

Notice: This decision may be formally revised 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**

	)	
	)	
American Federation of Government	)	
Employees, Local 2725, AFL-CIO	)	
	)	PERB Case No. 24-U-41
Complainant	)	
	)	Opinion No. 1965
v.	)	
	)	
District of Columbia Department of Health	)	
	)	
Respondent	)	
	)	

DECISION AND ORDER

This matter is before the Board on remand from the District of Columbia Superior Court (Superior Court). On April 26, 2026, the court issued an Order¹ reversing Opinion No. 1898 and remanding this matter back to PERB. Consistent with that Order, the decision in Opinion No. 1898 is reversed.

In Opinion No. 1898, the Board found that under the CMPA, there is no pre-arbitration remedy available to a party claiming arbitration was invoked over a contractually inarbitrable grievance.² It found that such questions of arbitrability shall initially be resolved by the arbitrator and if a party disagrees with an arbitrator's conclusion regarding arbitrability, it may file an Arbitration Review Request (ARR) with the Board.³ The Board further found that where a party seeks pre-arbitration relief, it may submit a motion to stay arbitration to the Superior Court for judicial determination in accordance with the Arbitration Act.⁴ The Board found that DOH did not avail itself of either option and therefore committed an unfair labor practice by failing to bargain in good faith with AFGE over work assignments and ordered the parties to arbitrate the dispute.⁵ The Superior Court found this decision clearly erroneous and did not consider the Board's assertion raised on appeal

¹ April 26, 2026 Memorandum Opinion and Order issued in District of Columbia Superior Court case number 2020-CA-004379-M, *District of Columbia Department of Health v. District of Columbia Public Employee Relations Board*.

² *AFGE, Local 2725 v. DOH*, 72 D.C. Reg. 1579 (2025) Slip Op. 1898 at 3, PERB Case No. 24-U-41 (2024) (citing *Washington Teachers' Union, Loc. No. 6, Am. Fed'n of Tchrs., AFL-CIO v. D.C. Pub. Sch.*, 77 A.3d 441, 451 (D.C. 2013)).

³ *AFGE, Local 2725 v. DOH*, Slip Op. 1898 at 3 (citing *AFSCME, Council 20 v. D.C. Gen. Hosp. & OLRCB*, 36 D.C. Reg. 7101, Slip Op. No. 227, PERB Case No. 88-U-29 (1989) and *Washington Teachers' Union, Loc. No. 6, Am. Fed'n of Tchrs., AFL-CIO*, 77 A.3d at 447.).

⁴ *AFGE, Local 2725 v. DOH*, Slip Op. 1898 at 4 (citing D.C. Official Code § 16-4407).

⁵ *Id.*

that DOH's failure to engage in arbitration or seek a stay of arbitration repudiated the CBA.⁶ The Superior Court found that the decision was predicated on the rationale that AFGE could force DOH to engage in arbitration and exercise its right to appeal the award by simply filing a request for arbitration.⁷ The Superior Court held that it is the appropriate venue to determine whether the CBA contained a duty to arbitrate a given dispute. Accordingly, Opinion No. 1898 is reversed.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Board's decision in Opinion No. 1898 is hereby reversed and dismissed.
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 Peter Winkler and Members Lee Clark, Mary Anne Gibbons, and Renee Bowser.

September 17, 2026

Washington, D.C.

⁶ Memorandum Opinion and Order at 3 (*District of Columbia Department of Health v. District of Columbia Public Employee Relations Board*, 2020-CA-004379-M).

⁷ *Id.*

APPEAL RIGHTS

Pursuant to Board Rule 559.2, a party may file a motion for reconsideration, requesting the Board reconsider its decision. Additionally, a final decision by the Board may be appealed to the District of Columbia Superior Court pursuant to D.C. Official Code §§ 1-605.2(12) and 1-617.13(c), which provides 30 days after a decision file an appeal.