Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
Local 36, International Association of Fire Fighters, AFL-CIO	
Petitioner	PERB Case No. 24-N-14
	Opinion No. 1923
v.	**Motion for Reconsideration**
District of Columbia Department of Fire and Emergency Medical Services	
Respondent	

DECISION AND ORDER

I. Statement of the Case

On April 14, 2025, the District of Columbia Fire and Emergency Medical Services Department (Agency) filed a Motion for Reconsideration (Motion) of Opinion No. 1910. The Agency requests that the Board reconsider its decision finding Article 6 of the parties' collective bargaining agreement (CBA) to be negotiable. Local 36, International Association of Fire Fighters, AFL-CIO (Union) filed an Opposition to the Motion.

For the reasons discussed herein, the Motion for Reconsideration is denied.

II. Background

In Opinion No. 1910, the Board considered the negotiability of Article 6 of the parties' CBA, which is set forth below:[1]

ARTICLE 6

[1] *IAFF, Local 36 v. FEMS*, 72 D.C. Reg., Slip Op. No. 1910 at 2-3, PERB Case No. 24-N-14 (2025).

EXISTING RIGHTS AND BENEFITS

All terms and conditions of employment not covered by the terms of this Agreement shall continue to be subject to the Employer's direction and control; provided, however, that if the Employer desires to institute a change that impacts upon a term(s) or condition(s) of employment of the entire bargaining unit or any group of employees, the following procedure shall apply:

(1) The Employer shall provide the Union advance notice if possible;

(2) Upon request of the Union, the parties shall promptly negotiate about the impact of such change;

(3) If the parties reach impasse, the parties may jointly request the assistance of a third-party to resolve the impasse, through mediation, fact-finding or other mutually agreeable process. Either party may invoke "last best offer" item by item interest arbitration within a reasonable period after reaching impasse.

(4) Should an arbitrator's award issue pursuant to the terms of this Article, the arbitrator's award shall be final and binding on both parties, and, at the arbitrator's direction, may be retroactive.

The Agency argued that subparagraphs (3) and (4) of Article 6, creating a third-party impasse resolution procedure for impacts and effects bargaining over terms and conditions of employment, contained "vague and amorphous" language that directly interfered with management's exclusive right to direct and assign work pursuant to Section 1-617.08(a)(1) and (2).[2] The Board rejected the Agency's argument in Opinion No. 1910, finding that the third-party impasse provisions over mandatory terms and conditions of employment are not proscribed by management rights and do not curtail management's right to make changes.[3] Therefore, the Board found Article 6 negotiable.[4]

III. Discussion

The Board has established that the standard for a motion for reconsideration is clear legal error.[5] The Board will deny a motion for reconsideration which is based on mere disagreement with the underlying decision, or which does not provide a statutory basis for reversal.[6]

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[2] *Id.* at 3.
[3] *Id*. at 4-5.
[4] *Id*. at 5.
[5] *FOP/DOC Labor Comm. v. MPD*, 59 D.C. Reg. 7165, Slip Op. No. 1233 at 4, PERB Case No. 11-E-01 (2012).
[6] *FOP/DOC Labor Comm. v. BEGA*, 62 D.C. Reg. 14628, Slip Op. No. 1538 at 2, PERB Case No. 13-U-35 (2015) (citing *AFGE, Local 1000 v. DOES*, 61 D.C. Reg. 9776, Slip Op. No. 1486, PEB Case No. 13-U-15 (2014)).

The Agency asserts that Opinion No. 1910 should be reversed because the Board "did not address the crux of the Agency's argument," that "subparagraphs 3 and 4 of Article 6 contain language of a vague and overly broad nature that unduly interferes with the exercise of management rights."[7] This assertion lacks merit. The Board directly considered and rejected the Agency's argument in Opinion No. 1910.[8]

The Agency reasserts that Article 6 "does not limit or specify which matters can be taken to arbitration," which would allow "matters like management's right to evaluate employees, to conduct candidate rating panels, and the implementation of a performance management system, for example, to be taken to arbitration."[9] The Board found in Opinion No. 1910 that Article 6 allows for arbitration over mandatory terms and conditions of employment, but not over management rights.[10] The Board noted that any interpretation of Article 6 that would encroach upon management rights would be non-negotiable.[11]

The Agency's Motion is based on mere disagreement with the Board's underlying decision and does not provide a basis for reversal. Therefore, the Motion for Reconsideration is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Motion for Reconsideration is 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 Mary Anne Gibbons, and Peter Winkler.

July 17, 2025

Washington, D.C.

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[7] Motion at 3-4.
[8] *IAFF, Local 36*, Slip Op. No. 1910 at 3-5.
[9] Motion at 5.
[10] *IAFF, Local 36*, Slip Op. No. 1910 at 5.
[11] *Id*. at 4.

APPEAL RIGHTS

A final decision by the Board may be appealed to the District of Columbia Superior Court pursuant to D.C. Official Code §§ 1-605.2(12) and 1-617.13(c), which provides 30 days after a decision is issued to file an appeal.