

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:		)	
Theodore E. Powell,		)	
		)	
	Complainant,	)	PERB Case No. 11-U-26
		)	
	v.	)	Opinion No. 1255
		)	
Washington Teachers' Union,		)	
American Federation of Teachers, <i>et al.</i> ,		)	
		)	
	Respondents.	)	
_____		)	

**DECISION AND ORDER**

**I. Statement of the Case**

On April 10, 2011, pursuant to the Comprehensive Merit Personnel Act ("CMPA"), D.C. Code § 1-617.06, Theodore E. Powell ("Complainant") filed an Unfair Labor Practice Complaint ("Complaint") in the above-captioned matter against the Washington Teachers' Union, *et al.* ("Union" or "Respondents"). The Complaint alleges that the Union violated the CMPA by failing to properly represent the Complainant or bargain in good faith with the District of Columbia Public Schools ("DCPS") when challenging his alleged wrongful termination. On June 3, 2011, Respondents filed an Answer and Motion to Dismiss ("Answer").

On October 7, 2011, the Board denied Complainant's Complaint and granted the Respondents' Motion to Dismiss. \_\_\_ D.C. Reg. \_\_\_, Slip Op. No. 1136, PERB Case No. 11-U-26 (October 7, 2011). In its Decision and Order, the Board denied the Complaint because it was time-barred, did not allege a valid unfair labor practice, and contained additional claims that were outside of the Board's jurisdiction. *Id.*

On February 4, 2012, Complainant filed a document styled "Appeal." The Union responded with a document in opposition to the Complainant's appeal ("Opposition").

## **II. Discussion**

Although Complainant's filing is styled as an appeal, it appears to function as a Motion for Reconsideration of Slip Op. No. 1136. Board Rule 559.2 states that any party may file a Motion for Reconsideration within ten (10) days of the Board's issuance of a Decision and Order. The Board issued its Decision and Order in Complainant's unfair labor practice complaint on October 7, 2011. Complainant's deadline for filing a Motion for Reconsideration was October 17, 2011. Complainant's "Appeal," filed on February 4, 2012, falls far short of the October 17, 2011, deadline.

Therefore, Complainant's filing is untimely and must be dismissed.

### **ORDER**

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

1. Theodore E. Powell's Appeal is dismissed with prejudice.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**  
Washington, D.C.

March 28, 2012.

**CERTIFICATE OF SERVICE**

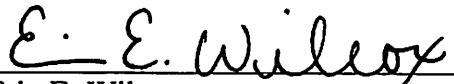
This is to certify that the attached Decision and Order in PERB Case No. 11-U-26 is being transmitted via U.S. Mail to the following parties on this the 28<sup>th</sup> day of March, 2012.

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