



MINUTES

The regular monthly meeting of PERB was held on Friday, January 29, 2021, at 11:00 a.m. via Webex Meeting Conference. Board Chairperson Douglas Warshof, presiding; Board Member Barbara Somson, Board Member Mary Anne Gibbons, and Board Member Peter Winkler were present.

Staff Attendance: Executive Director Clarene Martin, Attorney Advisor Royale Simms, Attorney Advisor Elizabeth Slover, Administrative Officer Antwanette Murphy, and Senior Staff Assistant Gertie Elam.

The minutes for the December 17, 2020 meeting were adopted.

The Executive Director reported that, to date, there were 46 open and 23 closed cases. Also, PERB has 17 cases in the Court of Appeals and Superior Court. The Second Tuesday's training session was conducted on January 12, 2021, with Mr. Higgins; the topic was The Duty to Bargain: Generally. The Executive Director also reported that Gertie Elam has been designated as the FOIA contact for the agency. It was also reported that Gertie completed a two-day FOIA training that was held via Zoom on January 21, 2021, and January 22, 2021.

DOCKET:

The Executive Director summarized the following matters on the docket for Board consideration:

A. American Federation of Government Employees, AFL-CIO, Local 631 v. District of Columbia Office of Labor Relations and Collective Bargaining, et al.,
PERB Case No. 20-U-23

Summary: This matter involves an unfair labor practice complaint which AFGE, AFL-CIO, Local 631 (Union) brought against OLRCB and various D.C. Government agencies including DPW, DGS, and OCP. The Union alleged violations of D.C. Official Code §§ 1-617.04 (a)(1) and (5), and 1-617.11(a) of the Comprehensive Merit Personnel Act (CMPA) and the parties' Working Conditions Agreement, Article 4. The Complaint asserted that the Agencies illegally refused to negotiate with the Union over changes in working conditions precipitated by the coronavirus pandemic, violated the Union's right as the exclusive representative, and violated the Mayor's Administrative Order on preventing the spread of the coronavirus. In his Report and Recommendations, the Hearing Examiner ordered the District to (1) stop interfering with the bargaining unit employees' exercise of their CMPA rights; (2) bargain with the Union over emergency working conditions changes, to include impact and effects of emergency working conditions changes; (3) reimburse the Union's litigation costs; and (4) post a Notice. The issue before the Board is whether the Hearing Examiner's recommendations are reasonable, supported by the record, and consistent with Board precedent.

B. District of Columbia Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee,
PERB Case No. 21-A-05

Summary: This matter involves a Metropolitan Police Department (MPD) Officer who was terminated after allegedly (1) failing to reschedule a mandatory yearly professional training as ordered by the instructor; (2) leaving a different yearly professional training class to attend to an urgent personal matter without reporting his emergency leave to his unit and without rescheduling that class; and (3) repeatedly ignoring a citizen, failing to complete a police report for her, and lying to a superior about his interaction with that citizen. MPD also based its decision to terminate the Grievant on several prior sustained charges of misconduct, which involved the abuse of alcohol. The Arbitrator found that the Panel's *Douglas* Factors analysis was faulty and lowered the discipline imposed to a 30-day suspension. The issues before the Board are (1) whether the Arbitrator exceeded her authority and (2) whether the Award is contrary to law and public policy.

C. Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee,
PERB Case No. 21-A-02

Summary: In this case, MPD seeks review of an arbitration award that overturned its decision to discipline and terminate a police officer. MPD posits that the award is contrary to law and public policy.

D. American Federation of Government Employees, Local 2978 v. District of Columbia Department of Health,
PERB Case No. 20-U-02 Motion for Reconsideration

Summary: In this case, DOH request reconsideration of the Board Opinion No. 1757. DOH argues that (1) the Board should reconsider its Opinion directing the parties to arbitration because DOH has properly filed for a stay of arbitration with Superior Court and (2) that the Board erred by rendering a decision on the pleadings in Opinion No. 1757.

It was moved and seconded to close the meeting in accordance with D.C. Official Code § 2-575(b)(13). The motion passed unanimously.

Following deliberations, the closed meeting session was reopened. The Board voted as follows:

A. American Federation of Government Employees, AFL-CIO, Local 631 v. District of Columbia Office of Labor Relations and Collective Bargaining, et al.
 PERB Case No. 20-U-23

Motion: It was moved and seconded that the Board adopt the Hearing Examiner’s recommendations and order the District to (1) stop interfering with the bargaining unit employees’ exercise of their CMPA rights; (2) bargain with the Union over emergency working conditions changes, to include impact and effects of emergency working conditions changes; (3) reimburse the Union’s litigation costs; and (4) post a Notice.

Name	In Favor	Opposed	Table
Chairperson Douglas Warshof	X		
Board Member Peter Winkler	X		
Board Member Mary Anne Gibbons	X		
Board Member Barbara Somson	X		

B. District of Columbia Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee
 PERB Case No. 21-A-05

Motion: It was moved and seconded that the Board affirm the Arbitrator’s Award and Order that the Metropolitan Police Department lessen the Grievant penalty to a 30-day suspension, reinstate him, and make him whole for any loss in salary and benefits retroactive to the date that the suspension is fully served.

Name	In Favor	Opposed	Abstain
Chairperson Douglas Warshof	X		
Board Member Peter Winkler	X		
Board Member Mary Anne Gibbons	X		
Board Member Barbara Somson	X		

C. Metropolitan Police Department v. Fraternal Order of Police/Metropolitan Police Department Labor Committee,
 PERB Case No. 21-A-02

Motion: It was moved and seconded that the Board deny the Metropolitan Police Department’s request for review.

Name	In Favor	Opposed	Abstain
Chairperson Douglas Warshof	X		
Board Member Peter Winkler	X		
Board Member Mary Anne Gibbons	X		
Board Member Barbara Somson	X		

D.
E. American Federation of Government Employees, Local 2978 v. District of Columbia Department of Health,
 PERB Case No. 20-U-02 Motion for Reconsideration

Motion: It was moved and seconded that the Board deny the Department of Health’s motion for reconsideration.

Name	In Favor	Opposed	Table
Chairperson Douglas Warshof	X		
Board Member Peter Winkler	X		
Board Member Mary Anne Gibbons	X		
Board Member Barbara Somson	X		

Old Business: There was none.

The Board reviewed the questions and responses of the Performance Oversight that was submitted on January 29, 2021, to the Council.

The Board agreed the next Board meeting would be on Thursday, February 18, 2021.

The meeting was adjourned at 1:00 p.m.