

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 formal 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:	)	
	)	
Doctors' Council of the	)	
District of Columbia General	)	
Hospital,	)	
	)	PERB Case No. 00-U-29
Complainant,	)	Opinion No. 641
	)	
v.	)	
	)	
District of Columbia	)	
Health and Hospitals Public	)	
Benefit Corporation,	)	
	)	
Respondent.	)	

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**DECISION AND ORDER ON REQUEST FOR PARTIAL SUMMARY JUDGEMENT  
AND/OR SUMMARY JUDGEMENT ON THE PLEADINGS AND A DETERMINATION OF  
COSTS**

On May 11, 2000, the Doctors' Council for the District of Columbia General Hospital, (DCGH) filed an Unfair Labor Practice Complaint, in the above referenced case. The Complaint asserts that the District of Columbia Health and Hospitals Public Benefit Corporation (PBC) violated D.C. Code Sec. 1-618.4(a)(1) and (5) by: (1) bypassing the Union and dealing directly with bargaining unit members to offer them positions at an increase compensation, (2) unilaterally reclassifying bargaining unit positions to non-bargaining unit positions, (3) unilaterally removing bargaining unit work from the bargaining unit; and (4) failing to provide the Complainant with requested information that was necessary and relevant to the Complainant's role as the exclusive bargaining representative.

Specifically, the Complaint alleges that on January 11, 2000,

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**PERB Case 00-U-29**

**Page 2**

DCDC submitted a letter to the PBC requesting: (1) a list of all employees in the bargaining unit with whom the PBC entered into an agreement to work in a non-bargaining unit position, (2) a copy of that agreement; (3) a copy of a current job description of those employees who entered into the agreement; and (4) the name of the PBC representative(s) who communicated the offer to the bargaining unit member. The Complaint further claims that the union made a subsequent request for the same information. However, as of May 11, 2000 the union had not been provided with the requested information.

The PBC admits that on January 11, 2000, the Complainant made a written request for information. In addition, the PBC acknowledged that the Complainant made a subsequent request for the same information. Finally, the PBC concedes that as of the date the Complaint was filed (May 11, 2000), the PBC had failed to provide the Complainant with the requested information. In view of the above, DCGH filed a motion requesting summary judgement and costs.

The PBC opposes the Motion for Summary Judgement by arguing that the requested information was provided to the Complainant on July 24, 2000.

DCGH's motion is before the Board for disposition. In this case the material facts are undisputed by the parties. Specifically, the PBC acknowledges that the union made at least two requests for information and that it failed to comply with those requests. As a result, disposition of this case presents only a question of law. Therefore, pursuant to Board Rule 520.10, this motion can appropriately be decided on the pleadings.

We have previously held that an agency's failure to provide requested information in a timely manner, constitutes a violation of D.C. Code Sec. 1-618.4 (a)(1) and (5). Doctors Council of DCGH v. DCGH, Slip Op. No. 482, PERB Case Nos. 95-U-10, 95-U-18 (1996). In this case, it is clear that the PBC did not comply with the union's requests until DCGH filed a motion for summary judgement (six months later).

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**PERB Case 00-U-29**  
**Page 3**

Under the facts of this case, we find that the PBC's failure to provide the union with the requested information in a timely manner, constitutes a violation of the Comprehensive Merit Personnel Act. Therefore, we grant the Complainant's request for summary judgement concerning the PBC's failure to provide information. However, the remaining allegations shall be forwarded to a Hearing Examiner for disposition.

Also, in its motion for summary judgement, the union has requested that costs be awarded. We conclude that the interest of justice criteria articulated in AFSCME, D.C. Council 20, Local 2776 v. D.C. Dept. of Finance and Revenue, 73 DCR 5658, Slip Op. No. 245, PERB Case No. 98-U-02 (1990), has been established by the Complainant. Therefore, we grant the Complainant's request for costs with respect to the Motion for Summary Judgement.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Complainant's motion for Summary Judgement and/or Partial Summary Judgement on the Pleadings is granted.
2. The District of Columbia Health and Hospitals Public Benefit Corporation (PBC), shall cease and desist from violating D.C. Code Sec. 1-618.4(a) (1) and (5) by refusing to bargain in good faith by failing to provide information in a timely manner to the Doctors' Council of the District of Columbia General Hospital (DCGH).
3. The PBC shall, within ten (10) days from service of this Decision and Order post for thirty (30) consecutive days the attached Notice. The Notice must be dated and signed, and posted conspicuously on all bulletin boards where notices to bargaining-unit employees are customarily posted.
4. The Complainant shall submit to the Board, within fourteen (14) days from the date of this Decision and Order, a statement of the costs sought from PBC together with supporting documentation. The PBC may file a response to the statement within fourteen (14) days from service of the statement upon it.

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5. PBC shall pay to Complainant its reasonable expenses incurred in this proceeding within ten (10) days from the determination by the Board as to the amount of those reasonable costs.

6. The remaining allegations shall be forwarded for a hearing.

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

Washington, D.C.

October 5, 2000

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 00-U-29 was transmitted via Fax and U.S. Mail to the following parties on this 11<sup>th</sup> day of October, 2000.

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Public Benefit Corporation  
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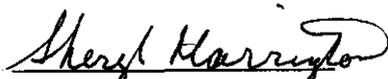
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Sheryl Harrington  
Secretary

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**ORDER**

**IT IS HEREBY ORDERED THAT:**

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Washington, D.C.

October 5, 2000

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PERB Case No. 00-U-29  
Page 2

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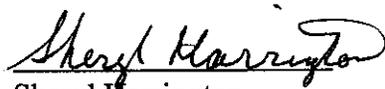
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Sheryl Harrington  
Secretary

# NOTICE

**TO ALL EMPLOYEES OF THE DISTRICT OF COLUMBIA HEALTH AND HOSPITALS PUBLIC BENEFIT CORPORATION (PBC), THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 641, PERB CASE NO. 00-U-29 (OCTOBER 5, 2000)**

**WE HEREBY NOTIFY** our employees that the District of Columbia Public Employee Relations Board has found that we violated the law and has ordered us to post this notice.

**WE WILL** cease and desist from refusing to bargain in good faith with the Doctor's Council of the District of Columbia General Hospital concerning information requested in conjunction with the administration of the parties' collective bargaining agreement.

District of Columbia Health and  
Hospitals Public Benefit Corporation

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Director

**This notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.**

If employees have any questions concerning the Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, whose address is: 717 14<sup>th</sup> Street, N.W., 11<sup>th</sup> Floor, Washington, D.C. 20005. Phone number: (202) 727-1822.

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



Public  
Employee  
Relations  
Board

Government of the  
District of Columbia



717 14<sup>th</sup> Street, NW, Suite 1150  
Washington, D.C. 20005

[202] 727-1822/23  
Fax: [202] 727-9116

# NOTICE

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