



MINUTES

- I. The regular monthly meeting of PERB was held on October 19, 2017, at 11:15 p.m. at PERB headquarters. Board Member Douglas Warshof, presiding. Board Member Barbara Somson and Board Member Mary Anne Gibbons were present.
- II. Staff attendance: Executive Director Clarene Phyllis Martin, Lindsey Maxwell, David McFadden, Alexis Anderson, Merlin George, Najibah Almahdi and Sheryl Harrington.
- III. Approval of the minutes for the May 18, 2017, Regular Board Meeting.
- IV. Approval of the minutes for the August 17, 2017, Regular Board Meeting.
- V. Executive Director Martin reported the following:
 - All staff will attend the Ethics training immediately following the Board meeting.
- VI. Docket

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

A. **Washington Teachers' Union, Local 6, American Federation of Teachers v. District of Columbia Public Schools**

PERB Case No. 14-U-02

WTU, Local #6 filed this unfair labor practice complaint against DCPS alleging that DCPS violated the CMPA by failing to comply with an Arbitration Award. The Union requests that the Board order DCPS to cease and desist from committing violations of the CMPA described in the Complaint, comply with the Award in all respects, and pay attorneys' fees and costs.

B. **Compensation Unit 31, AFGE, Locals 631, 872, and 2553, AFSCME Local 2091, and NAGE R3-06 v. District of Columbia Water and Sewer Authority**

PERB Case No. 16-N-02 (Motion for Reconsideration)

Compensation Unit 31 filed a Negotiability Appeal against the District of Columbia Water and Sewer Authority's written declaration of the non-negotiability of three proposals made during

the parties' negotiation of a successor compensation agreement. On June 9, 2017, the Board issued PERB Opinion No. 1624 that found all three proposals offered by Comp. Unit 31 nonnegotiable.

On July 10, 2017, Comp. Unit 31 filed a Motion to Reopen to Correct an Error and Motion for Reconsideration of Decision No. 1624. The motions claimed that Opinion 1624 contained an error because, even though the performance bonus percentage amounts in Article 1, Section B, were not submitted to the Board, the Board found the entire article to be nonnegotiable. Referring back to its original negotiability appeal petition, Comp. Unit 31 argued that the appeal specifically excluded the percentage bonus amounts. On July 14, 2017, the Respondent filed an Answer to Union's Motion for Reopening to Correct an Error and Motion for Reconsideration of PERB Decision No. 1624. In its opposition, the District of Columbia Water and Sewer Authority ("WASA" or "Authority") argued that the motion was not timely because Opinion No. 1624 was final and therefore outside PERB's jurisdiction. WASA also argued that the motion did not meet the requisite criteria to support a motion for reconsideration.

C. AFGE, Local 3721 v. District of Columbia Fire and Emergency Medical Services Department

PERB Case No. 16-N-03

AFGE Local 3721 filed this Negotiability Appeal concerning seven proposals made by the Union and declared nonnegotiable by the Fire and Emergency Medical Services Department.

D. District of Columbia Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee

PERB Case No. 17-A-07

MPD filed this Arbitration Review Request seeking review of a supplemental arbitration award that granted attorneys' fees and interest on back pay to the FOP on behalf of Officer Robert Wigton. MPD seeks review of the Arbitrator's Supplemental Award on the grounds that the Arbitrator exceeded his jurisdiction and that the Award was procured by fraud, collusion or other similar unlawful means.

E. District of Columbia Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee

PERB Case No. 17-A-09

MPD filed this Arbitration Review Request seeking review of an Arbitrator's Award that sustained the grievance brought by the FOP on behalf of Officer Taunya Johnson. The Award directed that the Grievant be

reinstated with full back pay and benefits, and ordered a lesser penalty of 60 work days without pay. MPD asserts that the Award is, on its face, contrary to law and public policy.

Board Member Warshof moved to close the meeting 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.

Following deliberations the meeting was opened to the public. The Board voted as follows:

Washington Teachers' Union, Local 6, American Federation of Teachers v. District of Columbia Public Schools
PERB Case No. 14-U-02

It was moved and seconded after reviewing the findings, conclusions, and recommendations of the Hearing Examiner, that DCPS violated section 1-617.04(a)(1) and (5) of the CMPA for failing to fully comply with the Arbitrator's February 7, 2011 Award. It was ordered that: DCPS shall (1) cease and desist from refusing to bargain in good faith with WTU, Local #6 by its failure to comply with the terms of the February 7, 2011 Arbitration Award; (2) reimburse the Union for reasonable costs associated with PERB Case No. 14-U-02, within (14) days from the issuance of this Decision and Order; and (3) within fourteen (14) days from the issuance of this Decision and Order, reinstate the affected probationary teachers to the positions they held as of the date of their discharge. Once the teachers have accepted reinstatement, DCPS is permitted to make a determination, by means of an appropriate process, if reinstated teachers should continue to be terminated. DCPS shall pay the affected teachers back pay, with prejudgment interest computed at a rate of 4% per annum, from the date of termination until April 8, 2011, the end of the Award's compliance period. Further, DCPS shall (4) within fourteen (14) days from the issuance of this Decision and Order, change the records of teachers who waive reinstatement to show that they resigned; (5) pay the teachers back pay, with prejudgment interest computed at a rate of 4% per annum, from the date of termination until April 8, 2011, the end of the Award's compliance period; (6) change the records of teachers who waive reinstatement to show that they resigned; (7) within fourteen (14) days from the issuance of this Decision and Order send a new letter to affected teachers consistent with this Order; (8) DCPS shall conspicuously post a Board notices; (9) The notice shall be posted within fourteen (14) days from DCPS' receipt of the notice and shall remain posted for thirty (30) consecutive days; and (10) within fourteen (14) days from the receipt of this notice, notify the Public Employee Relations Board in writing that the notice is posted.

Member	In Favor	Opposed	Tabled
Douglas Warshof	X		
Barbara Somson	X		
Mary Anne Gibson	X		

Compensation Unit 31, AFGE, Locals 631, 872, and 2553, AFSCME Local 2091, and NAGE R3-06 v. District of Columbia Water and Sewer Authority
PERB Case No. 16-N-02

It was moved and seconded to deny both the Motion to Reopen to Correct an Error and the Motion for Reconsideration.

Member	In Favor	Opposed	Tabled
Douglas Warshof	X		
Barbara Somson	X		
Mary Anne Gibson	X		

AFGE, Local 3721 v. District of Columbia Fire and Emergency Medical Services Department
PERB Case No. 16-N-03

It was moved and seconded that AFGE’s Proposal 1 is nonnegotiable; section 1 of AFGE’s Proposal 6 is nonnegotiable and section 3 of the Proposal is negotiable; Section 4 of Proposal 8 is negotiable and sections 2,3, and 5 of AFGE’s Proposal 8 are nonnegotiable; Proposal 9 is nonnegotiable; Proposal 10 is negotiable; Section 2 of Proposal 15 is negotiable and section 4 of Proposal 15 is partially negotiable and partially nonnegotiable; and Section 3 and 4(6) of Proposal 16 is nonnegotiable.

Member	In Favor	Opposed	Tabled
Douglas Warshof	X		
Barbara Somson	X		
Mary Anne Gibson	X		

District of Columbia Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee
PERB Case No. 17-A-07

It was moved and seconded that the MPD’s Request is denied, and the matter is dismissed in its entirety with prejudice.

Member	In Favor	Opposed	Tabled
Douglas Warshof	X		
Barbara Somson	X		
Mary Anne Gibson	X		

District of Columbia Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee
PERB Case No. 17-A-09

It was moved and seconded that the MPD's Request is denied, and the matter is dismissed in its entirety with prejudice.

Member	In Favor	Opposed	Tabled
Douglas Warshof	X		
Barbara Somson	X		
Mary Anne Gibson	X		

The meeting was adjourned at 1:07 p.m.

Prepared by: Sheryl V. Harrington, Administrative Assistant