



MINUTES

- I. The regular monthly meeting of PERB was held on February 21, 2018, 11:15 a.m. at PERB headquarters. Chairman Charles Murphy presiding, Board Member Ann Hoffman, Board Member Barbara Somson and Board Member Mary Anne Gibbons were present. Board Member Douglas Warshof was not present.
- I. Staff attendance: Executive Director Clarene Phyllis Martin, Lindsey Maxwell, David McFadden, Merlin George, Alexis Anderson and Najibah Almahdi.
- II. The approval of the January 18, 2018 minutes was postponed until the next board meeting.
- III. Executive Director reported the following:
 - January Case Management Report:
 - Cases Opened: 14
 - Cases settled or withdrawn: 2 for a total of 12 YTD
 - D&O: 8 for a total of 15 YTD
 - Closed: 9 for a total 28 YTD
 - 3 Mediations
 - Last Monday, February 12, 2018, Director Martin and Lindsey Maxwell testified on behalf of the agency at the Council's hearing on PERB's 2017 performance.
 - On Tuesday, February 13, 2018, Second Tuesday at PERB presented training on arbitration including the video "The Art and Science of Labor Arbitration" a documentary produced by the College of Labor and Employment Lawyers, highlighting the challenges and successes of arbitration as it is and was practiced by giants of the profession.
 - Commander Ennis of MPD contacted Director Martin to push back the MPD training to March. In the meantime, he is attempting to assemble his team to meet with her next week regarding the curriculum for a 4-5 hour training session.
 - Director Martin's meeting with the FEMS Chief has been pushed back to March.
 - The agency is moving ahead with its plans to convert to an e-performance plan. Lindsey Maxwell and Director Martin will be trained in March and April to prepare for the October 1, 2018 conversion.

- The agency is also moving ahead with plans to have all archived files and closed files currently held in the PERB office and at a private security facility relocated to the Federal Records Center, the District's archiving center. There is a special process for packing and cataloging the files. On May 9, Najibah, Sheryl and Joyce are scheduled for training at the Center. Thereafter, the agency will arrange to pick-up files held by Iron Mountain. Currently, the agency spends \$2,580 per year to store archived and closed files.
- Announcement: Najibah Almahdi has been selected as PERB's Office Administrator following a DCHR job posting. She will continue in a dual role until her replacement as Program Analyst is selected.
- Announcement: The 67th Annual Conference of the Association of Labor Relations Agencies will be in Boston, Massachusetts from July 21-24. The agency may have funds for Board members to attend.

IV. Public Forum- There was no attendance from the public.

V. Docket:

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

**A. Washington Teachers' Union Local 6 v. DCPS
PERB Case No. 14-U-02**

Before the Board are two Motions for Reconsideration filed by the District of Columbia Public Schools and Washington Teachers Union, Local 6, respectively, in response to the Board's Decision and Order in PERB Case No. 14-U-02, Slip Opinion 1642.

**B. American Federation of Government Employees, Local 3721 v. Department of Fire and Emergency Medical Services
PERB Case No. 17-N-03**

On April 10, 2017, the American Federation of Government Employees, Local 3721 filed the instant Negotiability Appeal concerning two Union proposals declared nonnegotiable by the Department of Fire and Emergency Medical Services ("FEMS"). The Union and FEMS are negotiating a successor collective bargaining agreement on terms and conditions of employment.

**C. American Federation of Government Employees, Local 3721 v. Department of Fire and Emergency Medical Services
PERB Case No. 17-N-05**

On August 18, 2017, the American Federation of Government Employees, Local 3721 ("Union") filed this Negotiability Appeal concerning three Union proposals declared nonnegotiable by FEMS. The Union and FEMS are negotiating a successor collective bargaining agreement on working conditions.

**D. Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee
PERB Case No. 18-A-06**

On December 12, 2017, petitioner Metropolitan Police Department filed this arbitration review request appealing two orders that an arbitrator issued after he issued his initial “Decision & Award.”

**E. Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee
PERB Case No. 18-A-08**

Before the Board are two motions that were filed with an arbitration review request appealing an arbitration award. The two pending motions are a motion to stay the arbitration award and a motion to consolidate this case with an earlier arbitration review request challenging orders the arbitrator previously issued.

**F. American Federation of Government Employees, Local 383, AFL-CIO and Metropolitan District 1199, DC National Union of Home and Healthcare Employees, American Federation of State, County and Municipal Employees, AFL CIO v. Department of Behavioral Health
PERB Case No. 18-CU-01**

On January 26, 2018, the Petitioners filed a Petition for Compensation Unit Determination, in which they requested that the Board declare the bargaining unit a part of Compensation Units 1 and 2. No comments or intervention petitions having been received, the Petition is now before the Board for disposition.

It was 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 v. DCPS
PERB Case No. 14-U-02**

It was moved and seconded and unanimously decided to amend the Order in Slip Opinion 1642 to allow DCPS 60 days to implement the Arbitration Award. The Board also clarified the remedy.

Member	In Favor	Opposed	Table
Charles Murphy	X		
Ann Hoffman	X		
Barbara Somson	X		
Mary Anne Gibbons	X		

American Federation of Government Employees, Local 3721 v. Department of Fire and Emergency Medical Services

PERB Case No. 17-N-03

It was moved and seconded and unanimously decided to table the decision until the next Board meeting to allow for staff revisions.

Member	In Favor	Opposed	Table
Charles Murphy			X
Ann Hoffman			X
Barbara Somson			X
Mary Anne Gibbons			X

American Federation of Government Employees, Local 3721 v. Department of Fire and Emergency Medical Services

PERB Case No. 17-N-05

It was moved and seconded and unanimously decided to the following:

- The Union’s proposal for Article 31, Section A.2 regarding grievance procedures is not properly before the Board because the Union has not presented a proper declaration of nonnegotiability by the Agency.
- The Union’s proposal for Section 3 and 4 of Union’s Performance Evaluation Article is nonnegotiable. A proposal that sets forth the purpose of a Performance Evaluation system or contains criteria for the Agency to consider for Performance Evaluations is nonnegotiable under D.C. Official Code 1-617.08 (a) because it interferes with managements’ right to direct and assign employees and because it is within management’s exclusive right to implement a Performance Evaluation system.
- The Union’s proposal for Article 29, Section 4.D.2 is nonnegotiable in a working conditions agreement. It should be addressed in compensation negotiations.

Member	In Favor	Opposed	Table
Charles Murphy	X		
Ann Hoffman	X		
Barbara Somson	X		
Mary Anne Gibbons	X		

Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee

PERB Case No. 18-A-06

It was moved and seconded and unanimously decided that the instant Arbitration Review Request was filed prematurely, the Board noting that the request was filed before the final arbitration award incorporating Post-Award Order No. 02 and Post-Award Order No. 03 was issued. In view of the foregoing, the instant request is dismissed without prejudice.

Member	In Favor	Opposed	Table
Charles Murphy	X		
Ann Hoffman	X		
Barbara Somson	X		
Mary Anne Gibbons	X		

Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee

PERB Case No. 18-A-08

It was moved and seconded and unanimously decided to do the following:

- Deny as moot the petitioner’s motion to consolidate because the Board has dismissed Case 18-A-06 as premature.
- Deny the petitioner’s motion for an immediate stay of the “Final Partial Award” but the instant case will be expedited for decision.

Member	In Favor	Opposed	Table
Charles Murphy	X		
Ann Hoffman	X		
Barbara Somson	X		
Mary Anne Gibbons	X		

American Federation of Government Employees, Local 383, AFL-CIO and Metropolitan District 1199, DC National Union of Home and Healthcare Employees, American Federation of State, County and Municipal Employees, AFL CIO v. Department of Behavioral Health
PERB Case No. 18-CU-01

It was moved and seconded and unanimously decided to do the following:

- Grant the Petition for Compensation Unit Determination.
- Place the following employees in Compensation Unit 1 and 2:
 All non-professional, non-supervisory employees in the District of Columbia Department of Behavioral Health, excluding management executives, confidential employees, supervisors, non-professional employees of the Construction, Electrical, Mechanical, Preventive Maintenance, Garage and Fabric Care Sections, and any employees engaged in personnel work in other than a purely clerical capacity or employees engaged in administering the provisions of D.C. Law 2-139.

Member	In Favor	Opposed	Table
Charles Murphy	X		
Ann Hoffman	X		
Barbara Somson	X		
Mary Anne Gibbons	X		

The meeting was adjourned at 12:58 p.m.

Prepared by: Najibah Almahdi, Administrative Officer