

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:	)	
	)	
	)	
Public Service Commission	)	
of the District of Columbia	)	
	)	PERB Case No. 26-N-01 MFR
Petitioner	)	
	)	Opinion No. 1970
v.	)	
	)	
	)	
American Federation of Government Employees	)	
Local 1403	)	
	)	
Respondent	)	

DECISION AND ORDER

I. Statement of the Case

On May 19, 2026, the Public Service Commission of the District of Columbia (Agency) filed a Motion for Reconsideration (Motion) seeking the Board's review of an administrative dismissal issued by the Executive Director. On May 20, 2026, The American Federation of Government Employees, Local 1403 (Union) filed an Opposition to the Motion. For the reasons stated herein the Motion is Denied.

II. Background

On March 25, 2026, the Executive Director conducted a conference with the Union and Agency to determine whether the parties were at impasse in the negotiation of the collective bargaining agreement. During the conference the parties agreed that a negotiability issue existed concerning a telework proposal.¹ Pursuant to Board Rule 532.1, the Executive Director ordered the Agency to file a negotiability appeal within seven days. Upon receipt of the negotiability appeal filed by the Agency,² the Executive Director determined that the Agency was not the party

¹ See Motion for Reconsideration at ¶ 16.

² The Agency filed a deficient pleading, and the Executive Director provided time to cure by April 9, 2026. The Agency failed to timely cure its pleading. The Agency sought leave to extend time to file and filed on April 22, 2026.

presenting the proposal and therefore directed the Union to file a negotiability appeal.³ Thereafter, the Executive Director amended the administrative dismissal after determining that there was no written declaration of non-negotiability.⁴ The documentary record of the negotiations did not establish the existence of a negotiability issue.

III. Standard of Review

The Board has established that the standard for a motion for reconsideration is clear legal error.⁵ The moving party must provide authority which compels reversal of the initial decision.⁶ Motions that do not provide a basis to compel reversal of an initial decision will be rejected and the motion for reconsideration will be denied.

Pursuant to D.C. Official Code §1-605.02(5), the Board is authorized to make a determination in disputed cases as to whether a matter is within the scope of collective bargaining. The Board's jurisdiction to decide such questions is invoked by the party presenting a proposal that has been declared nonnegotiable by the party responding to the proposal.⁷

IV. Discussion

In its Motion for Reconsideration, the Agency argues that Rule 532.1 does not require a written declaration of non-negotiability when the Executive Director finds that a negotiability issue exists at the time of impasse.⁸ Accordingly, the Agency asserts that the Board should require the Union to file a negotiability appeal.

The Agency's argument is unpersuasive. The Board has held that its jurisdiction is invoked by the party presenting the proposal after it has been declared non-negotiable by the responding party.⁹ Here, the Agency did not submit its responsive proposal for the Executive Director's review.¹⁰ The Union's submissions demonstrate that the parties were engaged in the back-and-forth of negotiation over the issue of teleworking.¹¹ The record before the Board demonstrates that the Agency did not provide written communication of non-negotiability until after the impasse had been declared.¹² Further, the Agency did not present any proposals that were declared non-

³ Administrative Dismissal issued May 1, 2026.

⁴ Amended Administrative Dismissal issued May 6, 2026.

⁵ *FOP/DOC Labor Comm. v. MPD*, 59 D.C. Reg. 7165, Slip Op. No. 1233 at 4, PERB Case No. 11-E-01 (2012).

⁶ *AFSCME, District Council 20 v. OSSE*, 65 D.C. Reg. 11554, Slip Op. No. 1679 at 3, PERB Case No. 17-N-04(a) (2018).

⁷ *FOP/Protective Serv. Police Dep't Labor Comm. v. DGS*, 62 D.C. Reg. 16505, Slip Op. No. 1551 at 1, PERB Case No. 15-N-04 (2015).

⁸ Motion for Reconsideration at 7.

⁹ *FOP/Protective Serv. Police Dep't Labor Comm. v. DGS*, 62 D.C. Reg. 16505, Slip Op. No. 1551 at 1, PERB Case No. 15-N-04 (2015).

¹⁰ Agency's Negotiability Appeal filed April 22, 2026.

¹¹ Union Exhibit A.

¹² *UDCFA v. UDC*, 59 D.C. Reg. 6481, Slip Op. No. 1104 at 9-10, PERB Case No. 09-N-02 (2012) (holding that a declaration of non-negotiability is untimely if made after impasse)).

negotiable by the Union. Accordingly, the Agency did not provide a basis for invoking the Board's jurisdiction.¹³

V. Conclusion

The motion for reconsideration is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Public Service Commissions' Motion for Reconsideration is Denied.
2. 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 the Board Chairperson Peter Winkler, Members Mary Anne Gibbons, Renee Bowser, and Lee Clark

Washington, D.C.

September 17, 2026

¹³ *FOP/Protective Serv. Police Dep't Labor Comm. v. DGS*, 62 D.C. Reg. 16505, Slip Op. No. 1551 at 1, PERB Case No. 15-N-04 (2015).

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 26-N-01, Slip Op. No.1970 was sent by File and ServeXpress to the following parties on this 28th day of September 2026.

Adam L. Santucci, Esq.
100 Pine Street, P.O. Box 1166
Harrisburg, PA 17108-8000

Brenda C. Zwack, Esq.
Murphy Anderson, PLLC
1401 K Street, NW, Suite 300
Washington, DC 20005

/s/ Royale Simms
Public Employee Relations Board

APPEAL RIGHTS

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.