

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:	)	
	)	
American Federation of State, County, and Municipal Employees, AFL-CIO, District Council 20, and Local 2087,	)	
	)	PERB Case Nos. 09-U-60
Complainant,	)	09-I-06
	)	
v.	)	Opinion No. 1270
	)	
University of the District of Columbia,	)	
	)	
Respondent.	)	
	)	

**DECISION AND ORDER**

**I. Statement of the Case**

On August 27, 2010, Hearing Examiner Lois Hochhauser issued a Report and Recommendation ("Report") in PERB cases 09-U-60 and 09-I-06. The Report is in response to two filings. The first filing is an Unfair Labor Practice Complaint ("Complaint") filed by the American Federation of State, County, and Municipal Employees, AFL-CIO, District Council 20 and Local 2087 ("Complainant" or "Union") alleging that the University of the District of Columbia ("Respondent" or "UDC") committed multiple unfair labor practices. (Complaint at 3-5). The second filing is a Declaration of Impasse ("Declaration") filed by UDC, alleging that the parties had reached an impasse in their negotiations for new collective bargaining agreement.

The Hearing Examiner found that of the four types of unfair labor practices alleged (*i.e.*, failure to engage in good faith bargaining, failure to engage in impact and effects bargaining, improperly communicating with bargaining unit members, and repudiating the existing collective bargaining agreement), UDC was liable only for violating D.C. Code § 1-617.04 by repudiating the existing bargaining agreement. (*See* Report at 10-15). Additionally, the Hearing Examiner found that an impasse did not exist between UDC and the Union, stating that "although the parties have at various times professed their views that there have been negotiations, the evidence firmly supports the conclusion that the parties never established ground rules, much

less entered into negotiations.” (Report at 16). Furthermore, the Report ordered Respondent to pay the Union 25% of its reasonable costs for prosecuting the unfair labor practice charge. (See Report at 17).

UDC filed exceptions to the Report (“Exceptions”), alleging that the Hearing Examiner’s finding that UDC had committed an unfair labor practice was contrary to law, the 2005 amendment to the Comprehensive Merit Personnel Act (“CMPA”), and public policy. In addition, UDC excepted to the hearing officer’s award of 25% of costs to the Union. UDC did not except to the Hearing Examiner’s determination on the declaration of impasse. The Union opposed UDC’s Exceptions (“Opposition”), supporting the Hearing Examiner’s finding of an unfair labor practice.

On May 21, 2012, UDC filed a document styled Motion to Withdraw Exceptions to Report and Recommendation (“Motion to Withdraw”).

## **II. Discussion**

UDC’s Motion is granted and the Exceptions are withdrawn. The Board has long held that even in the absence of any exceptions, the Board maintains the authority to review and affirmatively accept or reject the findings and conclusions contained in the hearing examiner’s Report and Recommendation. *See, e.g., Bush, et al., v. DOC Correctional Employees Local 1714, et al.*, \_\_\_ D.C. Reg. \_\_\_, Slip Op. No. 367, PERB Case No. 92-U-10 (1993); *Sessions, et al., v. D.C. DHS*, 32 D.C. Reg. 3355, Slip Op. No. 112, PERB Case No. 84-U-08 (1985); *Council of School Officers, Local 4 v. D.C. Public Schools*, 33 D.C. Reg. 2389, Slip Op. No. 135, PERB Case Nos. 85-U-15 and 85-U-27 (1986); *Washington Teachers Union Local 6 v. D.C. Public Schools*, 34 D.C. Reg. 3601, Slip Op. No. 151, PERB Case No. 85-U-18 (1987).

As UDC’s Exceptions are withdrawn, the Board does not consider the merits of the arguments therein made. Therefore, having reviewed the record, the Board affirms the hearing examiner’s Report and Recommendation.

## **ORDER**

### **IT IS HEREBY ORDERED THAT:**

1. The Hearing Examiner’s Report and Recommendation is affirmed.
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.

May 30, 2012

**CERTIFICATE OF SERVICE**

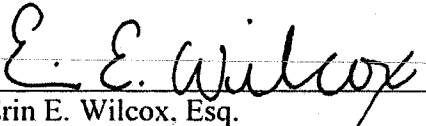
This is to certify that the attached Decision and Order in PERB Case Nos. 09-U-60 and 09-I-06 was transmitted via U.S. Mail and e-mail to the following parties on this the 31st day of May, 2012.

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