

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**

_____)	
In the Matter of:)	
)	
Candi Peterson,)	
)	
Complainant,)	PERB Case No. 12-S-01
)	
v.)	Opinion No. 1254
)	
Washington Teachers Union,)	Motion for Reconsideration
)	
Respondents.)	
)	
_____)	

DECISION AND ORDER

I. Statement of the Case

The instant matter stems from a Verified Standards of Conduct Complaint (“Complaint”) filed on December 2, 2011, and a Verified Request for Preliminary Relief (“Request”) filed on December 2, 2011, by Complainant Candi Peterson (“Complainant” or “Peterson”) against the Washington Teachers Union (“Respondent” or “WTU”). The Complaint alleged that Respondent violated the Comprehensive Merit Personnel Act, D.C. Code § 1-617.03(a)(1) when the Executive Board of the WTU conducted an Executive Board meeting without providing Peterson with adequate notice that a disciplinary resolution would be on the agenda and without providing her an opportunity to respond. Complaint at 5.

On December 13, 2011, Respondent filed a Request for Enlargement of Time to Respond to Complainant’s Request. Respondent then filed a Motion to Dismiss and, alternatively, an Answer to Candi Peterson’s Complaint (“Answer”) on December 22, 2011. Respondent also filed an Opposition to Complainant’s Request for Preliminary Relief (“Opposition to Request”) on December 22, 2011. On January 9, 2012, Complainant filed an Opposition to Respondent’s Motion to Dismiss (“Opposition to Motion to Dismiss”). On January 30, 2011, Complainant filed a Reply to Respondent’s Opposition to Complainant’s Request for Preliminary Relief (“Reply”).

On February 4, 2012, the Board issued a Decision and Order dismissing the Complaint as untimely. Slip Op. No. 1242. Because the Complaint was untimely, the Board did not find it necessary to address the subsequent pleadings filed by the parties. Slip Op. No. 1242 at 4.

On February 17, 2012, Complainant filed a Motion for Reconsideration with the Board. The Motion for Reconsideration asserts that the Board's decision to dismiss the Complaint and Request was not based on sufficient evidence and "fails to recognize that every day the union membership is deprived of Ms. Peterson's service as General Vice-President is a Standards of Conduct violation." Candi Peterson's Motion for Reconsideration at 1. The Motion for Reconsideration also claims that the Board's dismissal of the Complaint contradicts United States Supreme Court precedent, as well as that the Board did not consider Complainant's Reply prior to issuing its Decision and Order.¹

On February 28, 2012, Respondent filed a Motion for Enlargement of Time to Respond to Complainant's Motion for Reconsideration, which the Executive Director granted on March 2, 2012. Respondent filed its Opposition to the Complainant's Motion for Reconsideration ("Opposition") on March 9, 2012. In its Opposition, Respondent argued that Peterson did not meet the burden required for the Board to grant a motion for reconsideration, as well as that Peterson's first notice of Respondent's actions against her took place on July 26, 2011. Opposition at 1-4. Further, Respondent states that Complainant's Reply brief was filed without leave from the Board and beyond a reasonable time period for filing additional briefs. *Id.* at 2.

II. Discussion

Reconsideration of Peterson's Complaint is inappropriate because the Complaint was not filed within the required statutory period and is thus outside the Board's jurisdiction. Pursuant to PERB Rule 544.4, a Standards of Conduct Complaint must be filed within "120 days from the date the alleged violation occurred." This deadline is immutable, exemplifying the principle that "the time limits for filing appeals with administrative adjudicative agencies...are mandatory and jurisdictional." *Hoggard v. Dist. of Columbia Public Employee Relations Bd.*, 655 A.2d 320, 323 (D.C. 1995).

When we first considered this case, this Board found that the alleged Standards of Conduct violation occurred on July 26, 2011, when Complainant received a letter from WTU President Nathan Saunders suspending her WTU pay and altering her duties as General Vice-President. Slip Op. No. 1242 at 3. This date places the deadline for filing the Complaint at November 27, 2011. Complainant's December 2, 2011, filing falls five days short of that deadline.

Further, the Board has repeatedly held that "a motion for reconsideration cannot be based upon mere disagreement with its initial decision." *E.g., Univ. of D.C. Faculty Assoc./National Educ. Assoc. v. Univ. of D.C.*, ___ D.C. Reg. ___, Slip Op. No. 1004, *10, PERB Case No. 09-U-26 (Dec. 30, 2009) (citing *AFGE Local 2725 v. D.C. Dep't of Consumer and Regulatory*

¹ Complainant's Reply to Respondent's Opposition to Complainant's Request for Preliminary Relief was filed on January 30, 2012. The Board's Decision and Order was issued on February 4, 2012.

Affairs and Office of Labor Relations and Collective Bargaining, ___ D.C. Reg. ___, Slip Op. No. 969, PERB Case No. 06-U-43 and 02-A-05 (2003). Complainant disagrees with the Board's finding that July 26, 2011 was the date of the alleged violation in this case. Complainant's Motion for Reconsideration provides no authority which compels reversal of the Board's decision in Slip Op. No. 1242. Simple disagreement with the Board's finding on that matter does not merit reconsideration of its Decision and Order.

Because the Board lacks jurisdiction over case filed outside of the 120 day statutory window, no discussion of a reconsideration of Complainant's Verified Request for Preliminary Relief is necessary.²

For the reasons discussed above, the Board denies the Complainant's Motion for Reconsideration.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondents' Motion for Reconsideration is denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

March 28, 2012

² Peterson's Verified Request for Preliminary Relief is also moot. The Executive Board's resolution lifted the restrictions on Peterson's duties after six months, meaning that Peterson was free to resume serving the WTU membership on February 4, 2012. Peterson's Motion for Reconsideration was filed February 17, 2012, at which time Peterson could return to her General Vice-President duties without intervention from the Board.

CERTIFICATE OF SERVICE

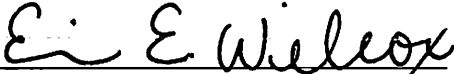
This is to certify that the attached Decision and Order in PERB Case No. 12-S-01 is being transmitted via U.S. Mail and E-Mail to the following parties on this the 28th day of March, 2012.

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