



Public
Employee
Relations
Board



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May 7, 2015

MINUTES

The regular monthly meeting of PERB was held on April 24, 2015, 11:08 a.m. at PERB headquarters. Chairman Charles Murphy, presiding, and Board members Ann Hoffman, Keith Washington and Donald Wasserman were present. Board Member Yvonne Dixon was absent.

Also in attendance were Executive Director Clarene Martin, Lindsey Maxwell, Erica Balkum, Colby Harmon, David McFadden, and Yvonne Waller.

The minutes of the last meeting were read and approved.

I. Public Forum:

None.

II. Docket:

- A. 14-A-12: District of Columbia Metropolitan Police Department v. Fraternal Order of Police/MPD Labor Committee: Arbitration Review Request. Colby Harmon presented the case to the Board. Issue was whether the arbitrator's application of the Board's interpretation of 6B DCMR §§ 1613.1 and 2 was contrary to law and public policy. Because MPD has not cited any actual "applicable law" that supersedes the Board's and the Court's interpretations of 6B DCMR §§ 1613.1 and 2, or that "mandates that the Arbitrator arrive at a different result", the Board should find that the Award's mitigation of Grievant's termination to 30-day Suspension is not on its face contrary to law. Furthermore, because MPD has likewise not demonstrated that the Award constitutes a violation of an explicit, well defined public policy grounded in law or legal precedent, or that the Award constitutes a violation so significant that public policy "mandates that the arbitrator arrive at a different result", the Board should similarly find that the Award's mitigation of Grievant's penalty is not on its face contrary to public policy. Staff's recommendation is to deny MPD's Request and dismiss this case in its entirety with prejudice. The Board so moved. After discussion, the motion was seconded, carried and adopted.
- B. 15-A-06 – District of Columbia Metropolitan Police Department v. Fraternal Order of Police/MPD Labor Committee: Arbitration Review Request. Colby Harmon presented the case to the Board. Issue was whether the arbitrator's application of the Board's and the D.C. Superior Court's interpretation of 6B DCMR §§ 1613.1 and 2 was contrary to law and public policy. Because MPD has not cited any actual "applicable law" that supersedes the Board's and the Court's interpretations of 6B

- DCMR §§ 1613.1 and 2, or that “mandates that the Arbitrator arrive at a different result”, the Board should find that the Award’s mitigation of Grievant’s termination to an Official Reprimand is not on its face contrary to law. Furthermore, because MPD has likewise not demonstrated that the Award constitutes a violation of an explicit, well defined public policy grounded in law or legal precedent, or that the Award constitutes a violation so significant that public policy “mandates that the arbitrator arrive at a different result”, the Board should similarly find that the Award’s mitigation of Grievant’s penalty is not on its face contrary to public policy. Staff’s recommendation is to deny MPD’s Request and dismiss this case in its entirety with prejudice. The Board so moved. The motion was seconded, carried and adopted.
- C. 15-UM-01/15-CU-02: National Association of Government Employees v. Metropolitan Police Department: Unit Modification/Compensation Unit Petition. Erica Balkum presented the case. Issues are whether the proposed unit is appropriate for non-compensation collective bargaining? Whether the proposed unit involves a question of representation? Whether the proposed unit should be placed in Compensation Unit 1? Staff’s recommendation is to grant both petitions. The Board so moved. The motion was seconded, carried and adopted.
- D. 13-A-09: District of Columbia v. Council for School Officers Local 4 American Federation of School Administrators AFL-CIO: Arbitration Review Request. David McFadden presented the case. The Board tabled this matter until the next Board meeting.
- E. 15-I-06 - District of Columbia Nurses Association and District of Columbia Department of Health: Impasse. Colby Harmon presented the case. The Board tabled this matter until the next Board meeting.
- F. 07-U-40, 08-U-28, 34, 37, 39, 50, 09-U-11 and 09-U-40: Fraternal Order of Police/MPD Labor Committee v. District of Columbia Metropolitan Police Department: Unfair Labor Practice Complaint. Erica Balkum presented the case. The issue is whether FOP met its burden of proof that MPD failed to provide requested information that was relevant and necessary to FOP’s duties as exclusive representative. Staff’s recommendation is to adopt Hearing Examiner’s recommendation, deny FOP and MPD’s Exceptions and to order a posting and order MPD to provide the requested information in redacted form. The Board so moved. After discussion, the motion was seconded, carried and adopted.
- G. 15-CU-03: American Federation of State, County and Municipal Employees, District Council 20 v. District of Columbia Office of Administrative Hearings: Compensation Unit Petition . Erica Balkum presented the case. Issue is whether the unit covers a broad occupational group and whether the unit minimizes the number of pay systems. Staff’s recommendation is to grant the petition. The Board so moved. The motion was seconded, carried and adopted.

H. 12-E-10: American Federation of State, County and Municipal Employees, District Council 20, Local 2921 v. District of Columbia Public Schools: Enforcement (Motion for Reconsideration). Colby Harmon presented the case. DCPS' Motion for Reconsideration of the Board's Decision in Slip Op. No. 1512 is denied.

III. Executive Director's Report

The Executive Director, Clarene Martin reported on the following:

Case Management

The Second Tuesdays at PERB workshop

Budget Hearing of April 20, 2015

IV. Old Business

The Board finished reviewing proposed new rules and voted to adopt them as discussed.

The meeting was adjourned at 12:48 p.m.

Yvonne P. Waller, Administrative Officer