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

In the Matter of:)	
)	
American Federation of)	
Government Employees,)	
Local 631)	
)	PERB Case No. 18-U-17
Complainant)	
)	Opinion No. 1680
v.)	Motion for Reconsideration
)	
District of Columbia Water and)	
Sewer Authority)	
)	
Respondent)	

DECISION AND ORDER

I. Introduction

Before the Board is a Motion for Reconsideration (“Motion”) filed by the American Federation of Government Employees, Local 631 (“Local 631”), in response to the Board’s Decision and Order in Slip Opinion 1665, PERB Case No. 18-U-17 (May 7, 2018). In that decision, the Board dismissed Local 631’s allegations that District of Columbia Water and Sewer Authority (“WASA”) committed unfair labor practices by refusing to engage in separate negotiations with Local 631 over the impact and effects of a performance management system. The Motion states that the Board’s decision is contrary to the Comprehensive Merit Personnel Act (“CMPA”) and to Board precedent in *American Federation of Government Employees, Local 1403 v. Office of the Corporation Counsel*¹ and *Teamsters Local Unions 639 and 730 v. D.C. Public Schools*.²

For reasons stated herein, the Board finds that Local 631’s Motion does not provide authority which compels reversal of the Board’s initial decision. Therefore, the Motion is denied.

II. Background

¹ Slip Op. 709, PERB Case No. 03-N-02 (July 23, 2003).

² 43 D.C. Reg. 3545, Slip Op. 377, PERB Case No. 94-N-02 (1994).

Local 631 is the exclusive representative of certain employees at WASA and part of Compensation Unit 31.³ On July 6, 2017, Compensation Unit 31 and WASA entered into a new compensation collective bargaining agreement, which provided for the implementation of a new performance management system effective April 1, 2018.⁴

In its unfair labor practice complaint filed on January 24, 2018, Local 631 alleged that WASA violated the CMPA by refusing to engage in separate negotiations with Local 631 over the impact and effects of the performance management system covered by the recently negotiated compensation agreement. WASA denied that it committed any unfair labor practices. Upon review, the Board determined that the performance evaluation system was a provision of the Master Agreement on Compensation between Compensation Unit 31 and WASA and was not part of the Working Conditions Agreement between Local 631 and WASA. Therefore, the Board concluded that WASA was under no obligation to engage in separate compensation bargaining with Local 631, independent from Compensation Unit 31. Accordingly, the Board found that WASA did not commit an unfair labor practice when it refused Local 631's bargaining request. The Board dismissed Local 631's complaint with prejudice.

III. Discussion

A motion for reconsideration cannot be based upon a mere disagreement with the Board's initial decision.⁵ The Board has repeatedly held that a moving party must provide authority which compels reversal of the Board's decision.⁶ Absent such authority, the Board will not overturn its decision.⁷

As previously stated, Local 631 seeks reconsideration on the grounds that Slip Opinion 1665 is contrary to the CMPA and to Board precedent in *American Federation of Government Employees, Local 1403 v. Office of the Corporation Counsel* ("Office of the Corporation Counsel") and *Teamsters Local Unions 639 and 730 v. D.C. Public Schools* ("Teamsters"). First, Local 631 contends that "performance evaluations" is not listed among the specific subjects for compensation bargaining defined in the CMPA.⁸ Second, Local 631 states that, in *Teamsters*, the Board "rejected an effort to designate proposals as compensation when the proposals did not cover salary; the monetary value of hours of work, or monetary payments for work performed."⁹ Third, Local 631 argues that in, *Office of the Corporation Counsel*, the Board held that performance evaluations were a noncompensation matter.¹⁰ Finally, Local 631 asserts that, in *American Federation of*

³ Complaint at 2; Answer at 2. Compensation Unit 31 encompasses WASA employees represented by the following five locals: American Federation of Government Employees Locals 631, 872, 2553; American Federation of State, County and Municipal Employees Local 2091; and Nation Association of Government Employees R3-06.

⁴ Complaint at 3; Answer at 2.

⁵ *Washington Teachers' Union, Local #6 Am. Fed'n of Teachers v. Dist. of Columbia Pub. Schs.*, Slip Op. No. 1657 at 1, PERB Case No. 14-U-02 (Mar. 27, 2018).

⁶ *Id.*

⁷ *Id.*

⁸ Motion at 1, 2.

⁹ Motion at 1.

¹⁰ Motion at 1.

Government Employees, Local 631 v. D.C. Water and Sewer Authority,¹¹ the Board held that Local 630 was entitled to bargain on non-compensation matters separately.¹²

WASA counters that Local 631's Motion merely restates the argument contained in its unfair labor practice complaint, namely, that Local 631 is entitled to negotiate the impact and effects of the performance management system separately from the other unions that represent WASA's employees because performance management is not a compensation matter.¹³ WASA contends that the issue presented in the Motion was previously presented in Local 631's unfair labor practice complaint and was considered and rejected by the Board in Slip Opinion 1665.¹⁴ Moreover, WASA argues that Local 631's Motion fails to cite any case law or statutory authority warranting such reversal.¹⁵

Local 631's Motion is denied. Local 631's Motion seeks the Board's determination that the performance management system, which is an existing provision of Compensation Unit 31 and WASA's Master Agreement on Compensation, is a working conditions issue in order to negotiate separately from Compensation Unit 31 during impact and effects bargaining. The foundation of Local 631's dispute is that performance evaluations are not appropriate for compensation bargaining. Essentially, Local 631's Motion disputes the negotiability of performance evaluations in compensation bargaining. However, the negotiability of Compensation Unit 31 and WASA's performance management system is not before the Board for consideration. Therefore, the Board declines to address whether the performance evaluation system is negotiable in compensation bargaining.

Additionally, Local 631 has not provided any authority which compels reversal of the Board's finding that WASA did not commit an unfair labor practice when it refused Local 631's bargaining request. The cited cases are unrelated to the present matter as they simply address the negotiability of performance evaluations in collective bargaining. As previously stated, the negotiability of Compensation Unit 31 and WASA's performance management system is not before the Board for consideration.

IT IS HEREBY ORDERED THAT:

1. The American Federation of Government Employees, Local 631's Motion for Reconsideration is denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

¹¹ 52 D.C. Reg. 5148, Slip Op. 778 at 5-6, PERB Case No 04-U-02 (2005).

¹² Motion at 1-2.

¹³ Response at 2.

¹⁴ Response at 2.

¹⁵ Response at 2.

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By unanimous vote of Board Chairperson Charles Murphy and Board Members Mary Anne Gibbons, Ann Hoffman, Barbara Somson, and Douglas Warshof.

August 16, 2018

Washington, D.C.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 18-U-17, Opinion No. 1680 was sent by File and ServeXpress to the following parties on this the 24th day of August, 2018.

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