

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD**

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|                                  |   |                       |
|----------------------------------|---|-----------------------|
| In the Matter of:                | ) |                       |
|                                  | ) |                       |
| INTERNATIONAL ASSOCIATION OF     | ) |                       |
| FIREFIGHTERS, LOCAL 36,          | ) | PERB Case No. 04-N-02 |
|                                  | ) |                       |
| Petitioner,                      | ) | Opinion No. 754       |
|                                  | ) | (Withdrawal Request)  |
|                                  | ) |                       |
|                                  | ) |                       |
|                                  | ) |                       |
| v.                               | ) |                       |
|                                  | ) |                       |
| DISTRICT OF COLUMBIA             | ) |                       |
| DEPARTMENT OF FIRE AND EMERGENCY | ) |                       |
| MEDICAL SERVICES,                | ) |                       |
|                                  | ) |                       |
| Respondent.                      | ) |                       |
|                                  | ) |                       |

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**DECISION AND ORDER**

This case involves a Negotiability Appeal (Appeal) filed by the International Association of Firefighters, Local 36<sup>1</sup> ("IAFF" or "Union") against the District of Columbia Department of Fire and Emergency Medical Services ("FEMS" or "Agency"). This Appeal concerns the negotiability of the Union's proposal concerning the composition of the Agency's Disciplinary Trial Board<sup>2</sup>, a non-compensation matter.<sup>3</sup>

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<sup>1</sup>The International Association of Firefighters, Local 36 represents all uniformed members of the Fire and Emergency Services Department in the ranks of Firefighter through Captain.

<sup>2</sup>The Disciplinary Trial Board is currently established through a Memorandum of Understanding between the parties that was executed in 1988. Under the Agreement, the Trial Board consists of two bargaining unit captains and a battalion chief, all chosen by the current Fire Chief.

<sup>3</sup>At the time of the filing, IAFF and FEMS were engaged in negotiations for new collective bargaining agreements, one covering non-compensation and the other covering compensation matters.

On March 2, 2004, the Board issued a Decision and Order (Opinion No. 742) requesting that the parties brief a precise and narrowly tailored issue in order to assist the Board in determining whether the proposal<sup>4</sup> was negotiable.<sup>5</sup> Neither party filed a brief within the prescribed time period ordered by the Board<sup>6</sup>

Subsequently, on March 24, 2004, the International Association of Firefighters submitted to the Board a written request to withdraw its Negotiability Appeal because the matter was now *moot*. IAFF's letter also indicated that the proposal at issue had been withdrawn and that the parties had reached an agreement concerning the matter, subject to the approval of the Council of the District of Columbia.

It has been the Board's policy to encourage settlements between parties. Furthermore, the Board has not issued a final decision in this matter. Therefore, consistent with the reasons noted in IAFF's letter, this matter is withdrawn. As a result, this case is closed and the Board will take no further action in this matter.

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<sup>4</sup>Under the challenged provision of IAFF's proposal, Article 44-"Disciplinary Procedures", the Fire Chief would select a Trial Board composed of one uniformed officer and two captains.

<sup>5</sup> In Opinion No. 742, the Board asked that the parties brief the narrowly tailored issue that follows:

In light of the parties' past practice concerning Disciplinary Trial Boards and the Board's precedent *that* procedural matters concerning discipline are negotiable, should this proposal be treated as non-negotiable? We are asking that you cite specific authority to support your position and explain your position on this issue thoroughly.

<sup>6</sup>The parties were to submit briefs within seven (7) days from the service of the Opinion.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Negotiability Appeal in PERB Case No. 04-N-02 is hereby withdrawn; the case is closed, and the Board will take no further action concerning this matter.
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.

May 26, 2004

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 04-N-02 was transmitted via Fax and U.S. Mail to the following parties on this the 26<sup>th</sup> day of May 2004.

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