

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia  
Public Employee Relations Board**

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In the Matter of:	)	
	)	
John T. McFarland	)	
	)	
Complainant	)	PERB Case No. 21-U-13 MFR
	)	
v.	)	Opinion No. 1791
	)	
District of Columbia Department	)	
of Consumer and Regulatory Affairs	)	
and District of Columbia Department	)	
of Human Resources	)	
	)	
Respondents	)	
	)	

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**DECISION AND ORDER**

On April 28, 2021, John T. McFarland, *pro se*, (Complainant) filed a Motion for Reconsideration (Motion) seeking the Board’s reconsideration of an administrative dismissal letter (Dismissal) issued by the Executive Director on March 31, 2021, which dismissed Complainant’s Unfair Labor Practice Complaint (Complaint).

Where a party brings a motion for reconsideration of an administrative dismissal, the Board will uphold the Executive Director’s determination, provided it is reasonable and supported by PERB precedent.<sup>1</sup> In the Dismissal, the Executive Director found that Complainant lacked standing to bring his Complaint under D.C. Official Code § 1-617.04(a)(5), which prohibits the District, its agents, and its representatives from “[r]efusing to bargain collectively in good faith with the exclusive representative.” In interpreting this statutory language, the Board has held that “the employer’s obligation to bargain is a duty owed to the exclusive representative. It is therefore the exclusive representative alone and not an individual unit member that has standing to complain of a breach of that duty.”<sup>2</sup>

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<sup>1</sup> See e.g., *FOP Metropolitan Police Department Labor Committee v. D.C. Metropolitan Police Department*, 63 D.C. Reg. 6490, Slip Op. No. 1568, PERB Case No. 09-U-37 (2016) (upholding the Executive Director’s dismissal of a complaint due to untimeliness and failure to state a claim because the dismissal was reasonable and supported by PERB precedent).

<sup>2</sup> *David Russell, et al. v. District of Columbia Department of Human Services*, 36 D.C. Reg. 3639, Slip Op. No. 221 at 2, PERB Case No. 89-U-01 (1989).

The Board finds that the Dismissal in this matter was reasonable and supported by PERB precedent. Therefore, the Motion is denied.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. Complainant's Motion for Reconsideration is hereby denied; and,
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By vote of Board Chairperson Douglas Warshof and Members Barbara Somson and Peter Winkler.

June 17, 2021

**Washington, D.C.**