



became known to the Complainant, at the latest, in December 2023—more than one hundred twenty (120) days before the initial Complaint was filed.<sup>5</sup> The Dismissal acknowledged that, according to the Complainant, she first became aware of PERB’s jurisdiction over this matter on May 1, 2025, and contacted PERB that day.<sup>6</sup> However, the Dismissal explained that the filing deadline established under Board Rule 520.4 is based on when the complainant knew or should have known of the alleged violation—not the date that the complainant learned of the proper venue for submission of their complaint.<sup>7</sup>

On August 17, 2025, the Complainant filed a motion for reconsideration (Motion), arguing that the Board should overturn the administrative dismissal of her case based on the doctrine of equitable tolling.<sup>8</sup>

For the reasons discussed herein, the Motion for Reconsideration is denied.

## II. Standard of Review

The Board has established that the standard for a motion for reconsideration is clear legal error.<sup>9</sup> The moving party must provide authority which compels reversal of the initial decision.<sup>10</sup> Motions for reconsideration that do not provide a basis to compel reversal of an initial decision will be denied.<sup>11</sup>

## III. Discussion

Pursuant to Board Rule 520.4, an unfair labor practice complaint must be filed no later than one hundred twenty (120) days after the date on which the alleged violation occurred or the date the complainant knew or should have known of the alleged violation, if later. The Board has held that the 120-day filing deadline is a claim-processing rule, subject to equitable waiver and tolling.<sup>12</sup> The appropriateness of equitable tolling is “a fact-specific question that turns on balancing the fairness to both parties.”<sup>13</sup> When deciding whether to apply equitable tolling, the Board will consider a variety of factors, such as the benefitting party’s vigilance, the presence of unexplained or undue delay, whether tolling would work an injustice to the other party, and the importance of ultimate finality in legal proceedings.<sup>14</sup>

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<sup>5</sup> Dismissal at 2 (citing Board Rule 520.4).

<sup>6</sup> Dismissal at 2.

<sup>7</sup> Dismissal at 2.

<sup>8</sup> Motion at 1.

<sup>9</sup> *FOP/MPD Labor Comm. v. MPD*, 59 D.C. Reg. 7165, Slip Op. No. 1233 at 4, PERB Case No. 11-E-01 (2012).

<sup>10</sup> *AFSCME, District Council 20 v. OSSE*, D.C. Reg. 7165, Slip Op. No. 1679 at 3, PERB Case No. 17-N-04(a) (2018).

<sup>11</sup> *WTU, Local #6 v. DCPS*, 72 D.C. Reg. 13824, Slip Op. No. 1930 at 2, PERB Case No. 24-U-19 (MFR) (2025).

<sup>12</sup> *See MPD v. FOP/MPD Labor Comm.*, 67 D.C. Reg. 11472, Slip Op. No. 1756 at 3, fn. 14, PERB Case No. 20-A-07 (2020). The Board has established it will not waive the 120-day filing deadline where, as here, the respondent properly raises it. *See Neill v. PERB*, 234 A.3d 177, 186 (D.C. 2020).

<sup>13</sup> *One Hundred and Nineteen Members of FOP/MPD Labor Comm. v. FOP/MPD Labor Comm.*, 70 D.C. Reg. 144, Slip Op. No. 1827 at 8, fn. 83, PERB Case No. 22-S-01 (2022) (quoting *Neill*, 234 A.3d at 186).

<sup>14</sup> *Id.* (citing *Neill*, 234 A.3d at 186) (internal quotations omitted).

The Motion asserts that this matter was wrongly dismissed because the Complainant “applied reasonable diligence amongst extraordinary circumstances as a pro se litigant[,]...diligently pursuing [her] legal rights since being wrongly terminated from DCPS in 2014,” as well as “tak[ing] reasonable steps to file a complaint with PERB within the statutory timeframe.”<sup>15</sup> In support of these points, the Complainant contends that she retained legal counsel in March 2025, but was misled by that attorney regarding the proper venue for this matter and was falsely informed that complaints had been submitted to other adjudicatory bodies.<sup>16</sup> Regarding legal authority, the Motion argues that “[i]n the District of Columbia, the ‘discovery rule’ extends the statute of limitations in personal injury cases when the injury or its’ [*sic*] cause isn’t immediately apparent.” The Motion also contends that “[t]he statute of limitations for legal malpractice/breach of contract in DC is generally three years from the date you knew or reasonably should have known of the injury[,] its cause and some evidence of wrongdoing.”<sup>17</sup>

The Complainant has not met the burden of demonstrating that the Dismissal was based on clear legal error. Regarding the element of vigilance, the Motion states that the Complainant did not retain legal counsel until March 2025—well outside of the statutory timeframe. The Board acknowledges the unfortunate outcome of the Complainant’s efforts to obtain legal representation but finds that those efforts do not constitute the vigilance necessary to justify equitable tolling. Additionally, the Board finds that the requested tolling would unduly prejudice WTU, as the Union did not receive notice of the Complainant’s claims prior to the untimely Complaint, either through PERB or another adjudicatory body. Lastly, the Motion does not provide authority which compels reversal of the initial decision, as it solely cites inapplicable statutes of limitations unrelated to the instant allegations.

#### **IV. Conclusion**

The Board finds no grounds to overturn the administrative dismissal in this case. Therefore, the Motion for Reconsideration is denied.

### **ORDER**

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

1. The Motion for Reconsideration 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 Mary Anne Gibbons, Renee Bowser, and Douglas Warshof.

**March 19, 2026**  
**Washington, D.C.**

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<sup>15</sup> Motion at 1.

<sup>16</sup> Motion at 2.

<sup>17</sup> Motion at 2. This is the extent of the tolling argument presented in the Motion. The remainder of the Motion reiterates merit-based arguments previously posited in the Complaint, which need not be discussed herein.

## **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.