

Notice: This decision may be formally revised within thirty days of issuance before it is published in the District of Columbia Register. Parties should promptly notify this office of any 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**

_____	)	
In the Matter of:	)	
	)	
Washington Teachers Union	)	
	)	
Complainant	)	
	)	PERB Case No. 24-U-19
v.	)	
	)	Opinion No. 1931
District of Columbia Public Schools	)	
	)	Motion for Costs
Respondent	)	
_____	)	

DECISION AND ORDER

I. Statement of the Case

On July 14, 2025, the Washington Teachers' Union (WTU) filed a Brief explaining its request for costs, consistent with the Board's Order in Opinion No. 1920. The District of Columbia Public Schools (DCPS) filed a Brief in Opposition to the request for costs.

For the reasons discussed herein, the Request for Costs is denied.

In its Brief, WTU seeks \$3,555.24 in costs that were incurred by WTU in this proceeding. WTU argues that the Board Decision supports a finding that DCPS lacked any meritorious basis for refusing to bargain with the Union and lacked a credible defense to the unfair labor practice charge in the instant proceeding.¹ Additionally, WTU asserts that the refusal to negotiate had the effect of undermining the union by delaying final agreement.²

DCPS argues that the Hearing Examiner made, and the Board adopted several findings in favor of DCPS, resulting in a mix of wins and losses for both parties.³ Specifically, the Hearing

¹ WTU Br. at 2-3

² *Id.*

³ DCPS Br. at 2.

Examiner (and the Board) found that DCPS did not engage in “surface bargaining,” and did not find that the informal negotiation sessions were indicia of a failure to bargain in good faith.⁴ The Hearing Examiner found no evidence that DCPS was attempting to delay reaching the final terms of the successor CBA.⁵ DCPS filed an objection to the Motion seeking that the Board refuse to award any costs in the matter, or, in the alternative, to award costs of at most \$1,497.77.⁶

The Board has established that an award costs must be in the interest of justice, and articulated that such an award may be found in circumstances in which the losing party’s claim or position was wholly without merit, or in which the successfully challenged action was undertaken in bad faith, and or in which a reasonably foreseeable result of the successfully challenged conduct is the undermining of the union among employees for whom it is the exclusive representative.”⁷

The interest-of-justice criteria would not be served by granting WTU’s request for costs in the present case. Specifically, the Hearing Examiner did not find that DCPS engaged in bad faith bargaining. Although WTU was successful in a significant part of the case, the rulings of the Hearing Examiner are mixed.⁸ Therefore, it cannot be said that DCPS’s position was wholly without merit. As a result, the Board does not find that the interest-of-justice test has been met in this case.

ORDER

IT IS HEREBY ORDERED THAT:

1. WTU’s Motion for Costs is hereby denied; 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 vote of Board Chairperson Douglas Warshof and Members Renee Bowser, Mary Anne Gibbons and Peter Winkler

October 16, 2025

Washington, D.C.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 6.

⁷ *Cunningham v. FOP/MPD Labor Comm.*, 50 D.C. Reg. 2403, Slip Op. No. 693 at 2, PERB Case Nos. 01-U-04 & 01-S-01 (2003) (citing *AFSCME, Local 2776 v. D.C. Dept. of Finance and Revenue*, 37 D.C. Reg. 5658, Slip Op. No. 245, PERB Case No. 89-U-02 (1990)).

⁸ *WTU v. DCPS*, Slip Op. No. 1920 at 7, PERB Case No. 24-U-19 (2025) (holding that the Hearing Examiner did not find DCPS’ conduct constituted a refusal to bargain in good faith and that there was no evidence that DCPS was attempting to delay reaching the final terms of the successor term CBA.).

