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

District of Columbia Public Schools, Petitioner v. Washington Teachers' Union Local #6, AFT, AFL-CIO, Respondent	PERB Case No. 26-A-07 Opinion No. 1963

DECISION AND ORDER

I. Statement of the Case

On May 21, 2026, District of Columbia Public Schools (DCPS) filed an arbitration review request (Request), seeking review of an arbitration award (Award) dated May 1, 2026, pursuant to the Comprehensive Merit Personnel Act (CMPA).[1] The Award found that DCPS breached Article 19.3 of the parties' collective bargaining agreement (CBA) by imposing IMPACT score consequences on teachers and providers related to timeliness after DCPS had rescinded centrally calculating timeliness metrics during the 2023-2024 and 2024-2025 school years.[2] The Award ordered DCPS to rescind the related point deductions.[3]

DCPS requests that the Board set aside the portion of the Award finding a violation of Article 19.3 based on alleged deductions of IMPACT timeliness points and set aside the associated order for DCPS to rescind those deductions.[4] They request that the Board affirm the remainder of the Award, asserting it is unaffected by that portion.[5] DCPS alleges that the Arbitrator exceeded his jurisdiction and that the Award is contrary to law and public policy on its face.[6]

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[1] D.C. Official Code § 1-605.02(6).
[2] Request at 2.
[3] Request at 1.
[4] Request at 7.
[5] Request at 7.
[6] Request at 1.

The Washington Teachers' Union, Local 6 (WTU) filed an opposition (Opposition) to DCPS's Request on June 17, 2026, arguing that DCPS's challenge to the Award fails because DCPS never argued at arbitration that the Arbitrator was prohibited from remedying IMPACT process violations by awarding make-whole relief.[7] WTU further argues that the remedy issued in the Award is an appropriate remedy aimed at correcting the adverse consequences of a procedurally defective performance evaluation.[8]

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

II. Arbitration Award

A. Background

DCPS requires teachers to use a particular computer program to track the services provided to students with an Individualized Education Plan (IEP) or related services.[9] At the beginning of the 2023-2024 school year, DCPS implemented the current computer program called PowerSchool.[10]

One aspect of teacher evaluation by DCPS is the timeliness of student documentation.[11] DCPS uses the IMPACT evaluation system to evaluate teachers and follows its yearly-issued guidebooks for classification regarding employee's performance expectations.[12] For Special Education teachers and providers, timeliness of completing certain tasks such as tasks related to IEP meetings, eligibility determinations, and completion of assessments are a vital component of their performance evaluation.[13] For the 2023-2024 and 2024-2025 school years, the guidebooks reflected that 10% of the teacher's IMPACT evaluation would be based on timeliness.[14] Teachers who meet timeliness requirements receive higher scores which could entitle them to bonuses, whereas those who do not meet timeliness requirements may receive lower scores and could be subject to disciplinary action.[15] The IMPACT system allows evaluated employees to appeal findings regarding timeliness to the Division of Specialized Instruction (DSI), and the evaluation judgments are not subject to the negotiated grievance and arbitration procedures.[16]

[7] Opposition at 2.
[8] Opposition at 2.
[9] Award at 6-7.
[10] Award at 7.
[11] Opposition at 4.
[12] Award at 10.
[13] Award at 10.
[14] Award at 11.
[15] Award at 11.
[16] Award at 11.

Teachers must complete their documentation and enter it into PowerSchool by certain deadlines, which often require a short turnaround.[17] Soon after implementation, teachers began immediately experiencing problems with PowerSchool, reporting considerable and persistent technical issues such as system freezes and lockouts that caused significant delays in completion of documents.[18] Moreover, PowerSchool denied teachers access to student files and prohibited the transfer of IEP information, which caused teachers to spend additional time starting each IEP anew when entering documentation.[19] DCPS witnesses testified during the arbitration proceeding that the Office of the State Superintendent of Education (OSSE) was unable to provide the relevant data necessary to assess teacher timeliness during the 2023-2024 school year, and so the employees were notified that timeliness would not be used as a metric in their IMPACT rating for that year.[20] The teachers were not notified of this until May 2024, which was at the end of the evaluation period, and the weight of the uncounted timeliness component was distributed to other components in accord with the IMPACT guidebook.[21] The same thing occurred for the 2024-2025 school year: the teachers were notified that timeliness would be included as a factor in evaluations, but because of the lack of relevant data necessary to evaluate timeliness, it was removed as a factor for that year.[22]

On October 18, 2024, WTU filed a Step 2 grievance alleging DCPS violated the CBA by failing to provide adequate PowerSchool technology for teachers and related service providers to adequately complete their duties.[23] DCPS denied the grievance on October 22, 2024, after which WTU demanded arbitration.[24]

The matter went to arbitration on February 12, 2026, and the Arbitrator issued the Award on May 1, 2026.[25]

B. Arbitrator's Findings

Relevant to the instant case, the Arbitrator considered the following issues:

1. If arbitrable, did the Employer violate the Agreement by failing to provide teachers with functional technology necessary to timely complete required documentation?

2. If arbitrable, did the Employer violate the Agreement by failing to provide Teachers and RSPs with sufficient time for recordkeeping to thereby fulfill curriculum requirements?

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[17] Award at 6.
[18] Award at 7-8.
[19] Award at 9.
[20] Award at 12.
[21] Award at 12.
[22] Award at 12.
[23] Request at 2.
[24] Request at 2.
[25] Request at 2.

3. If arbitrable, did the Employer violate the Agreement by and/or by unilaterally and with short notice changing IMPACT evaluation factors to eliminate assessment and credit for meeting timeliness requirements, assess or threaten discipline and/or by assessing IMPACT points for timeliness in School Years where timeliness had been eliminated as an evaluation factor?

4. If so in any case, what shall be the remedy?[26]

The Arbitrator determined that the issues presented were arbitrable.[27] The Arbitrator then turned to Article 19.3 of the parties' CBA, which states:

> The Chancellor agrees to provide one-half day of recordkeeping at the end of each of the first three advisories for all WTU bargaining unit Teachers. The Chancellor agrees to provide one-half day of recordkeeping for the fourth advisory on or before the last day of school for Teachers. DCPS shall provide sufficient time for Teacher recordkeeping during the workday, including use of the 30-minute morning block when necessary.

WTU presented evidence at arbitration which showed that the issues with PowerSchool caused teachers and providers significant delays in accessing files and in completing their recordkeeping obligations.[28] WTU provided evidence that DCPS was aware of the issues with PowerSchool but did not fix the problems.[29] WTU pointed to direct steps DCPS refused to take to fix the issues, such as making requests to OSSE.[30] WTU further pointed to DCPS's failure to relax deadlines and provide teachers with resources to fulfill their curriculum requirements.[31] In addition, WTU argued that some teachers suffered harm due to the change in evaluation metrics in violation of the CBA.[32]

DCPS argued that OSSE controlled the PowerSchool platform and that DCPS did not have the authority to address the lockout issue.[33] DCPS argued that they did not have the ability to fix the program due to it being mandated by OSSE, and that DCPS did not have a contractual responsibility regarding the PowerSchool functions.[34] DCPS further argued that the platform was available and that it was operational and accessible while experiencing problems only temporarily and intermittently.[35] DCPS contended that WTU provided no evidence to show that any teacher

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[26] Award at 2-3.
[27] Award at 34, 37.
[28] Award at 32.
[29] Award at 15 and 19.
[30] Award at 15.
[31] Award at 16.
[32] Award at 17.
[33] Award at 32-33.
[34] Award at 19.
[35] Award at 19.

received a lower IMPACT score based on this change of metric or based on any other PowerSchool issues.[36]

The Arbitrator found that DCPS had a responsibility to provide the teachers and providers with sufficient time to complete their work without penalty.[37] The Arbitrator found that the system was heavily flawed and created delays and frustrations for users, causing teachers to work additional hours to complete their entries and reports.[38] Additionally, the Arbitrator found that DCPS was or should have been aware of this problem as well as the insufficiency of the allotted recordkeeping days in which to complete PowerSchool work.[39]The Arbitrator found that DCPS had violated Article 19.3 of the parties' CBA based on alleged deductions of IMPACT timeliness points.[40] The Arbitrator acknowledged that evaluation judgments were not subject to CBA and crafted a remedy to address the consequences of the improper procedure.[41] The Arbitrator ordered DCPS to rescind the consequences of related point deductions affecting teacher's and provider's and to make teachers and providers financially whole.[42]

On May 21, 2026, DCPS filed the instant Request with PERB.

III. Discussion

Under D.C. Official Code § 1-605.02(6) of the CMPA, the Board may "consider appeals from arbitration awards pursuant to a grievance procedure; provided, however, that such awards may be modified or set aside or remanded, in whole or in part only if the Arbitrator was without, or exceeded, his or her jurisdiction; the award on its face is contrary to law and public policy; or was procured by fraud, collusion, or other similar and unlawful means…." Here, DCPS bears the burden of demonstrating that the Arbitrator exceeded his jurisdiction in the issuance of the Award and that the Award itself violates established law or compels an explicit violation of "well defined public policy grounded in law and or legal precedent."[43] DCPS has the burden to specify "applicable law and public policy that mandates that the Arbitrator arrive at a different result."[44]

A. The Arbitrator did not exceed his jurisdiction

DCPS argues that the Arbitrator exceeded his jurisdiction by ordering a recission of IMPACT point deductions. DCPS asserts that Article 15.3 of the parties' CBA restricts arbitration of IMPACT disputes and excludes challenges to evaluation judgments.[45] It notes that process-

[36] Award at 20.
[37] Award at 32-33.
[38] Award at 9.
[39] Award at 32.
[40] Award at 31-33.
[41] Award at 36.
[42] Award at 36-37.
[43] *FEMS v. AFGE, Local 3721*, 51 D.C. Reg. 4158, Slip Op. No. 728, PERB Case No. 02-A-08 (2004).
[44] *MPD v. FOP/MPD Labor Comm.*, 47 D.C. Reg. 717, Slip Op. No. 633 at 2, PERB Case No. 00-A-04 (2000).
[45] Request at 3.

compliance disputes are arbitrable, but evaluation-judgment disputes are not.[46] DCPS contends that since the Award orders that the IMPACT point deductions be rescinded, it directly alters the evaluation judgments in violation of Article 15.3.[47]

WTU argues that DCPS waived the argument that the Arbitrator was prohibited from issuing a remedy for DCPS's procedural violations by failing to raise it before the Arbitrator and therefore cannot present it in the instant appeal.[48]

The Board has held that to determine whether an arbitrator exceeded their jurisdiction, the Board must look to whether the award draws its essence from the CBA.[49]

Here, the Arbitrator makes findings regarding DCPS's procedural violations, not its evaluation judgments. The Award requires only that DCPS determine what the affected teachers' and provider's scores would have been had DCPS not deducted IMPACT timeliness points in violation of the CBA. The Arbitrator fashioned a remedy to address the consequences of the improper procedure and directed the parties to address errors through the IMPACT appeal process, and to make the teachers and providers whole for their lost time.[50] The Board finds that the Award draws its essence from the CBA as the CBA grants the arbitrator authority to determine whether DCPS violated any aspect of the evaluation process. Therefore, Arbitrator did not exceed his jurisdiction.

B. The Award is not contrary to law

DCPS argues that the Award violates the law because it crosses the line from process enforcement into score modification, which is prohibited under Board caselaw, as well as precedent from the District of Columbia Court of Appeals.[51] The Agency reasons that the Award orders the recission of point deductions and that this alters teacher and provider evaluations.[52] WTU argues that the Award does not order DCPS to change any teacher or provider's final evaluation scores but instead to determine what the score would have been and to provide the remedy of making the affected teachers and providers financially whole.

The Board has held that an arbitrator has authority to interpret a CBA and determine whether an agency has complied with it.[53] Here, the Arbitrator interpreted the CBA and determined that DCPS violated Article 19.3 by imposing IMPACT score consequences on teachers and providers related to timeliness after DCPS had rescinded centrally calculating timeliness metrics

[46] Request at 3.
[47] Request at 4.
[48] Opposition at 8.
[49] *Metro. Police Dep't v. Fraternal Ord. of Police/Metro. Police Dep't Lab. Comm.*, PERB Case No. 21-A-04, Slip Op. No. 1780, (2021).
[50] Award at 36-37.
[51] Request at 5-6 (citing *Washington Teachers' Union, Local 6 v. D.C. Pub. Schs.*, 207 A.3d 1143, 1153 (D.C. 2019); *DCPS v. WTU, Local 6*, 72 D.C. Reg. 490, Slip Op. No. 1896 at 8, PERB Case No. 24-A-12 (2025)).
[52] Request at 6.
[53] *MPD v. FOP/MPD Labor Comm.*, 43 D.C. Reg. 5601, Slip Op. No. 460, PERB Case No. 96-A-03 (1996).

during the 2023-2024 and 2024-2025 school years.[54] The Board finds here that the Arbitrator appropriately interpreted the CBA and found that DCPS violated a specific section. To remedy the situation, the Arbitrator ordered that DCPS rescind the point deductions, which is an evaluation process-based solution that does not alter evaluation judgments or violate Article 15.3. Thus, DCPS has not demonstrated that the Award is contrary to law.

C. The Award is not contrary to public policy

Section 1-605.02(6) of the D.C. Official Code authorizes the Board to set aside an arbitration award if the award "on its face is contrary to law and public policy." The D.C. Court of Appeals has commented that "an award that is contrary to a specific law *ipso facto* may be said to be contrary to the public policy that the law embodies."[55] However, "courts' authority to invoke the public policy exception is not limited solely to instances where the arbitration itself violates positive law."[56] Nonetheless, the public policy exception is an "extremely narrow" exception to the rule that reviewing bodies must defer to an arbitrator's interpretation of a contract.[57] For the Board to overturn an award as on its face contrary to public policy, the "public policy alleged to be contravened must be well-defined and dominant, and is to be ascertained by reference to the laws and legal precedents and not from general considerations of supposed public interests."[58] "[T]he exception is designed to be narrow so as to limit potentially intrusive judicial review of arbitration awards under the guise of 'public policy.'"[59]

DCPS argues that the Award is contrary to public policy because it contradicts safeguards to DCPS's authority on final evaluation judgments.[60] WTU argues that the Award is not contrary to public policy, as it orders DCPS to provide a remedy to teachers and providers who experienced the negative consequences of DCPS's procedural CBA violations—not to change any final evaluation scores.[61] DCPS's argument that the Award contradicts safeguards to the Agency's authority on final evaluation judgments is misguided and unpersuasive, as the Award addresses the evaluation process rather than final evaluation judgments, which is permissible under Article 15.3 of the CBA and additionally does not take away the Agency's authority on final evaluation judgments Thus, DCPS has not demonstrated that the Award is contrary to public policy.

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[54] Request at 2.
[55] *MPD v. PERB*, No. 19-CV-1115, Mem. Op. & J. at 10-11 (D.C. Sept. 15, 2022) (citing *Fraternal Order of Police/Dept. of Corr. Labor Comm. v. Dist. of Columbia Pub. Employee Relations Bd.*, 973 A.2d 174 at 179 (D.C. 2009)).
[56] *Id*. at 18 (citing *E. Associated Coal Corp. v. UMW*, Dist. 17, 531 U.S. 57, 63 (2000)).
[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. USPS*, 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. PERB*, No. 19-CV-1115, Mem. Op. & J. at 10-11 (D.C. Sept. 15, 2022) (quoting MPD v. PERB, 901 A.2d 784, 789 (D.C. 2006)).
[59] *MPD v. FOP/MPD Labor Comm.*, 66 D.C. Reg. 6056, Slip Op. No. 1702 at 4, PERB Case No. 18-A-17 (2019).
[60] Request at 7.
[61] Opposition at 12.

IV. Conclusion

The Arbitration Review Request is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Arbitration Review Request is 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 Chairperson Peter Winkler and Members Lee Clark, Mary Anne Gibbons, Renee Bowser, and Douglas Warshof.

July 16, 2026

Washington, D.C.

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 file an appeal.