

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:	)	
	)	
Alexandria Jones-Patterson and	)	
Michael Patterson,	)	
	)	PERB Case No. 14-S-06
Complainants,	)	
	)	Opinion No. 1546
v.	)	
	)	Motion for Reconsideration
SEIU, SEIU Local 5000/NAGE,	)	
and NAGE Local R3-07,	)	
	)	
Respondents.	)	

---

**MOTION FOR RECONSIDERATION**

**DECISION AND ORDER**

**I. Statement of the Case**

On a Motion for Reconsideration (“Motion”), Complainants appeal to the Board an Executive Director’s Administrative Dismissal (“Administrative Dismissal”) of an amended standards of conduct complaint (“Amended Complaint”), pursuant to Board Rule 500.4.<sup>1</sup> The Executive Director dismissed the Amended Complaint for untimeliness. Complainants filed the Motion on the grounds that the Executive Director erred in finding that the Amended Complaint was untimely. Respondents Service Employees International Union (“SEIU”), SEIU Local 5000/National Association of Government Employees (“NAGE”), and NAGE Local R3-07 oppose the Motion.

For the following reasons, the Board denies the Motion for Reconsideration and dismisses the Amended Complaint.

---

<sup>1</sup> On September 28, 2014, Complainants filed a Standards of Conduct Complaint (“Complaint”), which contained filing deficiencies. Pursuant to a letter from the Executive Director, Complainants corrected the deficiencies and filed an Amended Complaint.

### III. Discussion

#### A. Motion for Reconsideration untimely filed

Board Rule 500.4 states, in relevant part, “A decision made by the Executive Director shall become final unless a party files a motion for reconsideration within thirty (30) days after issuance of the Executive Director’s decision.” The Administrative Dismissal was served August 13, 2015, on Complainants. Complainants filed their Motion for Reconsideration on September 15, 2015 – thirty-one (31) days later. Therefore, the Complainants’ Motion for Reconsideration is untimely.

#### B. Executive Director did not err

Even if the Motion for Reconsideration were timely filed, the Executive Director did not err in finding that the Amended Complaint was untimely filed.

A complaint alleging a standards of conduct violation “shall be filed not later than one hundred twenty (120) days from the date the alleged violation occurred.”<sup>2</sup> Complainants filed their Complaint was on September 28, 2014. One hundred twenty days before that date is May 31, 2014. Thus, any allegation of a violation occurring before May 31, 2014, is untimely. In their Amended Complaint, Complainants allege that internal union disciplinary proceedings were improperly conducted against them between May and September of 2012 – two years prior to the deadline for filing the Complaint, pursuant to Board Rule 544.4.<sup>3</sup> Complainants’ do not contest the Executive Director’s calculations that the Complaint exceeded 120 days. Instead, Complainants contend that discovery during related D.C. Superior Court proceedings render the Complaint timely, because alleged conclusive evidence of the Respondents’ wrongdoing during the proceedings was discovered.<sup>4</sup>

Board rules governing the initiation of actions before the Board are jurisdictional and mandatory.<sup>5</sup> As such, the Board has no discretion nor do the Board rules provide an exception for extending the deadline for initiating an action.<sup>6</sup> The Amended Complaint does not assert any action with a “date, time, place, and person(s) involved in each occurrence,”<sup>7</sup> except allegations arising from 2012 internal union proceedings.

---

<sup>2</sup> Board Rule 544.4.

<sup>3</sup> Complainants filed suit against the unions in D.C. Superior Court on November 19, 2012.

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

<sup>5</sup> See *D.C. Public Employee Relations Bd. v. D.C. Metropolitan Police Dept.*, 593 A.2d 641 (D.C. 1991) (“The time limits for filing appeals with administrative adjudicative agencies, as with courts, are mandatory and jurisdictional matters.”). See also *Michael Thomas Moore v. FOP/Dep’t of Youth Rehabilitation Services/Labor Committee*, Slip Op. No. 1290, PERB Case No. 12-S-03 (2012)(dismissing a standards of conduct complaint for failing to meet Board Rule 544.4’s 120-day time period for filing as jurisdictional and mandatory).

<sup>6</sup> See *Hoggard v. Public Employee Public Employee Relations Board*, 655 A.2d 320, 323 (D.C. 1995).

<sup>7</sup> Board Rule 544.3.

Complainants appear to assert that NAGE's local president did not render a final decision on their membership, which would make the Amended Complaint timely.<sup>8</sup> This allegation was asserted for the first time in Complainants' Motion. The Board has held that it will not permit evidence presented for the first time in a motion for reconsideration to serve as a basis for reconsidering the Executive Director's dismissal when the Complainant failed to provide any evidence at the appropriate time.<sup>9</sup> Further, this allegation is contrary to the allegation in the Amended Complaint that NAGE refused to reinstate their membership, which is an assertion that Complainants were removed from membership and the Complainants knew or should have known that a final decision had been made.<sup>10</sup>

The Complainants assert that this case is unprecedented and that the Executive Director's decision is not supported by precedent.<sup>11</sup> However, the Complainants do not provide any legal support for their assertion or any persuasive legal authority for overturning the Board's holding that the proscribed time period for initiating a standards of conduct complaint before the Board is jurisdictional and mandatory. Therefore, the Board finds that Complainants have not asserted legal grounds for overturning the Administrative Dismissal, and that the Executive Director did not err in her application of the Board's precedent to the record.

### **III. Conclusion**

The Board finds that Complainants' Motion for Reconsideration is untimely. Even if the Board were to find the Motion timely, the Board concludes that the Complainants' Motion lacks merit. Therefore, the Board denies the Motion for Reconsideration and dismisses the Amended Complaint.

### **ORDER**

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

1. Complainants' Motion for Reconsideration is denied.
2. The Amended Complaint is dismissed with prejudice.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

By unanimous vote of Board Chairperson Charles Murphy, Member Yvonne Dixon, Member Ann Hoffman, and Member Keith Washington.

Washington, D.C.

October 29, 2015

---

<sup>8</sup> *Id.*

<sup>9</sup> *Thunder Lane v. UDC*, Slip Op. No. 862, PERB Case No. 03-U-45 (2007).

<sup>10</sup> Amended Complaint at 15.

<sup>11</sup> Motion at 3.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 14-S-06 was served to the following parties via File & ServeXpress on this the 30th day of October 2015:

Leicester Stovell, Esq.  
Law Office of Leicester Stovell, Esq.  
631 13<sup>th</sup> Street, NE  
Washington, D.C. 20002

Steven K. Hoffman, Esq.  
Darin M. Dalmat, Esq.  
James & Hoffman, P.C.  
1130 Connecticut Avenue, NW  
Suite 950  
Washington, D.C. 20036

Robert J. Shore, Esq.  
Assistant General Counsel  
NAGE and NAGE R3-07  
901 N. Pitt Street, Suite 100  
Alexandria VA 22314

/s/Sheryl Harrington  
Sheryl Harrington  
Public Employee Relations Board  
1100 4th Street, SW  
Suite E630  
Washington, D.C. 20024  
Telephone: (202) 727-1822  
Facsimile: (202) 727-9116