

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**

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| District of Columbia Metropolitan Police    | ) |                            |
| Department,                                 | ) |                            |
|                                             | ) |                            |
| Petitioner                                  | ) | PERB Case No. 26-A-05      |
|                                             | ) |                            |
| v.                                          | ) | Opinion No. 1967           |
|                                             | ) |                            |
| District of Columbia Police Union, Lodge #2 | ) |                            |
|                                             | ) | Motion for Reconsideration |
| Respondent                                  | ) |                            |
|                                             | ) |                            |

**DECISION AND ORDER**

**I. Statement of the Case**

On April 29, 2026, District of Columbia Metropolitan Police Department (MPD) filed an arbitration review request (Request), seeking review of an arbitration award (Award) dated April 8, 2026, pursuant to the Comprehensive Merit Personnel Act (CMPA).<sup>1</sup> The Request was accompanied by a motion for an extension of time to submit a statement of the reasons for appealing the award, asserting counsel for MPD had competing deadlines in other matters. The D.C. Police Union, Lodge #2 (Union) filed an opposition to the motion for an extension and a motion to dismiss on May 4, 2026. PERB issued a deficiency letter on May 12, 2026<sup>2</sup>, granting MPD until May 19, 2026, to cure the deficiencies. On May 13, 2026, MPD filed a second motion for an extension of time to submit its reasons for appealing the arbitration award. In the second motion, MPD indicated that its counsel had an urgent personal matter which prevented the Agency from curing the identified deficiencies by the deadline. MPD requested an additional extension until May 22, 2026. PERB did not grant either extension request. On May 19, 2026, MPD filed an amended arbitration review request, but failed to cure all the identified deficiencies. On May 21,

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<sup>1</sup> D.C. Official Code § 1-605.02(6).

<sup>2</sup> The deficiency letter stated that the initial pleading was improperly served pursuant to Board Rule 502.6, and that the Request did not include any of the required elements for an arbitration review request under Board Rule 538.2 (a)-(e).

2026, pursuant to Board Rule 500.6(b), the Executive Director dismissed this case for failure to cure deficiencies in a timely manner.

On June 10, 2026, MPD filed a motion for reconsideration (Motion), arguing that counsel of record was the person most familiar with the case and that she had a personal emergency involving her dog the week of the deadline to cure deficiencies in the Request.<sup>3</sup> The Motion argues that the seven (7) day deadline established in Board Rule 502.14 is a non-mandatory claim-processing rule subject to equitable tolling and that the deadline should have been tolled due to the circumstances surrounding counsel's emergency.<sup>4</sup>

On June 19, 2026, the Union submitted an opposition (Opposition) to the Motion, contending it should be denied because MPD failed to argue that PERB committed clear error when it dismissed the Complaint.<sup>5</sup> With regard to the inhibiting circumstances described in the Motion, the Opposition argues that Board precedent "does not permit the consideration of arguments that were not presented to the Executive Director"<sup>6</sup> and that the Board will not consider facts that were not previously submitted in a pleading as a basis for reconsideration.<sup>7</sup>

On July 17, 2026, MPD filed a response (Response) to the Opposition, arguing that equitable tolling of the filing deadline is appropriate because MPD operated under the assumption that its second motion to extend would be granted and because the circumstances surrounding the request for an extension compel tolling of the filing deadline.<sup>8</sup> The Agency further contends that the Motion does assert clear error, as it provides authority compelling reversal of the initial decision.<sup>9</sup>

For the reasons discussed herein, the Motion for Reconsideration is Denied.

## II. Discussion

The standard for a motion for reconsideration is clear error.<sup>10</sup> The party moving for reconsideration must provide authority that would warrant a reversal of the initial decision.<sup>11</sup> A motion that does not provide a basis for reversal of an initial decision will be denied.<sup>12</sup> In the instant case, MPD does not argue that PERB made a clear error when it found that the Agency had failed to cure the identified deficiencies. Rather, it argues that external circumstances warrant equitable tolling of the established deadline to cure.

The timeline for curing deficiencies is established under Board Rule 502.14, which states:

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<sup>3</sup> *Motion for Reconsideration* at 2.

<sup>4</sup> *Motion for Reconsideration* at 4, 6.

<sup>5</sup> *Opposition* at 3.

<sup>6</sup> *Canady v. WTU, Local #6*, 68 D.C. Reg. 46, Slip Op. No. 1801 at 2, PERB Case No. 21-S-01 (2021).

<sup>7</sup> *FOP/MPD Labor Comm. v. MPD*, 59 D.C. Reg. 7165, Slip Op. No. 1233, PERB Case No. 11-E-01 (2012).

<sup>8</sup> *Response* at 8.

<sup>9</sup> *Response* at 8.

<sup>10</sup> *WTU v. DCPS*, 72 D.C. Reg. 13824, Slip Op. No. 1930 at 1, PERB Case No. 24-U-19 (2025).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

If review of a pleading reveals that the pleading does not comply with the procedural requirements of the CMPA or these rules, the Executive Director will notify the party or the party's representative of the deficiencies in the pleading and allow seven (7) days from the date of notice for the deficiencies to be cured. Failure to cure the deficiencies in an initial pleading within that time may result in dismissal of the case without further notice. An amended pleading filed to cure deficiencies pursuant to a notice from the Executive Director relates back to the date of the original pleading.

The seven (7)-day deadline set forth in Board Rule 502.14 is a claim-processing rule, subject to equitable waiver and tolling.<sup>13</sup> The appropriateness of equitable tolling is "a fact-specific question that turns on balancing the fairness to both parties."<sup>14</sup> When deciding whether to apply equitable tolling, the Board will consider a variety of factors, such as the benefitting party's vigilance, the presence of unexplained or undue delay, whether tolling would work an injustice to the other party, and the importance of ultimate finality in legal proceedings.

In this matter, the Board issued a deficiency letter which granted the first extension MPD sought and provided seven (7) days to cure the deficiencies, in accordance with Board Rule 502.14. That letter clearly stated that failure to remedy the pleading's deficiencies by the listed deadline could result in dismissal of this case.

The Motion seeks to justify the filing delay based on new details which were not raised in MPD's previous submissions, such as the equitable tolling argument which was raised for the first time in the Motion for Reconsideration. The Board is unpersuaded by MPD's contention that the argument was raised at the first opportunity to do so. Rather, MPD appears to have operated under the unsupported assumption that its request for an extension would be granted. At no point did PERB indicate that it would grant the request. For these reasons, MPD has failed to show that PERB committed a clear error when it dismissed the Complaint.

### **III. Conclusion**

Accordingly, the Motion for Reconsideration is Denied.

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<sup>13</sup> *Advisory Neighborhood Commission 2C v. D.C. Alcoholic Beverage and Cannabis Bd.*, 33 A.3d 561, 571(D.C. 2025)(finding that rules subject to equitable tolling must be phrased in a qualified manner).

<sup>14</sup> *One Hundred and Nineteen Members of FOP/MPD Labor Comm. v. FOP/MPD Labor Comm.*, 70 D.C. Reg. 144, Slip Op. No. 1827 at 8, fn. 83, PERB Case No. 22-S-01 (2022) (quoting *Neill v. PERB*, 234 A.3d 177, 186 (D.C. 2020)).

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Motion for Reconsideration is denied; and
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.**

### **APPEAL RIGHTS**

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.