016 at 11:08 a.m. at PERB headquarters. Chairman Charles Murphy, presiding, and Board members Ann Hoffman, Barbara Somson and Douglas Warshof being present. Board member Yvonne Dixon was absent.

Staff attendance: Executive Director Clarene Martin, Lindsey Maxwell, Colby Harmon, David McFadden, Alexis Anderson, Najibah Almahdi and Yvonne Waller.

Board member Hoffman moved that the Minutes from the June 14, 2016 meeting be deferred to the next board meeting. It was unanimously decided to defer the Minutes to the next meeting.

Executive Director Martin reported the following:

For FY 2016, as of June 30, 2016

- Open cases-81
- Closed cases-105

She attended the ALRA Conference in Halifax, Canada

She introduced new staff, Attorney-Advisor Alexis Anderson and Program Analyst Najibah Almahdi. She also, introduced interns, Jasmine Roper and Gina Eastes, who have finished their service with us.

Training for MPD staff will take place in August or September. John Higgins will do the training at MPD's headquarters. FOP will be trained separately.

Lindsey Maxwell summarized the following nine cases appearing on the case docket for Board consideration.

A. Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, PERB Case No. 11-U-20

This case is before the Board purely as a procedural matter. The Board took action on this case at the last Board meeting. However, before the Decision & Order was issued, the parties settled the case. The Board needs to take additional procedural action to rescind its prior vote.

B. District of Columbia Public Schools v. Washington Teachers' Union, Local 6, PERB Case No. 14-U-20

Complainant District of Columbia Public Schools ("DCPS") filed an unfair labor practice complaint alleging that Respondent Washington Teachers' Union, Local 6 ("WTU Local 6") violated D.C. Official Code §§ 1-617.04(b)(1) and (3) by refusing to honor the allegedly bargained-for process in the parties' Collective Bargaining Agreement ("CBA") for implementing a non-traditional schedule. That matter is now before the Board for its consideration.

C. District of Columbia Department of General Services and American Federation of Government Employees, Locals 631, 2741 and 3444, American Federation of State, County and Municipal Employees, Local 2091 and Teamsters Locals 639 and 730, PERB Case No.14-UM-02

On June 27, 2014, the Department of General Services (“DGS” or “Agency”) filed a Unit Modification Petition (“Petition”), due to the consolidation of certain agencies’ services into DGS, which resulted in a number of bargaining units being transferred to DGS. On May 9, 2016, the Board issued PERB Opinion No. 1575, dismissing the case for lack of subject-matter jurisdiction. On May 27, 2016, the Petitioner, the Department of General Services (“DGS” or “Agency”) filed a Motion for Reconsideration of that decision. That motion is before the Board for its consideration.

D. District of Columbia Department of Youth Rehabilitation Services v. Fraternal Order of Police/Department of Youth Rehabilitation Services Labor Committee, PERB Case No.16-A-02

On November 15, 2015, petitioner D.C. Department of Youth Rehabilitation Services filed an arbitration review request asserting that a supplemental award of attorneys’ fees pursuant to the Back Pay Act, 5 U.S.C. § 5596, was contrary to law and public policy. Citing to the recently revised Board Rule 538.2, the petitioner requested “the opportunity to brief this matter fully for the Board’s further consideration.” The motion for additional briefing is before the Board for its consideration.

E. American Federation of Government Employees, Local 872 and District of Columbia Water and Sewer Authority, PERB Case No. 16-A-10

On May 24, 2016, Petitioner, American Federation of Government Employees, Local 872, filed the above-captioned Arbitration Review Request, pursuant to D.C. Official Code §1-605.2(6) seeking review of an arbitration award issued on May 3, 2016. The Award upheld the Agency’s termination of Leroy Burton from his employment with the D.C. Water and Sewer Authority. Petitioner seeks review of the Award asserting that the arbitrator exceeded his authority and that the Award is contrary to law and public policy. The petition is before the Board for its consideration.

Board Chair Murphy moved that the meeting be closed to the public for deliberations in accordance with D.C. Official Code § 2-575(b) (13). The motion passed unanimously.

The meeting was closed for deliberations.

The meeting resumed at which time the Board voted on the following cases:

Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan, PERB Case No. 11-U-20

It was moved and seconded that the Board reconsider the vote on this case from its meeting on June 14, 2016. It was moved and seconded that the Board rescind the vote to deny the motion for reconsideration and table the case so that the Executive Director can take whatever further administrative action is necessary in processing the matter.

Member	In Favor	Opposed	Tabled
Ann Hoffman	X		
Charles Murphy	X		
Barbara Somson	X		
DouglasWarshof	X		

District of Columbia Public Schools v. Washington Teachers’ Union, Local 6, PERB Case No. 14-U-20

It was moved and seconded to dismiss the complaint because it is not possible to determine whether WTU violated D.C. Official Code §§ 1-617.04(b)(1) and (3) without first determining which of the parties’ competing interpretations of the relevant CBA provisions is correct. Since PERB does not have the authority to interpret the parties’ CBA, the Board finds that it lacks jurisdiction over DCPS’ allegations.

Member	In Favor	Opposed	Tabled
Ann Hoffman	X		
Charles Murphy	X		
Barbara Somson	X		
Douglas Warshof	X		

District of Columbia Department of General Services and American Federation of Government Employees, Locals 631, 2741 and 3444, American Federation of State, County and Municipal Employees, Local 2091 and Teamsters Locals 639 and 730, PERB Case No. 14-UM-02

It was moved and seconded to deny the motion for reconsideration because the Board does not have subject-matter jurisdiction over the Amended Petition.

Member	In Favor	Opposed	Tabled
Ann Hoffman	X		
Charles Murphy	X		
Barbara Somson	X		
DouglasWarshof	X		

District of Columbia Department of Youth Rehabilitation Services v. Fraternal Order of Police/Department of Youth Rehabilitation Services Labor Committee, PERB Case No. 16-A-02

It was moved and seconded that the Board find that additional briefing at this time will assist the Board in its consideration of this arbitration review request. Therefore the petitioner’s request is granted.

Member	In Favor	Opposed	Tabled
Ann Hoffman	X		
Charles Murphy	X		
Barbara Somson	X		
DouglasWarshof	X		

American Federation of Government Employees, Local 872 and District of Columbia Water and Sewer Authority, PERB Case No. 16-A-10

It was moved and seconded that based on the record, the Petitioner merely disagrees with the Arbitrator’s decision, and its Arbitration Review Request does not present a statutory basis upon which PERB can set aside the Award. Therefore, Petitioner’s Arbitration Review Request is denied and the matter is dismissed in its entirety with prejudice.

Member	In Favor	Opposed	Tabled
Ann Hoffman	X		
Charles Murphy	X		
Barbara Somson	X		
DouglasWarshof	X		

The meeting was adjourned at 12:12 p.m.

Prepared by: Yvonne P. Waller, Administrative Officer