

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:)	
)	
Andebrhan Berhe)	
Complainant)	PERB Case No. 19-U-05
)	
v.)	Opinion No. 1722
)	Motion for Reconsideration
District of Columbia Public)	
Schools)	
)	
Respondent)	

DECISION AND ORDER

I. Statement of the Case

Before the Board is a Motion for Reconsideration (Motion) filed by Andebrhan Berhe, *pro se*, (Complainant). The Complainant, a former employee of the District of Columbia Public Schools (DCPS), requests that the Board overturn the Executive Director’s April 8, 2019, administrative dismissal of the Complainant’s unfair labor practice complaint (Complaint). The Executive Director dismissed the Complaint for lack of standing. The Motion requests the Board’s review in light of newly submitted evidence and documents.

For reasons stated herein, the Board dismisses the Complaint with prejudice.

II. Background

On December 7, 2018, the Complainant filed an unfair labor practice complaint, alleging that DCPS committed unfair labor practices in violation of D.C. Official Code § 1-617.04(a)(1) and (3). The Complaint alleged that Complainant was a part of the class of probationary teachers represented by Washington Teachers’ Union (WTU) against DCPS in PERB Case 14-U-02, and that Complainant was entitled to relief in accordance with the Board’s decision in that case.

On January 25, 2019, the Respondent filed an Answer, asserting the affirmative defense that the Complaint was untimely filed. On April 8, 2019, the Executive Director issued an administrative dismissal.

III. Analysis

The Board will not grant a motion for reconsideration that does not assert any legal grounds that would compel overturning an Executive Director's dismissal.¹ The Board will uphold an Executive Director's dismissal where the decision is reasonable and supported by PERB precedent.² After reviewing the pleadings, the Board does not reach the merits of the Motion, as the Board finds that the Complaint is untimely.

Board Rule 520.4 requires an unfair labor practice complaint be filed no later than 120 days after the complainant first knew or should have known of the acts giving rise to the alleged violations.³ The Board has held that filing deadlines established by the Board's rules are claim-processing rules that may be waived.⁴ The Board may waive the deadline to allow a case to proceed, if a filer can demonstrate good cause as to why the filing should not be dismissed.⁵

In the present case, the Complaint states that DCPS' unfair labor practice violation occurred on March 27, 2018.⁶ The Complaint's filing date of December 7, 2018, is well beyond 120 days of March 27, 2018. In its Answer, the Respondent asserts that the Complaint is untimely.⁷ The Complainant has not provided any reason for the Complaint's untimely filing. Therefore, the Board finds that the Complainant does not demonstrate good cause for failing to meet the 120-day filing deadline of Board Rule 520.4.

IV. Conclusion

The Board finds that the Complaint is untimely, and dismisses the Complainant's unfair labor practice complaint with prejudice. The Motion for Reconsideration is rendered moot by the Board's dismissal of the underlying Complaint.⁸

¹ *Kenneth Johnson v. D.C. Gov't and D.C. Metro. Police Dep't*, 63 D.C. Reg. 6485, Slip Op. No. 1567 at 1, PERB Case No. 15-U-40 (2016).

² *Id.*

³ *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Metro. Police Dep't*, 65 D.C. Reg. 6430, Slip Op. No. 1661 at p. 2, PERB Case No. 17-U-26 (2018) (citing *Pitt v. D.C. Dep't of Corr.*, 59 D.C. Reg. 5554, Slip Op. No. 998 at p. 5, PERB Case No. 09-U-06 (2009)).

⁴ *Jenkins v. Dep't of Corrections*, 65 D.C. Reg. 4046, Slip Op. No. 1652, PERB Case No. 15-U-31 (January 18, 2018). See also *Metro. Police Dep't v. Metro. Police Dep't Labor Comm.*, 65 D.C. Reg. 11111, Slip Op. No. 1678, PERB Case No. 18-A-05 (2018).

⁵ *Metro. Police Dep't*, Slip Op. No. 1678.

⁶ The Board notes that the Complaint does not indicate exactly what violation took place on this date.

⁷ Answer at 3.

⁸ The Board will not address the merits of the Complainant's Motion for Reconsideration, as it has been rendered moot by not meeting the Board's claim-processing requirements. See *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Metro. Police Dep't*, 60 D.C. Reg. 5322, Slip Op. No 1372, PERB Case No 11-U-52(a) (2013).

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complainant's Motion for Reconsideration is denied.
2. The Complainant's unfair labor practice complaint is dismissed.
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 Boar Chairperson Charles Murphy and Members Mary Anne Gibbons, Ann Hoffman, and Douglas Warshof

Washington, D.C.

September 12, 2019

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 19-U-05, Opinion No. 1722 was sent by File and ServeXpress to the following parties on this the 12th day of September, 2019.

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