

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

The District of Columbia
Public Schools,

Complainant,

and

The Council of School Officers,
Local 4, American Federation of School
Administrators,

Respondent.

PERB Case No. 85-I-09

Opinion No. 130

DECISION AND ORDER

On September 18, 1985, the District of Columbia Public Schools (DCPS) filed a Request for Impasse in its negotiation of a successor agreement to its contract with the Council of School Officers, Local 4 (CSO). The request was filed pursuant to Section 1-618.2(d) of the District of Columbia Code ^{1/} and Rule 104.8 of the Public Employee Relations Board (Board). Both sections relate to non-compensation issues.

The agreement had terminated on April 6, 1985, but was automatically extended by its own terms. Contract negotiations had begun on January 3, 1985. Meetings were held on January 4 and 30 and on February 28, 1985 to discuss a pre-negotiation agreement concerning the ground rules to be followed during the bargaining. No agreement could be reached on these preliminary matters. Instead each party filed an unfair labor practice petition with the Board as a result of those pre-negotiation meetings. The report of the hearing examiner in those cases, 85-U-15 and 85-U-27, details the repeated accusations and conflicts between the parties. These disagreements surpass those usually encountered in contract bargaining.

^{1/} D.C. Code Section 1-618.2(d) states, in part, "If, after a reasonable period of negotiation concerning the terms and conditions of employment to be incorporated in a collective bargaining agreement, further negotiation appears to be unproductive to the Board, an impasse shall be deemed to have occurred."

The parties were still attempting to reach an agreement on September 28, 1985, when a tentative agreement was signed but later rejected by the CSO membership. This effort by the parties not only failed but resulted in further accusations and a polarization of the position of each party.

On October 1, 1985, the Board determined an impasse existed on the non-compensation issues and referred the matter to mediation.^{2/} On December 16, 1985, the mediator, selected by the Federal Mediation and Conciliation Service, reported to the Board that the parties were hopelessly deadlocked and that additional mediation sessions were not likely to be productive on either of the matters in dispute. Moreover, because of the scheduling problems of one party, no further mediation could be scheduled between January 1 - February 15, 1986.

In a request dated January 2, 1986, the DCPS requested that the Board refer both the compensation and non-compensation issues to one arbitral panel for binding arbitration. In contrast the CSO, during the mediation and as recently as January 8, 1986, has expressed its desire to continue mediation on the non-compensation issues.

The Board has reviewed the history of the negotiation. The parties have spent little time at the bargaining table, a circumstance which is an indication of their inability to resolve even preliminary issues. Even after two periods of mediation, the parties have not resolved any issue. It is evident that the likelihood of the parties resolving their dispute is minimal. There is no basis for the belief that, left to themselves, the parties would reach an agreement within a reasonable time.

Our conclusion is that the most appropriate form of impasse resolution on the non-compensation issues presented in this case is binding arbitration. The Board also finds that the arbitration of these issues should be made a part of the arbitration proceedings concerning the compensation issues in the contract negotiation.

It should be noted that this decision in no way precludes the parties from negotiating and resolving their differences prior to the issuance of an award by the Arbitration Panel.

^{2/} The CSO had previously filed its own Request for Impasse on compensation issues at issue in the same negotiation. The Board determined an impasse existed on the non-compensation issues also and referred the matter to the same mediator who mediated the compensation issues. The mediation efforts were unsuccessful.

O R D E R

It is ordered that:

1. Pursuant to D.C. Code, Section 1-618.2, the non-compensation issues in the contract negotiation between the DCPS and the CSO are hereby referred to final and binding arbitration.
2. The non-compensation issues are to be heard by the Arbitration Panel assigned to consider the compensation issues involved in the contract negotiation.
3. The Arbitration Panel will have forty five (45) days from the date of this order to issue an award on the non-compensation issues.
4. The Arbitration Panel will be responsible for all procedural matters, including the selection of the procedure for resolving the dispute.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
January 22, 1986

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(Amended Order)

AMENDED ORDER

THE PUBLIC EMPLOYEE RELATIONS BOARD ORDERS THAT:

1. The parties shall resume bargaining immediately.
2. If no agreement is reached within two weeks after resumption of bargaining, the parties are hereby ordered to final and binding arbitration, item by item, on all unresolved non-compensation issues. The parties shall consult with the Executive Director pursuant to Board Rules 104.10, 104.11, 104.16 and 104.17 concerning the composition of the non-compensation Arbitration Panel.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

April 7, 1986