

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

Doctor's Council of the District of
Columbia General Hospital,

Petitioner,

and

The District of Columbia General
Hospital,

Agency.

Supplemental Order
PERB Case No. 86-N-01
Opinion No. 160

SUPPLEMENTAL DECISION AND ORDER

This Decision and Order supplements the Decision and Order issued by the Public Employee Relations Board (Board) in the above-captioned matter (Opinion No. 147) and specifically addresses a Motion to dismiss the Negotiability Appeal and the response thereto.

On April 2, 1987, the Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of the District of Columbia General Hospital (DCGH), filed an "Agency Motion to Dismiss Negotiability Appeal" with the Public Employee Relations Board (Board). In requesting that the Board dismiss the Negotiability Appeal, OLRCB contends that the issues raised in the appeal are now moot by virtue of the parties' negotiations having concluded by an Arbitration Award issued on March 9, 1987.^{1/} Therefore, according to OLRCB, "it is unnecessary for the Board to decide whether the subject matters of the appeal in this case are mandatory, permissive or illegal subjects for bargaining."

OLRCB also urges that since the Board did not act to resolve the issues raised in the appeal prior to the conclusion of the interest arbitration proceedings, the Board's ruling in this matter would in effect constitute an advisory opinion. In the absence of any statutory provision or Board Rule authorizing the issuance by the Board of advisory opinions, OLRCB urges that the

^{1/} PERB Case No. 87-I-01: Pursuant to Board Rule 104.16, the Board decided to resolve a negotiation impasse through arbitration. The arbitration award, however, is not subject to the Board's jurisdiction.

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Board defer to the rulings of the Arbitration Award.

The Doctor's Council of D.C. General Hospital (Council or Union) filed an Opposition to the Motion to Dismiss contending that deferral by the Board to the Arbitration Award is inappropriate as the Award did not address or decide the legal issues. Moreover, the Council argues that the issues presented by the Negotiability Appeal are capable of repetition in future negotiations.

The Board has reviewed and considered the parties' respective pleadings and concludes that the motion to dismiss the Negotiability Appeal must be denied.

Contrary to OLRCB's assertions that the Board had not acted in deciding the issues of the negotiability appeal prior to issuance of the arbitration award, the Board had in fact convened on August 6, and August 25, 1986 and unanimously concluded to sustain the appeal on the grounds that the disputed matters are mandatory subjects of bargaining. Due to the delays attendant to changes in the Board's staff personnel, including the position of Executive Director, the formal decision was not issued prior to the conclusion of the parties' negotiations and the interest arbitration.

Thus, the issue was not moot when decided. There is no occasion for the Board to address the parties' contentions regarding the question of deferral to the Arbitration Award.

Accordingly, the Motion to Dismiss is hereby denied.

O R D E R

IT IS ORDERED THAT:

The Motion to Dismiss the Negotiability Appeal is denied.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
May 7, 1987