

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:)	
)	
David Brooks,)	
)	
Complainant,)	PERB Case No. 13-U-36
)	
v.)	Opinion No. 1412
)	
Jesus Aguirre, Director of Department of Parks and Recreation,)	
)	
Respondent.)	

DECISION AND ORDER

On August 6, 2013, David Brooks (“Brooks” or “Complainant”) filed an unfair labor practice complaint against Jesus Aguirre, director of the Department of Parks and Recreation (“Aguirre” or “Respondent”). The Executive Director informed the Complainant by letter dated August 8, 2013, that his certificate of service did not reflect when service was made on the Respondent. The Complainant filed an amended certificate of service correcting the deficiency.

The complaint alleges that the Respondent violated various rights of the Complainant afforded by the District Personnel Manual, the Federal Civil Service Reform Act (5 U.S.C. § 7116), and the Collective Bargaining Agreement. The Respondent filed an answer raising as affirmative defenses that the Respondent had been named in his official capacity, that the complaint was untimely, and that the complaint failed to allege a violation of D.C. Code § 1-617.04, the Civil Service Reform Act, or the Collective Bargaining Agreement.

It is unclear whether the complaint has stated a claim over which the Board has jurisdiction with regard to any of the alleged violations, but it is clear when the complaint alleges that the violations occurred. Brooks alleges that the violations occurred at a meeting with Aguirre on January 11, 2013.

Board Rule 520.4 provides that “[u]nfair labor practice complaints shall be filed not later than 120 days after the date on which the alleged violations occurred.” Rule 520.4 is mandatory and jurisdictional. *Hoggard v. D.C. Pub. Schs. and AFSCME Council 20, Local 1959*, 43 D.C. Reg. 1297, Slip Op. No. 352, PERB Case No. 93-U-10 (1993), *aff’d sub nom. Hoggard v. Pub. Employee Relations Bd.*, MPA-93-33 (D.C. Super. Ct. 1994), *aff’d*, 655 A.2d. 320 (D.C. 1995);

see also Pub. Employee Relations Bd. v. D.C. Metro. Police Dep't, 593 A.2d 641 (D.C. 1991). The instant complaint, filed over six (6) months after January 11, 2013, is untimely and thus beyond the Board's jurisdiction. Therefore, the complaint must be dismissed.

ORDER

IT IS HEREBY ORDERED THAT:

1. David Brooks's unfair labor practice complaint is dismissed.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

September 3, 2013

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 13-U-36 was transmitted to the following parties on this the 3d day of September, 2013.

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VIA FILE & SERVEXPRESS

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