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

In the Matter of:)	
)	
District of Columbia Public Schools)	
)	PERB Case No. 26-A-04
Petitioner)	
)	Opinion No. 1960
v.)	
)	
Washington Teachers' Union, Local #6)	
)	
Respondent)	
)	

DECISION AND ORDER

I. Statement of the Case

On March 18, 2026, the District of Columbia Public Schools (DCPS) filed this Arbitration Review Request (Request), seeking review of an arbitration award (Award) dated February 28, 2026. The Award sustained a grievance filed by the Washington Teachers' Union, Local #6 (WTU). DCPS requests review on the grounds that the Arbitrator exceeded his jurisdiction, and that Award is contrary to law and public policy.

Upon consideration of the Arbitrator's conclusions, applicable law, and record presented by the parties, the Board concludes that the Arbitrator did not exceed his jurisdiction and that the Award is not contrary to law and public policy. Therefore, the Board denies the Request.

II. Arbitration Award

A. Background

Medicaid is a federal government system that funds medical and related services to impoverished and disabled persons.¹ Medicaid funding is transmitted from the federal Center for Medicaid Services (CMS) to the District of Columbia Department of Health Care Finance (DHCF).² DHCF distributes funds through Office of the State Superintendent of Education (OSSE) and DCPS for eligible students with 70% of funding originating from federal funds and 30% of funding originating from local funds.³ DCPS receives approximately \$30,000,000 per year for providing

¹ Award at 4.

² Award at 4.

³ Award at 4.

Medicaid-reimbursable services to students.⁴

WTU represents Related Service Providers (RSP) at DCPS. RSPs provide specialized education services that are reimbursable by Medicaid such as psychological services, occupational and physical therapy, speech therapy, and other professional assistance to qualifying students.⁵

For years, CMS interpreted its reimbursement regulations to limit the participation of RSPs in the reimbursement process.⁶ RSPs would document the service provided and DCPS management would submit a billing package to Medicaid for reimbursement. In 2023, CMS implemented a new reimbursement system that required more RSP involvement in the process to request reimbursements.⁷

In 2023, CMS required RSPs to: 1) enroll with DC Medicaid and register for a National Provider Identifier (NPI) number, 2) document and certify services provided and submit claims to DCHF.⁸ For its part, DCHF further interpreted the CMS update to require RSPs to provide a W9 tax form and their social security numbers, as if they were in private practice.⁹ Moreover, OSSE further interpreted the CMS update to require RSPs to review their caseload, submit a full list of supporting information, certify that students were receiving transportation services, and attest to completeness and accuracy of their submissions.¹⁰

DCPS management had awareness of the CMS changes in February of 2024.¹¹ DCPS notified the Council of School Officers of the changes in June 2024.¹² Nevertheless, DCPS waited until August 2024, one week before the start of school, to notify WTU and the RSPs of the updated process.¹³

WTU promptly requested information, suspension of implementation, and the opportunity to bargain after receiving notice of the process changes and the increased responsibilities for RSPs.¹⁴ DCPS offered impact and effects bargaining but refused to supply information or suspend implementation of the new process.¹⁵

Following the implementation of the new reimbursement process, RSPs encountered significant difficulties enrolling with DC Medicaid. RSPs encountered technical problems and lack of responsiveness from DCPS.¹⁶ RSPs expressed concerns that the W9 filing was improper and refused or delayed completion of registration on that basis.¹⁷ Some RSPs were disciplined for refusals or delays in completing the registration process.¹⁸ Discipline included written reprimands and suspensions.¹⁹

⁴ Award at 5.

⁵ Award at 4.

⁶ Award at 5.

⁷ Award at 5.

⁸ Award at 5.

⁹ Award at 6.

¹⁰ Award at 6.

¹¹ Award at 6.

¹² Award at 6.

¹³ Award at 6.

¹⁴ Award at 8.

¹⁵ Award at 8.

¹⁶ Award at 8.

¹⁷ Award at 9.

¹⁸ Award at 8-9.

¹⁹ Opposition Ex. A at 36 and 37.

DCPS coordinated with DHCF and OSSE to assess the registration process. The W9 filing and the requirement that RSPs certify and attest that students receive transportation services were dropped. However, DCPS did not rescind discipline imposed for the delays or refusal to complete registration.²⁰

No bargaining occurred.²¹ The Union filed a grievance, and the grievance formed the basis of arbitration.

B. Arbitrator's Findings

The Arbitrator framed the issues for arbitration based on the grievance and the evidentiary record as following:

1. Did DCPS violate Article 1.5.2 of the Agreement by adding or changing Provider duties without bargaining with the Union to agreement? If so, what shall be the remedy?
2. Did DCPS violate Article 10.1.1 of the Agreement by not providing information as requested by the Union for the purposes of contract enforcement? If so, what shall be the remedy?
3. Did DCPS violate Article 20.1 by requiring Providers to perform restricted clerical work? If so, what shall be the remedy?²²

WTU argued that DCPS violated the CBA by failing to bargain prior to changing the duties and responsibilities of the RSPs' existing job classifications.²³ WTU asserted that DCPS implemented significant changes in the duties and responsibilities of RSPs to include new mandatory tasks like navigating a complex registration system, engaging with a different agency, providing personal information, and regularly preparing attestation forms for a providers entire caseload.²⁴ WTU argued that the requirements were burdensome, requiring "long hours of uncompensated time."²⁵ Moreover, WTU argued that DCPS' disciplinary posture towards noncompliance underscored the "seriousness and materiality" of the new duties.²⁶

WTU declared that DCPS participation in Medicaid was not mandatory and, therefore, its participation did not excuse its bargaining obligations.²⁷ WTU insisted that initiation of change from outside of DCPS did not affect the control DCPS maintained over the implementation of changes to the working conditions, the training provided, the ability to provide information, or the imposition of discipline.²⁸

WTU sought an order from the Arbitrator that would sustain the grievance and remand issues to the parties for negotiation and include the following remedies:

²⁰ Award at 9.

²¹ Award at 8.

²² Award at 3.

²³ Award at 10.

²⁴ Award at 10.

²⁵ Award at 10.

²⁶ Award at 10.

²⁷ Award at 10. Opposition Ex. A at 40.

²⁸ Award at 11.

ceasing and desisting from the violations, rescinding the un-bargained, unilateral changes, provide responses to the Union's information requests, initiate bargaining over changes to Providers' working conditions for the adverse consequences of DCPS's unilateral changes, including rescission of all discipline and compensation for lost pay, as well as providing monetary compensation for Providers who completed and performed new duties (it suggests payment of five hours at the administrative premium rate available as a remedy for additional duties performed) and pay the Union's attorneys' fees and costs.²⁹

DCPS argued that WTU failed to meet its burden of proving that DCPS' actions violated the CBA.³⁰ DCPS denied making any changes to the duties to the extent that all changes were initiated at the federal level and mandated by DHCF and OSSE to ensure compliance with Medicaid.³¹

DCPS asserted that it lacked authority to bargain with WTU over Medicaid requirements.³² DCPS characterized its role as agency in the middle of higher authorities that worked with DCHF and OSSE to facilitate training and mitigate issues for impacted employees.³³

Substantively, DCPS argued that the changes did not change the duties of employees because "completing government forms and providing the information therein to government agencies outside of DCPS is and has been a long-standing part of the duties and responsibilities" of RSPs.³⁴ DCPS rejected arguments that the attestation and W9 forms could result in privacy breaches or tax liability as hypothetical and remote.³⁵

DCPS argued that it offered to engage in impact and effects bargaining and WTU failed to respond.³⁶ DCPS asserted that it provided information to WTU members to comply with the Medicaid requirements.³⁷ DCPS requested denial of the grievance,³⁸

The Arbitrator found that DCPS was required to comply with the changes to the Medicaid reimbursement process.³⁹ Therefore, RSPs were required to take on new duties and complete the registration and attestation process.⁴⁰ The Arbitrator found that the new duties and responsibilities were

"...well beyond the clerical aspects of dealing with forms to include student record review, correlation with services provided and attestation. . . . The review must be thorough and the results accurate, because the registration procedures make [RSPs] personally responsible for the accuracy of their submissions and expose them to possible Medicaid fraud."⁴¹

²⁹ Award at 13-14.

³⁰ Award at 14.

³¹ Award at 14.

³² Award at 14.

³³ Award at 14.

³⁴ Award at 15.

³⁵ Award at 15.

³⁶ Award at 15-16.

³⁷ Award at 16.

³⁸ Award at 15-16.

³⁹ Award at 17.

⁴⁰ Award at 17.

⁴¹ Award at 18.

The Arbitrator found that the concerns of RSPs related to the W9 and attestation requirements were ultimately proven valid as both requirements were rescinded.⁴² Evidence in the record demonstrated that DCPS used an “impermissibly narrow definition of what is bargainable.”⁴³ According to the Arbitrator, DCPS interacted with external agencies to obtain modifications of Medicaid reimbursement process.⁴⁴ The Arbitrator held that disciplinary actions should be reexamined for rescission under the principle of fundamental fairness to the extent that discipline was based on tardiness or refusal to complete requirements later rescinded as improper.⁴⁵

The Arbitrator found that DCPS failed to provide information in response to timely requests made by WTU in violation of the CBA.⁴⁶ The Arbitrator concluded that the evidence was clear that DCPS refused to bargain prior to implementing changes in the duties of RSPs in violation of the CBA.⁴⁷ The Arbitrator sustained the grievance and remanded the dispute to the parties for bargaining and retained jurisdiction with respect to remedy.⁴⁸

III. Discussion

Section 1-605.02(6) of the D.C. Official Code permits the Board to modify, set aside, or remand a grievance arbitration award in only three narrow circumstances: (1) if an arbitrator was without, or exceeded, his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.⁴⁹ DCPS requests review on the grounds that the award is contrary to law and public policy.

A. The Award is not contrary to law and public policy.

DCPS argues that as a matter of law “DCPS did not add or change the [RSPs’] duties or responsibilities.”⁵⁰ DCPS relies heavily on the federal mandates from CMS that imposed new regulatory standards on the District for the processing of Medicaid reimbursements.⁵¹ DCPS asserts that the federal law and the federal agency’s interpretation of law added and changed the duties of the RSPs.⁵² DCPS points to the agreement between CMS and DCHF to require RSPs to enroll and make reports for compliance with the Medicaid reimbursement process, as evidence that DCPS did not control the decision to impose new duties.⁵³ DCPS highlights the inconsistency between the Arbitrator holding that implementation of the new Medicaid process was mandatory and that DCPS was responsible for changing the duties of the RSPs.⁵⁴

WTU argues that DCPS has failed to demonstrate any violation of law or public policy. WTU asserts that the Award requires DCPS to bargain over issues where it has exclusive control and nothing in the Award requires DCPS to violate CMS Medicaid reimbursement procedures.⁵⁵ WTU contends that “under DCPS’ theory, any time an external law or regulation changes the landscape of what employees must do, the employer is entirely free to implement that mandate in any manner it chooses—with no notice, no training, no compensation for extra burdens—without

⁴² Award at 18, 21.

⁴³ Award at 21.

⁴⁴ Award at 21.

⁴⁵ Award at 21.

⁴⁶ Award at 21 (citing Section 10.1.1 of CBA).

⁴⁷ Award at 19- 20 (citing Section 1.5.2 and 20.3 of CBA)

⁴⁸ Award at 24.

⁴⁹ D.C. Official Code § 1-605.02(6).

⁵⁰ Request at 4.

⁵¹ Request at 4.

⁵² Request at 4.

⁵³ Request at 5.

⁵⁴ Request at 6.

⁵⁵ Opposition at 13.

bargaining.”⁵⁶

The law and public policy exception is “extremely narrow.”⁵⁷ The narrow scope limits potentially intrusive judicial review under the guise of public policy.⁵⁸ DCPS has the burden to demonstrate that the Award itself violates established law or compels an explicit violation of “well defined public policy grounded in law and or legal precedent.”⁵⁹ The violation must be so significant that law and public policy mandate a different result.⁶⁰ The Board may not modify or set aside the Award as contrary to law and public policy in the absence of a clear violation on the face of the Award.⁶¹

DCPS has failed to provide any reference to law and public policy that would compel the Arbitrator to reach a different result. The Arbitrator is empowered to make factual determinations.⁶² The Arbitrator determined that DCPS was required to comply with the Medicaid reimbursement regulations and its duty to bargain in good faith.⁶³ DCPS sought modifications to the program requirements and could have sought modifications as a consequence of bargaining.⁶⁴ The Arbitrator found that DCPS’ violated the CBA when it failed to provide notice of the changes, failed to supply requested information, and failed to bargain over the changes in working conditions.⁶⁵ As a remedy, the Arbitrator directed the parties to bargain.⁶⁶ DCPS’ has failed to demonstrate that the Award violates law and public policy.

B. The Arbitrator did not exceed his jurisdiction.

DCPS argues that the Arbitrator exceeded his jurisdiction by resolving issues not committed to arbitration.⁶⁷ Specifically, DCPS argues that the Arbitrator made erroneous findings that RSPs were required to enroll students in Medicaid with DCHF.⁶⁸ Additionally, DCPS argues that the Arbitrator resolved two unrelated grievances by directing the agency to review and rescind discipline that violates principles of fundamental fairness.⁶⁹

WTU argues that DCPS waived arguments that discipline was outside the scope of arbitration by failing to raise the issue before the Arbitrator.⁷⁰ Moreover, WTU asserts that the parties fully litigated issues related to the underlying grievance including discipline and the duties of RSPs.⁷¹ WTU asserts that the Arbitrator was empowered to frame the issues and make decisions

⁵⁶ Opposition at 13.

⁵⁷ *MPD v. FOP/MPD Labor Comm.*, 66 D.C. Reg. 6056, Slip Op. No.1702 at 4, PERB Case No. 18-A-17 (2019) (citing *Am. Postal Workers Union v. U.S. Postal Service*, 789 F.2d 1, 8 (D.C. Cir. 1986), accord *MPD v. FOP/MPD Labor Comm. ex rel. Pair*, 61 D.C. Reg. 11609, Slip Op. No. 1487 at 8, PERB Case No. 09-A-05 (2014); *MPD v. FOP/MPD Labor Comm. ex rel. Johnson*, 59 D.C. Reg. 3959, Slip Op. No. 925 at 11-12, PERB Case No. 08-A-01 (2012)).

⁵⁸ *MPD v. FOP/MPD Labor Comm.*, 66 D.C. Reg. 6056, Slip Op. No.1702 at 4, PERB Case No. 18-A-17 (2019).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Fraternal Order of Police/Dep't of Corr. Labor Comm. v. District of Columbia Pub. Emp. Relations Bd.*, 973 A.2d 174, 177 (D.C.2009).

⁶² *MPD v. NAGE, Local R3-5 ex rel. Burrell*, 59 D.C. Reg. 2983, Slip Op. No. 785 at 5, PERB Case No. 03-A-08 (2012).

⁶³ Award at 20, 21. See *N.L.R.B. v. Katz*, 369 U.S. 736, 748 (1962) (stating that the Court does “not foreclose the possibility that there might be circumstances which the Board could or should accept as excusing or justifying unilateral action, no such case is presented here.”).

⁶⁴ Award at 21.

⁶⁵ Award at 20-21.

⁶⁶ Award at 23, 24.

⁶⁷ Request at 11.

⁶⁸ Request at 12.

⁶⁹ Request at 12.

⁷⁰ Opposition at 14.

⁷¹ Opposition at 15.

following the hearing.⁷² WTU contends that DCPS has failed to demonstrate that the Arbitrator exceeded his jurisdiction.⁷³

The Arbitrator did not exceed his jurisdiction by finding that RSPs' duties included the submission of student data for enrollment in Medicaid or that the discipline should be reviewed and rescinded for violating principles of fundamental fairness. Contrary to the arguments by DCPS, the Arbitrator made findings related to the registration of Medicaid eligible students in the RSPs' caseloads.⁷⁴ The duties of RSPs and the changes in the scope of those duties related to the services provided for reimbursement were clearly submitted to the Arbitrator for resolution.⁷⁵ Likewise, the disciplinary findings of the Arbitrator are not related to specific grievances, but rather to the conduct of DCPS. The Arbitrator reviewed evidence and testimony regarding the change to the RSPs' duties and the consequences imposed by DCPS for noncompliance with later rescinded mandates.⁷⁶ The discipline of RSPs for noncompliance was litigated by the parties and was established as a matter for consideration by the Arbitrator in the underlying grievance.⁷⁷ By submitting a grievance to arbitration, parties agree to be bound by the arbitrator's interpretation of the contract, rules, and regulations; and agree to accept the arbitrator's evidentiary findings and conclusions.⁷⁸ DCPS has not demonstrated that the Arbitrator exceed his jurisdiction.

IV. Conclusion

The Board rejects DCPS' arguments and finds no cause to modify, set aside, or remand the Award. Accordingly, DCPS' Request is denied, and the matter is dismissed in its entirety.

ORDER

IT IS HEREBY ORDERED THAT:

1. The arbitration review request is hereby denied.
2. Pursuant to Board Rule 559, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board chairperson Peter Winkler, Douglas Warshof, Mary Anne Gibbons, and Renee Bowser.

May 21 ,2026

Washington, D.C.

⁷² Opposition at 16.

⁷³ Opposition at 15.

⁷⁴ Award at 6.

⁷⁵ Award at 3.

⁷⁶ Award at 9, 20, and 21.

⁷⁷ Award at 1.

⁷⁸ *MPD v. FOP/MPD Labor Comm. ex rel. Sims*, Slip Op. No. 633 at 3, PERB Case No. 00-A-04 (2000).

APPEAL RIGHTS

Pursuant to Board Rule 559.2, a party may file a motion for reconsideration, requesting the Board reconsider its decision. Additionally, 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 is issued to file an appeal.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 26-A-04, Slip Op. 1960 was sent by File and ServeXpress to the following parties on this 29th day of May 2026.

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