



MINUTES

- I. The regular monthly meeting of PERB was held on March 27, 2018, 12:15p.m. at PERB headquarters. Chairman Charles Murphy (via conference call), Board Member Ann Hoffman presiding, Board Member Barbara Somson, Board Member Mary Anne Gibbons and Board Member Douglas Warshof were present.
- II. Staff attendance: Executive Director Clarene Phyllis Martin, Lindsey Maxwell, David McFadden, Merlin George, Alexis Anderson and Najibah Almahdi.
- III. January 18, 2018 and February 21, 2018 minutes were approved.
- IV. Executive Director reported the following:
 - February Case Management Report:
 - Administratively Dismissed: 3
 - Cases Settled/Withdrawn: 3
 - Closed by Decision and Order: 3
 - Number of Cases Opened in February: 5
 - Number of Cases Closed in February: 9
 - Total Number of Cases Opened in FY '18: 43
 - Total Number of Cases Open: 52
 - PERB filed a timely 1st quarter report to the Department of Small and Local Business Development. The Agency must meet the goal of \$24,000.00, 50% of the PERB expendable budget, to spend on Small Business Enterprises.
 - On Tuesday, March 13, 2018, Second Tuesdays at PERB presented training on Direct Dealing, Weingarten Rights and who is an official^[u1] union representative.
 - Director Martin attended the Mayor's 1st quarter cabinet meeting. The Mayor presented the FY '19 budget.
 - March 15, 2018, Director Martin attended the Mayor's State of the District Address, held at the University of the District of Columbia.
 - Director Martin met with Agency Fiscal Officer Paul Blake and Councilmember Silverman's representative Michael Ambinder. The purpose of the meeting was to address the Agency budget in preparation for the FY '19 budget hearing. PERB's budget hearing is scheduled for Thursday April 26, 2018. Copies of the budget were distributed to the Board for review.

- In December, a request was submitted to the Mayor’s Office for an annual budget increase of \$65,000.00. A total of \$50,000.00 is for outside Counsel and additional^[u2] hearings and mediations and \$15,000.00 is for DCHR contractual services. The requested funding, approved by the Mayor’s Office, is pending approval from the Council.
- Training for the Metropolitan Police Department has been scheduled for three days in May 2018. Top staff will have the option of choosing one date for the (5) hour training.
- The meeting with Fire and EMS Chief Ennis has been rescheduled to Friday April 6, 2018 to discuss training for the top staff.
- At the request of the Board, Superior Court case 2016 CA 9253 will be discussed at the next Board meeting.
- The Executive Director distributed a copy of the Mayor’s proposed budget for PERB, a list of recent court cases and material on ALRA. She announced that court decisions would be discussed at the next Board meeting.

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

VI. Docket:

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

**A. Washington Teachers’ Union, Local #6 American Federation of Teachers, AFL-CIO v. District of Columbia Public Schools
PERB Case No. 14-U-02**

This case was before the Board at the February 21, 2018 meeting and has been brought back in order to clarify the order for relief. Two Motions for Reconsideration were 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**

This case was tabled at the February 21, 2018 Board meeting. 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, District Council 20, Local 1959 v. Office of the State Superintendent of Education**
PERB Case No. 17-N-04
 American Federation of Government Employees filed this Negotiability Appeal concerning proposals made to the Office of the State Superintendent of Education in the negotiations for both compensation and non-compensation agreements. The proposals are now before the Board for consideration.
- D. **Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department**
PERB Case No. 17-U-26
 On February 14, 2018, the Metropolitan Police Department filed a Motion for Reconsideration of the Board decision in Slip Opinion 1651. The Metropolitan Police Department requests that the Board reconsider and find the filing of the Unfair Labor Practice complaint untimely.
- E. **Fraternal Order of Police/Metropolitan Police Department Labor Committee (on behalf of Kevin Whaley) v. Metropolitan Police Department**
PERB Case No. 18-A-02
 On November 3, 2017, the Fraternal Order of Police filed this Arbitration Review Request seeking review of an arbitration award that set aside the termination of Master Patrol Officer, Kevin Whaley. The union claimed that the award is, on its face, contrary to public policy.
- F. **Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee (On behalf of Lawrence Bailey)**
PERB Case No. 18-A-08
 The petitioner, Metropolitan Police Department, filed this Arbitration Review Request with respect to the second of two arbitration awards issued in the grievance of Officer Lawrence Bailey. The Board disposed of the second Arbitration Review Request and the accompanying procedural motion in this case at last month's meeting. The case is now ready for review on the merits.

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 American Federation of Teachers, AFL-CIO
v. District of Columbia Public Schools**
PERB Case No. 14-U-02

It was moved and seconded and unanimously decided to amend the original order to make the teachers whole, as was ordered by the arbitrator.

Member	In Favor	Opposed	Table
Charles Murphy	X		
Ann Hoffman	X		
Barbara Somson	X		
Mary Anne Gibbons	X		
Douglas Warshof	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 do the following:

The Respondent, Department of Fire and Emergency Medical Services is required to bargain upon request with respect to the proposals of American Federation Government Employees, Local 3721 concerning:

- a. Existing Rights and Benefits; and
- b. Union Initiated Midterm Bargaining

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

American Federation of Government Employees, District Council 20, Local 1959 v. Office of the State Superintendent of Education
PERB Case No. 17-N-04

It was moved and seconded and unanimously decided as follows:

1. The proposals in Articles 12, 17, 23 and 37 are nonnegotiable.
2. The proposals in Articles 5, 22 and 16 as well as the unnumbered article titled: Department of Transportation Physicals are negotiable.
3. The proposals in Articles 8 and 18 are negotiable in part.
4. All specifics will be outlined in the written decision to be issued by this Board

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

Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department
PERB Case No. 17-U-26

It was moved and seconded and unanimously decided that the Motion for Reconsideration is denied. The Board finds that the Agency in its motion for reconsideration has done nothing but expand on its previous argument and failed to provide any authority which compels reversal of our earlier decision.

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

Fraternal Order of Police/Metropolitan Police Department Labor Committee (on behalf of Kevin Whaley) v. Metropolitan Police Department
PERB Case No. 18-A-02

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

1. The Arbitration Review Request is hereby granted.
2. The matter is remanded to Arbitrator Garvin Lee Oliver, with instructions to issue an award consistent with this decision.

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

Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee (on behalf of Lawrence Bailey)
PERB Case No. 18-A-08

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

Grant the Metropolitan Police Department’s Request in part and modify the second award in the following respects:

- a. Paragraphs 3-7 be stricken from the second award
- b. References to post-award nos. 02-03 be stricken from paragraphs 1 and 2
- c. The Arbitrator shall retain jurisdiction under paragraph 13 to determine only the amount of interest on back pay.

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

The meeting was adjourned at 2:10 p.m.

Prepared by: Najibah Almaahdi, Administrative Officer