

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

The Council of School Officers, Local 4
American Federation of School Administrators,
AFL-CIO,

Petitioner,

and

The District of Columbia Public Schools,

Respondent.

PERB Case No. 86-A-01
Opinion No. 138

DECISION AND ORDER

On January 8, 1986, pursuant to the authority of D.C. Code, Section 1-618.17(f)(2), the Executive Director of the District of Columbia Public Employee Relations Board (Board) appointed a Compensation Interest Arbitration Panel (Panel) to resolve the deadlocked contract negotiations between the Council of School Officers, Local 4 (CSO) and the District of Columbia Public Schools (DCPS). On February 14, 1986 the Panel rendered its award directing that the last best offer on compensation made by DCPS be included in the parties' collective bargaining agreement covering fiscal years 1985 to 1987. Under the terms of the Panel's Award, CSO bargaining unit members would receive pay increases of 0% in FY 1985, 3.5% in FY 1986, and 4% in FY 1987 with an additional 1.5% increase at the end of FY 1987. The award also includes DCPS contributions to dental and optical plans.

On March 6, 1986, CSO filed an "Arbitration Review Request" with the Board which also contained a motion requesting that the Board delay action on the request while CSO sought a judicial ruling on the Board's jurisdiction to review an Interest Arbitration Award. In its Arbitration Review Request, CSO alleges that the Panel's Award contains three (3) specific procedural defects and seven (7) specific substantive defects. For each alleged defect, CSO contends that the Panel's Award is either contrary to law and public policy or that the Panel's Chairman exceeded his jurisdiction. As a remedy, CSO seeks to have the Panel's Award set aside or modified in favor of CSO.

On April 3, 1986 DCPS filed an "Opposition To Acceptance of Request for Review of Arbitration Award". DCPS contends that the Board does not have the authority, under the D.C. Code, to review interest arbitration awards, and that a Board review would be inconsistent with the statutory mandate (D.C. Code, Section 1-618.17(f)) that the Panel's Award is final and binding. DCPS also argues that the "award is clearly rational and not arbitrary or capricious".

The issue before the Board is whether the Board has the power to review interest arbitration awards.

In Opinion No. 114, issued June 28, 1985, the Board, on first impression, ruled that it has jurisdiction to review interest arbitration awards under D.C. Code, Section 1-605.2. On further consideration of the relevant statutory provisions, and in light of the additional experience acquired since that date, we now reverse that ruling.

The Code expressly provides for the review of grievance arbitration awards pursuant to contractual grievance procedures in D.C. Code, Section 1-605.2(6). There is no such provision for review of interest arbitration awards. ^{1/} This difference in statutory treatment reflects the wholly different nature of the two proceedings: grievance arbitration involves the interpretation and application of an existing contract; interest arbitration, in contrast, is the establishment of a contract for parties who have failed to do so for themselves. Interest arbitration, is thus more akin to a legislative than to a judicial determination.

The D.C. Code, Section 1-618.17(f)(1),(2) and (3) establishes the procedures to be followed when the parties fail or refuse to negotiate agreement on compensation. In each of these three impasse situations the Executive Director is given the ministerial role of appointing an Arbitration Panel. In all three situations the statute expressly states that the award of the Arbitration Panel is "final and binding" on the parties. This clearly precludes Board review. Moreover, review of the award by the Board would be inconsistent with the statutory provision for the expeditious resolution of compensation impasse: the award must be issued within 20 days after the Arbitration Panel is established, and D.C. Code, Section 1-618.17(j) provides that the award shall become effective by its terms unless the Council of the District of Columbia rejects its terms within 60 calendar days of its submission by the Mayor. In short the statute provides no role for Board review.

^{1/} The Board's Interim Rule No. 107.2 upon which the union relies, tracks the standard of review for grievance arbitration awards in D.C. Code, Section 1-605.2(6). This implies that the Board, when promulgating Rules No. 107.1 - 9, contemplated the review of grievance arbitration awards and not interest arbitration awards.

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For the above reasons, the Board concludes that it does not have jurisdiction to review compensation interest arbitration awards.

O R D E R

IT IS ORDERED THAT:

1. The Motion to hold the matter in abeyance is denied.
2. The Request for Review of the Compensation Interest Arbitration Award is denied.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

April 11, 1986