

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**

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In the Matter of:	)	
	)	
American Federation of Government	)	
Employees, Local 631, et. al.	)	
	)	PERB Case No. 24-I-02
Complainant	)	
	)	Opinion No. 1867
v.	)	
	)	Motion for Reconsideration
District of Columbia Water and Sewer	)	
Authority	)	
	)	
Respondent	)	

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**DECISION AND ORDER**

**I. Statement of the Case**

On December 29, 2023, the American Federation of Government Employees, Local 631 (Union) filed a motion for reconsideration (Motion) of PERB’s administrative dismissal (Dismissal) of the Union’s Request for Impasse Resolution against the D.C. Water and Sewer Authority (WASA) over paid parental leave (PPL) benefits. WASA opposes the Union’s Motion.

For the reasons stated herein, the Union’s Motion is granted.

**II. Discussion**

On November 7, 2023, the Union filed its Request for Impasse Resolution. On November 20, 2023, while the matter was pending, WASA rescinded its offer of the PPL benefit to the Union and asserted that the PPL benefit was a permissive subject of bargaining.<sup>1</sup> On December 15, 2023,

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<sup>1</sup> WASA cites to *DCNA v. DOH*, 64 D.C. Reg. 723, PERB Opinion No. 1602, PERB Case No. 16-I-07 (2016), to assert that impasse resolution proceedings are inappropriate because impasse is limited to bargaining where those terms are to be incorporated into a collective bargaining agreement. See Opposition at 3. This argument is unfounded. Opinion No. 1602, which distinguishes impasse as it relates to impacts and effects bargaining, is inapplicable here. The parties’ negotiations over PPL benefits here are related to collective bargaining over a mandatory subject.

the Executive Director dismissed the case, finding that “impasse resolution proceedings are not the appropriate means of resolving this issue.”<sup>2</sup>

In its Motion, the Union asserts that the PPL benefit is a mandatory subject of bargaining.<sup>3</sup> The Union argues that “[WASA]’s action, after impasse was declared by the Unions, was a violation of the Board’s processes, which permit a party to use impasse resolution procedures to resolve the parties’ deadlock over a mandatory subject of bargaining.”<sup>4</sup> The Union argues that the Executive Director should take appropriate action and “refer the parties to mediation and interest arbitration.”<sup>5</sup>

A motion for reconsideration must present legal grounds that compel the reversal of the Executive Director’s decision.<sup>6</sup> In PERB Case No. 24-U-09, the Board held that the PPL benefit was a mandatory subject of bargaining between the parties in this case. The Union has met its burden for reversal of the Executive Director’s decision. Therefore, the Union’s Motion for Reconsideration is granted.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The Motion for Reconsideration is granted;
2. AFGE, Local 631 and WASA reached a good faith impasse over a mandatory subject of bargaining prior to WASA’s withdrawal;
3. AFGE, Local 631 and WASA shall confer and notify the Board regarding the parties’ choice of impasse resolution procedures within thirty (30) days after issuance of this Decision and Order; and
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

#### **BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

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<sup>2</sup> Dismissal at 1.

<sup>3</sup> Motion at 3.

<sup>4</sup> Motion at 3.

<sup>5</sup> Motion at 4.

<sup>6</sup> *Canady v. WTU, Local #6*, 68 D.C. Reg. 46, Slip Op. No. 1801 at 3, PERB Case No. 21-S-01 (2021).

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By vote of Board Chairperson Douglas Warshof and Members Renee Bowser, Mary Anne Gibbons, and Peter Winkler.

March 21, 2024

Washington, D.C.

**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 is issued to file an appeal.