

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

University of the
District of Columbia,

Petitioner,

and

University of the
District of Columbia
Faculty Association/NEA,

Respondent.

PERB Case No. 90-A-05
Opinion No. 260

ORDER

On February 26, 1990, the University of the District of Columbia (UDC) filed in the above-captioned matter an Arbitration Review Request, seeking review by the Public Employee Relations Board (Board) of an Arbitration Award rendered pursuant to a negotiated grievance-arbitration procedure. By Answer filed on March 30, 1990, the University of the District of Columbia Faculty Association/NEA (UDCFA) asserted that no statutory basis exists for the Board's review of the Award.

Prior to UDC's filing of the Arbitration Review Request with the Board, UDCFA had requested Clarification of the Award by the Arbitrator. Despite UDC's opposition to this request and the Arbitrator's initial reluctance, UDCFA's request was granted.

In response to the Arbitrator's having granted the Union's request for clarification with respect to an award of interest, UDC filed with the Board on July 17, 1990, a "Motion to Vacate the Arbitrator's Reopening of the Award." The Motion requests that the Board vacate the Arbitrator's decision to reopen the proceedings before him in order to consider an award of interest. Arguing that the Arbitrator is without jurisdiction or authority to reopen the record because of the Arbitration Review Request pending before the Board, UDC cites D.C. Code Section 1-605.2, which grants exclusive authority to the Board to review grievance-arbitration awards involving District Government employees. UDC contends that in this respect, Section 1-605.2 supercedes D.C. Code Section 16-4312, which authorizes an arbitrator to change an award where there is "an evident miscalculation of figures... description of any person, thing or property referred to in the award...or [t]he award is imperfect

in a matter of form, not affecting the merits of the controversy." UDC urges that even if the Board finds that the Arbitrator has authority to change the award, the Board "order a stay of further arbitration proceedings pending a ruling in the Arbitration Review Request." (Memorandum in support of Motion p. 4).

UDCFA opposes UDC's Motion, asserting that "neither the D.C. Code nor the PERB's rules authorize PERB to intervene in an arbitration prior to the issuance of an arbitral award. (Opposition P. 5, emphasis in the original) We agree and hereby deny UDC's Motion.

In short, we find no statutory predicate for the action UDC's requests that we take in response to the Arbitrator's decision to reopen the arbitration. Whatever the merit of UDC's claim that an arbitrator's authority to change his award pursuant to D.C. Code Section 16-4312 is preempted by a review request before the Board under the provisions of D.C. Code Section 1-605.2, we conclude that the governing statutory provisions expressly limit the Board's authority with respect to such arbitrations to review of an arbitration award upon narrowly drawn jurisdictional bases. These provisions do not give the Board authority to intervene prior to, or in the absence of, a final award.

Since the Arbitrator has reopened the proceedings, his previous award is not final. We therefore will take no action on UDC's review request unless and until the request is renewed after the arbitration proceedings have concluded.

ORDER

IT IS HEREBY ORDERED THAT:

- 1) UDC's Motion to vacate the Arbitrator's decision is denied for lack of Board jurisdiction to review anything other than the final award resulting from a grievance-arbitration proceeding; and
- 2) The Arbitration Review Request filed by UDC in this matter is dismissed without prejudice to its renewal when a final arbitration award is issued.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

October 18, 1990