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**Government of the District of Columbia  
Public Employee Relations Board**

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In the Matter of:	)	
	)	
American Federation of	)	
Government Employees,	)	
Local 631	)	
	)	PERB Case No. 18-U-17
Complainant	)	
	)	Opinion No. 1665
v.	)	
	)	
District of Columbia Water and	)	
Sewer Authority	)	
	)	
Respondent	)	

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**DECISION AND ORDER**

**I. Introduction**

On January 24, 2018, the American Federation of Government Employees, Local 631 (“Local 631”), part of Compensation Unit 31, filed the instant unfair labor practice complaint (“Complaint”) along with a request for preliminary relief against the Water and Sewer Authority (“WASA”). The Complaint alleges that WASA violated section 1-617.04(a)(1) and (5) of the D.C. Official Code by refusing to engage in separate negotiations with Local 631 over the impact and effects of a performance management system covered by the recently negotiated compensation agreement. In an answer filed on March 7, 2018, WASA denies that it committed unfair labor practices and moves to dismiss the Complaint.

After reviewing the record, the Board finds that the material facts in this matter are not disputed. Accordingly, the Board finds that it can properly decide this matter based upon the pleadings pursuant to Board Rule 520.10. For reasons stated herein, the Board finds that the Complaint has not alleged violations of the Comprehensive Merit Personnel Act (“CMPA”). Therefore, the Complaint is dismissed.

## II. Statement of the Case

Compensation Unit 31 encompasses WASA employees represented by five separate locals, including the Complainant, Local 631.<sup>1</sup> In or around July 2016, WASA and Compensation Unit 31 commenced bargaining a new Master Agreement on Compensation.<sup>2</sup> Ultimately, an agreement was reached providing for the implementation of a new performance management system, effective April 1, 2018.<sup>3</sup>

On December 18, 2017, WASA emailed all Compensation Unit 31 locals offering dates for joint impact and effects bargaining on the performance management system.<sup>4</sup> On December 19, 2017, Local 631 declined joint negotiations with Compensation Unit 31, citing its separate working conditions agreement with WASA. Local 631 proposed its own dates for separate negotiations on the performance management system.<sup>5</sup> On January 4, 2018, in an email to Local 631 and other locals, WASA asserted that the performance evaluation system was a compensation matter and that it would bargain over the impact and effects of the performance evaluation system with Compensation Unit 31 as a whole.<sup>6</sup> Local 631 replied the next day, referencing a July 25, 2016 letter, in which WASA then asserted that the performance evaluation system was a working conditions issue.<sup>7</sup>

On January 10, 2018, WASA reiterated that it would only bargain with Compensation Unit 31 as a whole.<sup>8</sup> Thereafter, in a January 11, 2018 letter, Local 631 accused WASA of engaging in unfair labor practices by unilaterally scheduling negotiations with the joint Compensation Unit 31; engaging in bad faith bargaining by asserting that the negotiation of the performance management system was a compensation matter and interfering with Local 631's right as the exclusive representative of its members.<sup>9</sup>

On January 24, 2018, Local 631 filed the instant Complaint and request for preliminary relief. WASA's response denies that it has engaged in any intentional acts constituting an unfair labor practice.<sup>10</sup> WASA argues that the Complaint "contains insufficient facts and/or evidence to substantiate Local 631's claim that [WASA] has violated [D.C. Official Code §§ 1-617.04(a)(1) and (5)]."<sup>11</sup> WASA asserts that the performance evaluation system is not a working conditions issue and that Local 631 improperly seeks to resurrect claims and issues that were

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<sup>1</sup> Complaint at 3; Answer at 2.

<sup>2</sup> Complaint at 3; Answer at 2.

<sup>3</sup> Complaint at 3; Answer at 2.

<sup>4</sup> Answer at 3; Complaint Exhibit 2.

<sup>5</sup> Complaint at 3; Complaint Exhibit 2; Answer at 3.

<sup>6</sup> Complaint at 3; Complaint Exhibit 3; Answer at 3.

<sup>7</sup> Complaint at 3; Complaint Exhibit 4; Answer at 3.

<sup>8</sup> Complaint at 4; Answer at 3.

<sup>9</sup> Complaint at 4; Complaint Exhibit 6; Answer at 4.

<sup>10</sup> Answer at 5.

<sup>11</sup> Answer at 5.

previously adjudicated in Slip Opinion 1624, PERB Case No. 16-N-02<sup>12</sup> wherein the Board determined that Compensation Unit 31's proposal to negotiate a performance evaluation system was nonnegotiable because performance evaluation is a management right.<sup>13</sup> Moreover, WASA states that it has engaged in good faith efforts in conducting impact and effects bargaining with Local 631, including a meeting with Local 631 representatives on March 7, 2018.<sup>14</sup>

### III. Analysis

Agencies do not have an obligation to bargain separately with a single local union within an authorized compensation unit on compensation matters affecting the employees in the compensation unit.<sup>15</sup> Rather, that obligation extends to all of the labor organizations encompassed in the compensation unit.<sup>16</sup>

In its Complaint, Local 631 alleges that the performance evaluation system is a "working conditions issue" and, therefore, WASA is obligated to bargain over the impact and effects of implementation separately from the other locals. For support, Local 631 points to a July 25, 2016 letter sent by WASA in which, Local 631 asserts, WASA informed Compensation Unit 31 that the performance evaluation system was a working conditions issue. Notwithstanding WASA's July 25, 2016 position, the record clearly shows that the performance evaluation system was part of the contract negotiations with Compensation Unit 31;<sup>17</sup> is a provision of the Master Agreement on Compensation between Compensation Unit 31 and WASA;<sup>18</sup> and during negotiations Compensation Unit 31 asserted that its proposal was "inextricably intertwined" with compensation.<sup>19</sup> It is further noted that the performance evaluation system is not part of the Local 631 and WASA Working Conditions Agreement.<sup>20</sup>

### IV. Conclusion

Considering the aforementioned, WASA is under no obligation to engage in separate compensation bargaining with Local 631, independent from Compensation Unit 31. Accordingly, the Board finds that WASA did not commit an unfair labor practice or otherwise violate 1-617.04(a)(1) and (5) of the D.C. Official Code when it refused Local 631's bargaining request. Therefore, the Complaint is dismissed with prejudice.

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<sup>12</sup> *Compensation Unit 31 v. Water and Sewer Auth.*, 64 D.C. Reg. 9287, Slip Op. No. 1624, PERB Case No. 16-N-02 (2017).

<sup>13</sup> Answer at 5.

<sup>14</sup> Answer at 5.

<sup>15</sup> *See AFSCME, Dist. Council 20 v. D.C. Gov't*, 35 D.C. Reg. 5175, Slip Op. No. 185 at 3, PERB Case No. 88-U-23 (1988).

<sup>16</sup> *Id.*

<sup>17</sup> Complaint at 3; Answer at 2; *Compensation Unit 31*, Slip Op. No. 1624.

<sup>18</sup> Complaint at 3; Answer at 2.

<sup>19</sup> *Compensation Unit 31*, Slip Op. No. 1624 at 3.

<sup>20</sup> Complaint Exhibit 1.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. Local 631's Complaint and request for preliminary relief are dismissed with prejudice;  
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 unanimous vote of Board Chairperson Charles Murphy and Board Members Mary Anne Gibbons, Ann Hoffman, Barbara Somson, and Douglas Warshof.

April 26, 2018

Washington, D.C.

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 18-U-17, Op. No. 1665 was sent by File and ServeXpress to the following parties on this the 7th day of May, 2018.

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/s/ Alexis Anderson

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