

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**

In the Matter of:)	
)	
American Federation of)	
Government Employees, Local 631)	
Petitioner)	PERB Case No. 19-I-02
)	
v.)	Opinion No. 1721
)	
)	Motion for Reconsideration
)	
Office of Labor Relations and)	
Collective Bargaining)	
)	
Respondent)	
)	

DECISION AND ORDER

I. Statement of the Case

On August 6, 2019, the American Federation of Government Employees, Local 631 (AFGE) filed a Motion for Reconsideration (Motion) of the Board’s Decision.¹ The Board found that there was an issue of negotiability in AFGE’s proposal presented in its Request for Impasse. AFGE claims that the Board erred in finding a negotiability issue. OLRCB’s opposition to the motion was untimely.²

Upon review of the record, the Motion is denied.

¹ *AFGE, Local 631 v. OLRCB*, Slip Op. No. 1717, PERB Case No. 19-I-02 (July 18, 2019).

² On August 15, 2019, the Office of Labor Relations and Collective Bargaining (OLRCB) filed an untimely Opposition to the Motion for Reconsideration. The Opposition to the Motion will not be considered by the Board. Under Board Rule 553.2, any response to a written motion must be filed within seven (7) calendar days after service of the motion. Since the Motion for Reconsideration was filed on August 6, 2019, and the Opposition to the Motion was filed on August 15, 2019, the Opposition to the Motion is untimely as it was filed nine (9) days after service.

II. Background

On February 25, 2019, the District of Columbia implemented the Automated Dues Processing (ADP) initiative.³ Under AFGE's collective bargaining agreement, members currently authorize dues deduction using a specific D.C. Form 277, which requests members to provide, among other things, their nine-digit Social Security Numbers and their home addresses. Members provide a completed form to a union representative, who then forwards the form to OLRCB.

On March 25, 2019, AFGE submitted a proposal related to the ADP initiative to OLRCB.⁴ The proposal required OLRCB to request the same information on the automated system as is required on the D.C. Form 277 and transmit the information to AFGE after dues authorization was completed. OLRCB did not respond to the proposal. On May 8, 2019, AFGE submitted a letter to OLRCB declaring an impasse. On May 9, 2019, OLRCB responded by letter to AFGE denying the existence of an impasse and rejecting the March 25, 2019 proposal on two grounds. OLRCB asserted that the parties were engaged in impact and effects bargaining related to the implementation of the ADP initiative. Further, OLRCB stated that the proposal was nonnegotiable.

On July 18, 2019, the Board found that there were two issues in dispute: (1) whether the implementation of the ADP initiative was a mandatory subject of bargaining, and (2) whether AFGE's proposal was negotiable. The Board concluded, under D.C. Code §1-617.07, that the ADP initiative was a mandatory subject of bargaining and subject to the impasse proceedings of Board Rule 527. The Board found that the parties had engaged in a reasonable period of negotiations and had reached an impasse. The Board further determined that the parties disagreed on the negotiability of AFGE's proposal. The Board, pursuant to Board Rule 532.1, ordered AFGE to either withdraw the challenged issue or file a negotiability appeal with the Board.⁵

III. Discussion

In a motion for reconsideration, the moving party must provide authority that compels the reversal of the initial decision.⁶ Absent such authority, the Board will not overturn its decision.⁷

AFGE argues that the Board's finding that the contract proposal involved an issue of negotiability is contrary to law and Board precedent, because OLRCB did not provide a written statement declaring a proposal nonnegotiable.⁸

³ *AFGE, Local 631 v. OLRCB*, Slip Op. No. 1717 at 2, PERB Case No. 19-I-02 (July 18, 2019).

⁴ *Id.*

⁵ *AFGE, Local 631 v. OLRCB*, Slip Op. No. 1717 at 2, PERB Case No. 19-I-02 (July 18, 2019).

⁶ *FOP/MPD Labor Comm. v. MPD*, 65 D.C. Reg. 6430, Slip Op. No. 1661, PERB Case No. 17-U-26 (20018). *See also, AFSCME District Council 20, Local 292 v. DCPS*, 62 D.C. Reg. 9200, Slip Op. No. 1518 at p. 3-4, PERB Case No. 12-E-10 (2015); *FOP/MPD Labor Comm. v. MPD*, Slip Op. No. 1554 at 8-9, PERB Case No. 11-U-17 (Nov. 19, 2015); *Rodriguez v. MPD*, 59 D.C. Reg. 4680, Slip Op. No. 954 at 12, PERB Case No. 06-U-38 (2010).

⁷ *FOP/MPD Labor Comm. v. MPD*, 65 D.C. Reg. 6430, Slip Op. 1661, PERB Case No. 17-U-26 (20018).

⁸ Motion for Reconsideration at 3.

AFGE's argument regarding a written statement of non-negotiability is unsupported by the record. On May 9, 2019, OLRCB responded by letter to AFGE's declaration of impasse,⁹ and OLRCB asserted that it is nonnegotiable for the District to provide personal identifiable information of employees as required by the March 25, 2019 proposal.¹⁰

Although OLRCB declared AFGE's proposal nonnegotiable after the declaration of impasse, the declaration of non-negotiability was valid. The parties continued to have a meaningful opportunity to engage in collective bargaining, and the May 9, 2019 letter, clearly and unambiguously, provided an objection to the March 25, 2019, proposal as an infringement on management's right to determine internal security practices.¹¹

IV. Conclusion

The Board finds that AFGE's Motion for Reconsideration fails to assert any legal grounds that compel reversal of PERB Case 19-I-02. Therefore, the Motion for Reconsideration is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Motion for Reconsideration is hereby denied.
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 Charles Murphy, Members Ann Hoffman, Douglas Warshof, and Mary Ann Gibbons.

Washington, D.C.
September 12, 2019

⁹ Motion to Dismiss Ex. C.

¹⁰ Motion to Dismiss Ex. C.

¹¹ *UDCFA v. UDC*, 59 D.C. Reg. 6481, Slip Op. No. 1104, PERB Case No. 09-N-02 (2012).

Certificate of Service

This is to certify that the attached Decision and Order in PERB Case No. 19-I-02MFR, Slip Op.1721, was sent by File and ServeXpress to the following parties on this the 13th day of September 2019.

Barbara B. Hutchinson
AFGE Local 631
1325 G Street, NW, Suite 500
Washington, D.C. 20005

Adessa A. Barker
D.C. Office of Labor Relations
and Collective Bargaining
441 4th Street, NW, Suite 820N
Washington, D.C. 20001

/s/ Royale Simms
Public Employee Relations Board
1100 4th Street, SW, Suite E630
Washington, D.C. 200024
Telephone: 202-727-1822