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**Government of the District of Columbia  
Public Employee Relations Board**

In the Matter of:	)	
	)	
Washington Teachers' Union, Local #6,	)	
American Federation of Teachers, AFL-CIO	)	PERB Case No. 20-U-30 MFR
	)	
Petitioner	)	
	)	Opinion No. 1767
v.	)	
	)	
District of Columbia Public Schools	)	
	)	
Respondent	)	
	)	

**DECISION AND ORDER**

On November 17, 2020, the District of Columbia Public Schools (DCPS) filed a Motion for Reconsideration (Motion). DCPS requests reconsideration of the Opinion No. 1762 issued by the Board on November 2, 2020. In Opinion No. 1762, the Board found DCPS violated the Comprehensive Merit Personnel Act (CMPA)<sup>1</sup> by refusing to bargain health and safety protections and protocols related to return to in-person learning during the COVID-19 pandemic. On November 24, 2020, the Washington Teachers' Union, Local # 6, American Federation of Teachers, (WTU) filed an Opposition to the Motion.

In Opinion No. 1762, the Board found that DCPS (1) refused to bargain and made unilateral changes by issuing guidelines for new working conditions without negotiation, (2) engaged in direct dealing by issuing surveys to the bargaining unit regarding returning to work, and (3) breached its duty to bargain by declaring mandatory health and safety proposals as non-negotiable despite clear precedent from the Board.<sup>2</sup> The Board adopted the Hearing Examiner's Report and Recommendations and determined that DCPS committed unfair labor practices.

In its Motion, DCPS argues that Opinion 1762 fails to identify which health and safety items declared nonnegotiable by DCPS are mandatory subjects of bargaining. This argument was rejected by the Board and Hearing Examiner. In fact, DCPS cites to a list of items declared nonnegotiable by DCPS that the Board and Hearing Examiner found to be mandatory subjects of bargaining.<sup>3</sup> Nevertheless, DCPS raises the same arguments that Hearing Examiner and the Board rejected.<sup>4</sup>

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<sup>1</sup> D.C. Official Code § 1-617.04(a)(1) and (a)(5).

<sup>2</sup> *WTU v. DCPS*, 67 D.C. Reg. 14055, Slip Op. No. 1762 at 2, PERB Case No. 20-U-30 (2020).

<sup>3</sup> Mot. at 4-5. The Hearing Examiner found the following items to be mandatory subjects of bargaining: supply of soap, water, paper towels, hand sanitizer and cleaning supplies; requirements to wear face coverings in schools; COVID 19 testing at schools, health screening procedures; cleaning policies to prevent spread of COVID; social distancing measures, including limits on large gatherings and policies to avoid crowding; the protocol for notifying teachers of a confirmed case of COVID-19 at a school; policies regarding persons with COVID-19 symptoms or who have been exposed to the virus; and communication to teachers, staff and students regarding preventing spread, including properly washing hands and properly wearing face coverings; ensuring proper ventilation in schools.”

<sup>4</sup> Motion at 3-6.

The Board has repeatedly held that a Motion for Reconsideration cannot be based solely on a mere disagreement with its initial decision.<sup>5</sup> An argument previously made, considered, and rejected is a “mere disagreement” with the initial decision.”<sup>6</sup> DCPS has not provided any authority that would compel the Board to reach a different result. Absent such authority, the Board will not overturn its decision.<sup>7</sup> Therefore, the Motion is denied.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. DCPS’s Motion for Reconsideration is hereby 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 Members Ann Hoffman, Barbara Somson, Mary Anne Gibbons, and Peter Winkler. Board Chairperson Douglas Warshof recused.

December 17, 2020  
Washington, D.C.

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<sup>5</sup> *AFSCME District Council 20, Local 2921 v. DCPS*, 62 D.C. Reg. 9200, Slip Op. No. 1518 at p. 3-4, PERB Case No. 12-E-10 (2015). See also *FOP/MPD Labor Comm. v. MPD*, Slip Op. No. 1554 at 8-9, PERB Case No. 11-U-17 (Nov. 19, 2015); *Rodriguez v. MPD*, 59 D.C. Reg. 4680, Slip Op. No. 954 at 12, PERB Case No. 06-U-38 (2010).

<sup>6</sup> *DGS v. AFG Local 631 et. al.*, 63 D.C. Reg. 12567, Slip Op. No. 1589 at 3, PERB Case No. 14-UM-02 (2016); *Renee Jackson v. Teamsters Local 639 et. al.*, 63 D.C. Reg. 10694, Slip Op. No. 1581 at 3, PERB Case No. 14-S-02 (2016).

<sup>7</sup> *FOP/MPD Labor Comm. v. MPD*, 60 D.C. Reg. 12058, Slip Op. No. 1400 at p. 6, PERB Case No. 11-U-01 (2013).

**CERTIFICATE OF SERVICE**

I hereby certify that the attached Decision and Order, Slip Op. 1767, in PERB Case No. 20-U-30 MFR was served electronically via File & ServeXpress to the following parties on this the 22nd day of December 2020:

Lee W. Jackson  
James & Hoffman, P.C.  
1130 Connecticut Avenue NW, Suite 950  
Washington, D.C. 20036

Stephanie T. Maltz  
District of Columbia  
Office of Labor Relations and Collective Bargaining  
441 4th Street NW, Suite 820 North  
Washington, D.C. 20001

/s/ Dawan Jones  
Public Employee Relations Board