

**PUBLIC EMPLOYEE RELATIONS BOARD  
FY2019-FY2020 Performance Oversight Questions  
Committee on Labor and Workforce Development  
Councilmember Elissa Silverman (At-Large), Chair**

I. Agency Priorities, Performance, and Evaluation.....	2
II. Budget and Expenditures .....	9
Budget.....	9
Expenditures .....	10
III. Agency Organization and Personnel.....	11
IV. Public Employee Relations Board .....	15
V. Agency Operations and Disputes .....	27

## **I. Agency Priorities, Performance, and Evaluation**

### **1. Please discuss PERB's top five priorities.**

#### **a. How did the agency address its top five priorities in FY2019? Please describe each in detail.**

- i. Modernize information technology infrastructure. (Upgrade old and/or outdated technological items, such as iPads, iPhones, laptops, desktop computers, and Microsoft Office Suite.)

**Response:** Over the last several years, PERB has been focused on increasing its outreach. A major project was completed in FY2019, in which all PERB's cases were made available on its website, along with advance search functions. Having increased accessibility to PERB's case law for free is a helpful resource to practitioners and the public. PERB also upgraded to Microsoft 365 and utilizes OneDrive for real-time collaboration, which increases productivity and expedites issuance of documents.

- ii. Develop an e-filing system. (Work with OCTO in various steps of the creation, budgeting, and planning new e-filing system.)

**Response:** PERB currently utilizes separate third-party vendors for its e-filing and case management systems. Filers must either pay the vendor to e-file documents or, in the case of a *pro se* filer, come to PERB to file through its free public access terminal. PERB attorneys worked with OCTO to create a new e-filing program that would also incorporate the functions of a case management system, which would have created a more tailored and secure, streamlined program with increased productivity, as well as provided free e-filing from any location. At the beginning of FY2020, PERB submitted an enhancement for the FY2021 budget for the program, but withdrew the enhancement after determining that implementation of the program and the maintenance in subsequent years would not be cost-effective.

- iii. In-house training center. (With the additional space acquired during the latter part of FY2018, PERB will explore the need and possibility for office construction to create the in-house training center.)

**Response:** As part of its continuing mission to increase outreach to the public and practitioners through education and engagement, during FY2019, furniture and electronics were planned for the in-house training center. At the beginning of FY2020, PERB furnished the in-house training center and mediation room through the Surplus furniture program at a significant savings for the District. Construction was unnecessary. Completion of the in-house training center has allowed PERB to move its training on-site, instead of relying on available space in other agencies.

- iv. Second Tuesdays at PERB training sessions. (PERB planned to hold eight sessions.)

**Response:** PERB held all eight (8) training sessions. Some of the topics covered were "Training for Managers", "Arbitration Advocacy Skills", "Bargaining", and "Duty to Supply Information". Please see

Question 35 for more detail.

- v. Agency and union specific training. (PERB would continue to provide its four-hour training to agency managers and union officials.)

**Response:** PERB provided trainings for FEMS and OTR in FY2019. Training for FEMS was held at one of the fire stations. A PERB staff attorney assisted the instructor at the on-site training and provided training materials. PERB attorneys assembled current Board rules, the statute, and also other training materials, which included hypotheticals for participants to work through with the instructor to provide a more hands-on experience. OTR's training was similarly assembled by PERB's attorneys.

- b. What are the agency's top five priorities in FY2020? Please explain in detail how the agency expects to address each priority in FY2020.

- i. Update PERB's Rules. PERB began the process of updating its Rules in FY2019. The proposed rules were initially published May 3, 2019. PERB extended its comment period for its proposed rules based on feedback from the public. Upon receipt of comments, the Board members decided to have a public hearing on the proposed rules to receive public comments directly. In November 2019, PERB held a hearing on the proposed rules to gain additional feedback from the public. The Board members met several times in November and December 2019 to carefully consider all written and oral comments and address the concerns of the public. After lengthy discussion among Board members, the Board members instructed PERB's attorneys to draft changes to the proposed rules based on comments the Board received. In December 2019, the Board members reviewed and made additional changes to the staff's redraft and approved the publication of its Second Notice of Proposed Rulemaking, which also included the Board members' responses to comments the Board had received to provide transparency to PERB's rulemaking process. This second notice was published on January 17, 2020, and provides the public an additional thirty-day comment period. PERB plans to complete its rulemaking and publish final rules in FY2020.

- ii. Training. To facilitate its initiative to expand its outreach, PERB will continue to hold eight (8) Second Tuesdays at PERB training sessions, as well as agency- and union-specific training for agency managers and union representatives. PERB also plans to expand its training program with additional training sessions conducted by staff attorneys to provide greater insight into PERB's procedures, such as how a representation election is conducted or how to file a case at PERB. In FY2020, PERB purchased and installed a Smart Board to enhance its ability to conduct trainings and provide a more interactive experience for participants.

- iii. Resource materials. PERB remains committed to engaging with and educating the public. PERB plans to update its website with resource materials on a variety of subjects to assist in understanding PERB's

substantive case law and relevant procedures. The topics PERB anticipates covering are case filing procedures, standards of conduct complaints, and representation election procedures. Staff attorneys will research case law and draft guides of PERB's case law and procedures for PERB's website to educate the public. PERB also will continue to publish a quarterly newsletter to provide updates on its past and upcoming events.

- iv. Staff conducted mediations. In order to increase availability of free mediation sessions to parties and decrease costs to the agency, staff attended mediation training in FY2019. PERB plans to have some mediation sessions conducted by staff.
- v. Modernize information technology infrastructure. PERB will continue to upgrade old and/or outdated technological items, such as updating laptops and desktop computers and programs. In FY2020, PERB has already begun the process of purchasing a new computer for the *pro se* public access terminal to replace outdated hardware.

2. Please list each **program** or body of work operated or administered by PERB during FY2019 and FY2020. Highlight any programs new in FY2019 or FY2020. For each program, please provide a description of the program, the office that carries out the program, activities in FY2019 and FY2020, and any documented results of the program.

**Response:**

- a. Decisions and Orders – As a quasi-judicial agency, PERB's principal activity is the resolution of cases concerning labor-management disputes. For cases that do not require a hearing, such as an arbitration review request, the Board members receive all filings and exhibits in the case a week prior to the Board's consideration of the case at the monthly Board meeting. The Board members extensively review the case record, as well as the staff's written recommendation on the issues in the case. The Board members then discuss the case record and relevant law, and make an independent decision on the issues. The Board members then vote on the decision and order, and instruct PERB's staff attorneys to issue a written decision and order, which may require multiple rounds of editing and changes by the Board members prior to issuance. In cases in which a hearing was conducted by a hearing examiner, the Board members similarly analyze the case record, as well as the hearing examiner's report and recommendation and the hearing transcript. A hearing examiner's report is reviewed by the Board on the basis as to whether the hearing examiner's report is reasonable based on the record and consistent with the Board's precedent. The Board members are limited by the factual determinations of the hearing examiner, unless the factual findings are not based on the record. Notwithstanding, the Board reviews the hearing examiner's application of PERB's precedent, and will not adopt a hearing examiner's recommendation if it is not consistent with PERB precedent. Most cases are decided by the Board in accordance with PERB precedent. In FY2019, the Board issued thirty-seven decisions. In the first quarter of FY2020, there were three (3) decisions issued, and

two additional cases were presented to the Board and tabled for a vote at a later date. In November 2020, the Board held a public hearing on its proposed rules to provide the public with an opportunity to raise their concerns directly to the Board members. Following the hearing, the Board dedicated its monthly meeting to considering public comments on its proposed rules and discussing substantive changes to those rules. No cases were heard by the Board at that meeting. The Board also dedicated a portion of its December meeting to reviewing the Second Notice of Proposed Rulemaking and its responses to the public's comments.

- b. Hearings – Generally, hearings are conducted for unfair labor practice and standard of conduct cases. Currently, staff attorneys review and refer motions to independent hearing examiners, as well as assemble case filings for the hearing examiners. Hearing examiners have a demonstrated history as labor relations experts and are the initial triers of fact. Hearings allow the parties to present evidence to a fact-finder (hearing examiner) who ultimately prepares a report with factual findings and recommendations to the Board. In FY2019, twelve (12) hearings were held. In the first quarter of FY2020, four (4) hearings were held.
- c. Mediations – Generally, mediations are conducted prior to hearings to encourage the parties to reach a mutually agreeable result prior to further litigation. Mediation sessions are paid for by PERB and are free to the parties. Mediations also help preserve long-term bargaining relationships. In FY2019, twenty-three (23) mediations were held. In the first quarter of FY2020, five (5) mediations were held.
- d. Training Program – Second Tuesdays at PERB are conducted monthly for 2 hours for both management and union participants. PERB advertises its Second Tuesdays trainings on its website and sends monthly emails to PERB's listserve to invite potential participants and to provide information about the upcoming training session. Agency-specific or union-specific training sessions are conducted for 4 hours upon request or through outreach by the Executive Director to solicit their participation in the program. Training is conducted by labor relations experts. In FY2019, PERB held eight Second Tuesdays at PERB (155 participants) and five agency specific trainings (100 participants). In the first quarter of FY2020, two Second Tuesdays at PERB and one union-specific training were held.
- e. Representation Elections – When petitioned, PERB conducts representation elections to allow employees to select a bargaining representative. PERB attorneys first discuss election issues with the parties. PERB attorneys then develop the ballots and go to the employees' work site to personally conduct the representation election. PERB attorneys count the ballots and resolve any ballot challenges or other election issues. The Board members, after reviewing the election results and resolving any additional election issues, will issue a certification, depending on the results of the election. In FY2019, one representation election was held, and the union was certified by the Board as the exclusive representative for that bargaining unit. In the first quarter of FY2020, there were two recognition petitions pending.

3. Please describe any **initiatives** that PERB implemented in FY2019 or FY2020, as of Jan. 15, 2020, to improve the internal operations of the agency or the interaction of the agency with external parties. Please describe the results, or expected results, of each initiative.

**In FY2019:**

- a. PERB completed its project to update its website to make all of its decisions available free of charge to the public. PERB staff attorneys met with OCTO offsite to discuss the program and worked with OCTO to design a system that allowed for a variety of search functions to make PERB's case law more accessible. PERB also continued to improve its Information Technology infrastructure to improve internal operations by updating the office to Microsoft 365, iPhones, and some iPads.
- b. PERB developed an in-house training facility so it could expand its educational outreach and public engagement. The facility was completed early FY2020.
- c. FMCS trained PERB staff attorneys to conduct mediations, which would allow staff attorneys to conduct some mediations beginning in FY2020.
- d. PERB expanded its legal internship program to include paid summer intern positions. Three Howard University law students participated in the program, and were able to support PERB with research projects and make a final presentation before the Board members at its August 2019 Board meeting. PERB is dedicated to exposing law students to labor law.
- e. PERB began the process of rulemaking. It published proposed rules and received comments. PERB held a hearing in FY2020, and currently published a Second Notice of Rulemaking on January 17, 2020, with the Board members' responses and their substantive changes to the proposed rules based on the comments the Board members received.

**In FY2020:**

- a. PERB completed the assembling its in-house training center, and furnished it with cost-saving measures through the acquisition of furniture through the Surplus furniture program. PERB also installed a SmartBoard to provide a more interactive training experience. The training facility will be used to expand PERB's outreach.
- b. PERB created a mediation facility by using space from an underused library, and furnished it with cost-saving measures through the acquisition of furniture through the Surplus furniture program.
- c. PERB plans to provide free training by staff to expand its training program.
- d. PERB plans to have staff conduct some mediation sessions.
- e. PERB received a partial grant for training of staff, and plans to hold the training in the spring
- f. PERB has partnered with Howard University Law School internship program, and have hired two law students part-time for the academic year.
- g. PERB continues to improve its Information Technology infrastructure to improve internal operations.

4. Please provide a copy of PERB's FY2019 **performance accountability report**.
- Please explain which performance plan strategic objectives and key performance indicators (KPIs) were met or completed in FY2019 and which were not.  
**Response:** All KPIs were met in FY2019. **See Exhibit Q4.**
  - For any met or completed objective, also note whether they were completed by the project completion date of the objective and/or KPI and within budget. If they were not on time or within budget, please provide an explanation.  
**Response:** All KPIs were met and within budget. The FY2019 strategic initiatives included continuation of upgrades of software and hardware, which was accomplished by upgrading iPhones and several iPads, along with updating to Microsoft Office 365. In FY2019, PERB also worked with OCTO to develop an e-filing system and internal case management system. (At the beginning of FY2020, a budget enhancement was submitted, but withdrawn after further financial considerations.) PERB completed its training strategic initiatives by holding eight Second Tuesdays at PERB sessions and five union- and agency-specific trainings.
  - For any objective not met or completed, please provide an explanation.  
**Response:** In FY2019, PERB developed a plan for an in-house training center that included new furniture. PERB did not furnish the center in FY2019, but instead, in the first quarter of FY2020, utilized the Surplus furniture program to furnish the center and a mediation room at a significantly reduced cost.
5. Regarding the PERB's FY2020 **performance plan**:
- Please provide a copy of PERB's FY2020 performance plan as submitted to the Office of the City Administrator. **See Exhibit Q5.**
  - Discuss any changes to any outcomes measurements in FY2020, including the outcomes to be measured or changes to the targets or goals of outcomes; list each specifically and explain why it was dropped, added, or changed.  
**Response:** The Executive Director and staff attorneys met with a staff member of the Office of the City Administrator for consultation on its FY2020 Performance Accountability Plan. PERB revised its performance plan after recommendations from OCA. The previous KPIs required PERB to meet measures based on the actions of parties and variables outside of PERB. The revised KPIs now reflect more closely the work that is PERB's responsibility. One KPI was kept at fifty-percent (50%), because it appeared to be a historically realistic number. Notwithstanding the changes made, a number of the former KPIs are reflected in the workload measures.

6. For all **studies, research papers, reports, evaluations, and analyses**, including those provided by contractors or consultants, that PERB prepared or contracted for during FY2019 and FY2020, as of Jan. 15, 2020:
  - a. For any study, paper, report, or analysis that is complete, please attach a copy.
  - b. For any study, paper, report, or analysis still underway, please provide report name, author(s), and purpose; expected completion date; purpose and description of contents; and contract number or grant name if the report was produced by a contractor or grantee.

**Response:** None

7. Please list and describe any **investigations, audits, or reports by outside entities** that have requested or required participation by the PERB or any employee that were conducted during FY2019 or FY2020, as of Jan. 15, 2020, or that are ongoing. Also, please provide the url or *attach a copy* of any such document that is not online. Include any routine or ad hoc monitoring, site reviews, desk audits, or other reviews or audits by federal agencies, the Office of the Inspector General, the DC Auditor, or *any other* local or federal governmental entity.

**Response:** None

8. Please list all **recommendations identified by the Office of the Inspector General, DC Auditor, or other federal or local oversight entities** during FY2018, FY2019, or FY2020, as of Jan. 15, 2020, about PERB or its members or employees. Please provide an update on what actions have been taken to address each recommendation. If the recommendation has not been implemented, please explain why.

**Response:** None

9. Please attach a copy of the agency's **FOIA disclosure report(s)** for FY2019.

**Response:** See Exhibit Q9.

10. Please attach a **log of all FOIA requests** received in FY2019 and FY2020, as of Jan. 15, 2020, with the request number, the name of the requestor, the request date, and a brief description of the information requested.

**Response:** See table below.

Request Number	Name of Requester	Request Date	Brief description of request
2019-FOIA-03383	Alan Blutstein	3/4/19	Emails from ED referring to VA governor Ralph Northam
2019-FOIA-03658	Laura Jackson	3/14/19	All documents relating to PERB Case No. 07-U-42
2020-FOIA-00524	LeAnne Funk	10/21/19	All employee names, emails, salaries and job titles
2020-FOIA-01185	Robin Felbinger	11/15/19	All filings related to PERB Case No. 16-I-06



## **II. Budget and Expenditures**

### **Budget**

11. **Budget.** Please *complete the attached table* in Excel showing your agency's budget, including Council-approved original budget, revised budget (after reprogrammings, etc.), and actual expenditures, by program and activity, for fiscal years 2019, and the first quarter of 2020. For each activity, please include total amount budgeted and break down the budget by funding source (federal, local, special purpose revenue, or intra-district funds). Include any over- or under-spending. Explain any variances between the revised budget and actual expenditures for fiscal year 2019 for each program and activity code.

**Response:** See **Exhibit Q11.** In FY2019, PERB had vacancy savings, thus underspending for its personnel services. PERB's FY2019 budget also included expenditures for furnishing its in-house training center and mediation room. PERB underspent its budget, and furnished those rooms through cost-saving measures by utilizing the Surplus furniture program at the beginning of FY2020.

12. Please provide a copy of the detailed FY2020 **non-personnel services spending plan** for each activity and fund in PERB's budget.

**Response:** See **Exhibit Q12.**

13. Please provide the following information for all **intra-District memoranda of understanding (MOUs)** for FY2019 and FY2020 as of Jan. 15, 2020, *including anticipated MOUs* for the remainder of FY2020.

- Attach copies* of all intra-district MOUs. See **Exhibit Q13(a).**
- Please *complete the attached table* in Excel for all MOUs, including anticipated MOUs. See **Exhibit Q13(b).**

14. Please provide the following information for all **intra-District memoranda of agreement (MOAs)** for FY2019 and FY2020 as of Jan. 15, 2020, including anticipated MOAs for the remainder of FY2020.

- Attach copies* of all intra-district MOAs. **None.**
- For each MOA, including anticipated MOAs, complete the table below; add rows as necessary.

#### **Memoranda of Agreement, FY2019 and FY2020, including anticipated MOAs**

<i>Description of MOA services or purpose, including name of project or initiative</i>	<i>Names of all agencies party to the agreement</i>	<i>Service period (dates)</i>
N/A	N/A	N/A

15. Please *complete the attached table* for each **interagency reprogramming** of funds into and out of the agency for FY2019 and FY2020, as of Jan. 15, 2020, including anticipated inter-agency reprogrammings for the remainder of FY2020.
  - a. Please *attach copies* of the reprogramming documents, including the Agency Fiscal Officer's request memo and the attached reprogramming chart. **See Exhibit Q15(a).**
  - b. For each reprogramming, including anticipated reprogrammings, complete the attached chart in Excel. **See Exhibit Q15(b).**
16. Please *complete the attached table* for each **intra-agency reprogramming** *within* your agency during FY2019 and FY2020, as of Jan. 15, 2020, as well as any anticipated intra-agency reprogrammings for the remainder of FY2020.
  - a. Please *attach copies* of any reprogramming documents. **See Exhibit Q16(a).**
  - b. Please include in the chart a detailed rationale for the reprogramming: why the funds were available and what they will be used for. **See Exhibit Q16(b).**
17. Please attach all **budget enhancement requests** submitted by your agency to the Mayor or Chief Financial Officer as part of the budget process for FY2021.

**Response:** PERB submitted a budget enhancement request for FY2021, but withdrew the enhancement request.

## Expenditures

18. Please *complete the attached table* in Excel with information on each **contract, procurement, and lease** leveraged in FY2019 and FY2020 as of Jan. 15, 2020, with a value amount of \$10,000 or more. "Leveraged" includes any contract, procurement, or lease used by the agency as a new procurement, contract extension, or contract option year execution. This also includes direct payments, if applicable.
 

**Response:** See Exhibit Q18.
19. Please complete the following table with information on all **credit card, p-card, or purchase card purchases and expenditures** for FY2019 and FY2020, as of Jan. 15, 2020; add rows as necessary. Alternatively, you may attach monthly statements with this *same* information; however, please name the ultimate vendor and specific purpose of the purchase for any PayPal or other transaction with an indirect payment service like PayPal.
 

**Response:** See Exhibit Q19.
20. Were any protests or appeals filed with the **Contract Appeals Board** in FY2019 or FY2020 as of Jan. 15, 2020, against or involving your agency? If so, please complete the following table with information on each such protest or appeal; add rows as necessary. **Contract Appeals Board cases filed FY2019 or FY2020, as of Jan. 15, 2020**

**Response:** None

### **III. Agency Organization and Personnel**

21. Please provide an **organizational chart** for the agency, arranged by division and subdivision, as of Jan. 15, 2020.
- Show for each division and subdivision:
    - The names and titles of all personnel;
    - Include on the chart, and denote as vacant or frozen, any such positions;
  - Note on the chart the date of the information if not Jan. 15, 2020.

**Response:** See Exhibit Q21.

22. Please *complete the attached table* in Excel with a **chart of all positions (i.e., Schedule A)** at the agency, as of Jan. 15, 2020.

**Response:** See Exhibit Q22.

23. Please list each **vacant position's** position number and provide: (1) the date on which it became vacant and (2) the step or status of the hiring process for the position as of Jan. 15, 2020.

**Response:**

Program Analyst: Position # 00077408

(1) July 21, 2019

(2) This position was advertised, but it has not been filled pending budget considerations for the hiring grade.

24. What was the **caseload** for each attorney or attorney adviser each year of FY2018, FY2019, and FY2020, as of Jan. 15, 2020?

**Response:**

The caseload per attorney fluctuates based on the type of cases assigned, the number of cases filed, how and when cases are resolved, the difficulty of cases assigned, and other work assigned to an attorney to support one of PERB's mission to provide outreach and education.

Staff attorneys and the Executive Director support the Board by reviewing all filings and handling preliminary motions. Within the staff attorneys' review, there are two levels of review for all cases. First, staff attorneys conduct a review and relevant legal research. Next, the staff attorneys present their findings and conclusions to the supervisory attorney. The supervisory attorney reviews the first-line attorneys' work, and then briefs and provides a recommendation to the Executive Director. Depending on the issues and complexity of an issue, there may be multiple rounds of internal discussion, drafting, and legal research. If a case requires an attorney to provide a written recommendation to the Board members, then the written recommendation may go through multiple rounds of

discussion, research, drafting and peer review prior to being sent to the Board members for their consideration.

Additionally, staff attorneys and the Executive Director support the Board members' emphasis on outreach and education. PERB covers the costs of a monthly training on a labor topic by a well-known labor relations expert and provides the training free of cost to the participants. Staff attorneys work with the instructor to develop the topic, research PERB case law, draft workshop hypotheticals used during the training, and provide support at the training. PERB also provides free training to agencies at their location for managers, as well as training for labor organizations. Staff attorneys are responsible for coordinating the training, facilitating the topic, preparing the training materials, and providing support to the instructor. In FY2020, staff attorneys will be providing training on PERB's filing requirements, as well as the procedures for representation elections. In addition to providing training, the staff attorneys are developing resource materials to provide free online guides to PERB's case law to better educate the public and practitioners. In FY2019, staff attorneys attended mediation training at the Federal Mediation Conciliation Service. PERB anticipates that the staff attorneys will begin conducting some of PERB's mediations.

PERB is a member of the Association of Labor Relations Agencies (ALRA), which is an association of neutral government agencies across the United States and Canada that resolve labor-management disputes related to collective bargaining. Staff attorneys and the Executive Director have attended its annual conference in recent years, which provided education and discussion opportunities concerning best practices in the labor relations community and programs that other agencies have implemented. Staff attorneys have also participated in the planning of ALRA's annual conference, and a presentation will be made by the supervisory attorney at the 2020 conference. PERB was recognized by ALRA participants for having a comprehensive training program for labor and management officials.

Staff attorneys also have other duties such as accomplishing PERB's FOIA duties, overseeing ethics obligations of the staff and the Board members, assisting *pro se* filers with filing at PERB's public access terminal, writing and publishing PERB's quarterly newsletter, supervising and training student interns, updating PERB's website, acting as a liaison between PERB and its e-filing service, and assisting the Executive Director and the Board in other projects. When an election is ordered in a case, staff attorneys conduct the entire election. Staff attorneys meet with the parties, create an election agreement, develop the ballots, conduct the election at the polling site, and resolve any vote challenges during the counting of the ballot. Staff attorneys then draft a report of election results, as well as a proposed certification for the Board. PERB has one election coming up in the next month or two, and has another petition for an election pending the outcome of a hearing.

In FY2019 and FY2020, staff attorneys spent hundreds of hours drafting and editing proposed rules that would be a comprehensive replacement of PERB's current rules. The proposed rules required numerous notice postings. Staff attorneys compiled all comments received on the proposed rules, and drafted a summary of the responses and proposed edits

for the Board members' review. Staff attorneys met with the Board members on numerous occasions to discuss the proposed rules, provide research to the Board members, and redraft language at the direction of the Board members. After a significant amount of additional review and edits to the proposed rules, including a number of substantive changes, the Board rules were published for a second notice of proposed rulemaking. Staff attorneys will assist the Board in compiling the comments to the second notice of proposed rulemaking, make edits and conduct research to support the Board members, and will handle the publication of the final rules, once adopted by vote of the Board members.

Below is a summary of the case load of each attorney.

FY2018: At the start of FY2018, there were a total of 57 open cases, which were divided between 3 attorneys. The average at the start of the FY2018 was 17.33 cases per attorney.

FY2019: At the start of FY2019, there were a total of 40 open cases. There was an average of 10 cases per attorney. One attorney was detailed to redrafting PERB's rules.

FY2020: As of January 31, 2020, there are 40 open cases with an average of 14 cases per attorney.

25. How many and what percentage of employees at PERB as of Jan. 15, 2020, were **District residents**?

**Response:**

District Residents: 5 in total

Percentage: 71.42%

26. Please complete the following charts about the **residency of new hires** at PERB in FY2019 and FY2020:

**DC Residency of Employees Hired in FY 2019**

<i>Position Type</i>	<i>Total Number</i>	<i>Number who are District Residents</i>	<i>Percent of total who are District residents</i>
Continuing	2	0	0
Term	N/A	N/A	N/A
Temporary	N/A	N/A	N/A

**DC Residency of Employees Hired in FY 2020, as of Jan. 15, 2020**

<i>Position Type</i>	<i>Total Number</i>	<i>Number who are District Residents</i>	<i>Percent of total who are District residents</i>
Continuing	0	0	0
Term	N/A	N/A	N/A
Temporary	N/A	N/A	N/A

27. Please complete the following table regarding employees placed on **administrative leave** in FY2019 or FY2020. Specify (column 3) why the employee was placed on leave and note if the leave is a result of discipline or due to an investigation.

**Employees on Administrative Leave During FY2019 and FY2020**

<i>Employee's job title</i>	<i>Position number</i>	<i>Reason placed on leave; specify if disciplinary or due to investigation</i>	<i>Length of leave</i>	<i>Whether employee was separated</i>	<i>Whether the leave was/is paid or unpaid</i>	<i>Their current status (as of Jan. 15, 2020).</i>
N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A	N/A	N/A	N/A

28. For FY2019 and FY2020, as of Jan. 15, 2020, please complete the following table on each **employee separated** from the agency, whether voluntarily or at the agency's initiation.

**Employees Separated from Agency, FY2019 and FY2020**

<i>Employee name</i>	<i>Job title</i>	<i>Amount of separation pay, if relevant</i>	<i>Number of weeks of separation pay, if relevant</i>	<i>The reason for the separation; specify if it was due to probation, performance, or discipline</i>
Najibah Almahdi	Administrative Officer	N/A	N/A	Voluntary Resignation/Separation
David McFadden	Attorney Advisor	N/A	N/A	Voluntary Resignation/Separation
Andrea Lozada	Program Analyst	N/A	N/A	Voluntary Resignation/Separation
Lindsey Maxwell	Supervisory Attorney Advisor	N/A	N/A	Voluntary Resignation/Separation

#### **IV. Public Employee Relations Board**

29. Please complete the chart below with board **member information** as of Jan. 15, 2020. Please note any vacancies.

**PERB Board members**

<i>Member's name</i>	<i>Member type (public, management, labor)</i>	<i>Confirmation date</i>	<i>Term expiration date</i>	<i>District resident? (y/n)</i>
Charles Murphy	Chairperson	11/7/2017	12/12/2019	Y
Ann Hoffman	Public	11/7/2017	12/12/2019	Y
Douglas Warshof	Public	12/4/2018	12/12/2021	Y
Mary Anne Gibbons	Management	7/11/2017	12/12/2020	Y
Barbara Somson	Labor	1/9/2018	12/12/2020	Y

30. Please provide a list of PERB **case types** and describe what each case type entails. Please specify which may be filed by an individual or must be filed by a union.

**Response:**

Arbitration Review Request: An agency or the exclusive bargaining representative may appeal to the Board for review of an arbitrator's decision in a grievance arbitration proceeding. The Board will review the arbitrator's award under the grounds set forth in D.C. Official Code § 1-605.02(6).

Negotiability: If, in connection with collective bargaining, an issue arises as to whether a proposal is within the scope of bargaining, the party presenting the proposal, either the exclusive bargaining representative or agency, may file a negotiability appeal with the Board. The proceedings resolve whether the proposal at issue is within the scope of collective bargaining.

Standards of Conduct: Any aggrieved individual may file a standards of conduct complaint with the Board. The proceedings resolve complaints that the named exclusive representative has failed to comply with the standards of conduct for labor organizations set forth in D.C. Official Code § 1-617.03.

Impasse (Compensation): An agency or exclusive representative may initiate impasse proceedings with the Board. The Executive Director verifies that the parties are at impasse and directs impasse resolution proceedings in accordance with D.C. Official Code § 1-617.17.

**Impasse (Noncompensation):** An agency or exclusive representative may initiate impasse proceedings with the Board. The Executive Director determines whether the parties have been unable to reach agreement, despite diligent efforts, and directs impasse resolution proceedings using one or more of the following procedures: (1) the procedures outlined in D.C. Official Code § 1-617.17; (2) mediation; (3) fact-finding; or (4) arbitration.

**Unfair Labor Practice Complaint:** An agency, exclusive representative, or an aggrieved person may file an unfair labor practice complaint with the Board. The proceedings resolve complaints that the named respondent has committed an unfair labor practice in violation of D.C. Official Code § 1-617.04.

**Enforcement:** An agency, exclusive bargaining representative, or individual that was the prevailing party before the Board may file an enforcement petition with the Board. The proceedings determine whether the named respondent has complied with the Board's order and whether judicial process is necessary to enforce the Board's order.

**Unit Decertification:** An agency or employee(s) may file a decertification petition with the Board. The proceedings determine whether a majority of the employees in the bargaining unit maintain their desire to be represented by the existing exclusive bargaining representative.

**Unit Clarification:** An agency or bargaining representative may file a unit clarification petition with the Board. The proceedings determine whether the employees in the existing unit are appropriate.

**Election:** Representation elections are the process by which an exclusive bargaining representative is selected.

**Petition to Amend Certification:** A bargaining representative may file a petition to amend a certification with the Board when there has been a change in the identity of the exclusive representative.

**Unit Modification:** An agency, bargaining representative, or an agency and bargaining representative jointly, may file a unit modification petition with the Board. Under PERB Rule 504, a unit modification may be sought (a) to reflect a change in the identity or statutory authority of the employing agency; (b) to add to an existing unit unrepresented classifications or employee positions created since the recognition or certification of the exclusive representative; (c) to delete classifications no longer in existence or are no longer appropriate to the established unit; or (d) to consolidate two (2) or more bargaining units within an agency that are represented by the same labor organization. The Board's procedures determine whether the requested modification is appropriate, pursuant the CMPA.



31. Please complete the following charts with information about **PERB cases by case type** in FY2018, FY2019, and FY2020 as of Jan. 15, 2020:

**PERB Cases by Type**

	Number of complaints or cases filed			Number of decisions issued			Number of complaints or cases for which decisions were issued 120 days or more after being filed with the PERB office		
<b>Case Type</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>
Unfair Labor Practice	37	22	12	17	11	0	14	8	0
Arbitration Award Review	19	11	3	12	16	1	9	9	0
Impasse Resolution	5	3	0	0	1	0	0	0	0
Recognition Petition	2	4	0	2	1	0	2	1	0
Negotiability	6	1	0	6	2	0	5	1	0
Enforcement Petition	6	8	0	2	2	2	2	0	0
Standards of Conduct	2	3	1	2	1	0	2	1	0
Modification of Unit	0	1	0	2	1	0	2	0	0
Compensation Unit Determination	2	1	0	1	2	0	0	1	0
Unit Clarification	2	0	0	1	0	0	1	0	0
Amended Certification	0	0	0	0	0	0	0	0	0

32. Please complete the following charts with **data on PERB cases** in FY2018, FY2019, and FY2020 as of Jan. 15, 2020:

**B. PERB Cases and Decisions, FY2018 through 2020**

	<b>FY2018</b>	<b>FY2019</b>	<b>FY2020</b>
Number of complaints or cases filed	<b>81</b>	<b>54</b>	<b>16</b>
Number of decisions issued	<b>45</b>	<b>37</b>	<b>3</b>
Number of petitions for enforcement	<b>6</b>	<b>8</b>	<b>0</b>
Number of cases settled	<b>8</b>	<b>1</b>	<b>0</b>
Number of cases withdrawn	<b>33</b>	<b>10</b>	<b>3</b>
Number of decisions appealed	<b>8*</b>	<b>8</b>	<b>0</b>
• DC Superior Court	<b>4</b>	<b>1</b>	<b>0</b>
• DC Court of Appeals			
Number of pending appeals (total)			
• DC Superior Court	<b>8</b>	<b>6</b>	<b>0</b>
• DC Court of Appeals	<b>6</b>	<b>1</b>	<b>0</b>
Number of PERB decisions overturned or remanded on appeal (total)			
• DC Superior Court	<b>2</b>	<b>1</b>	<b>0</b>
• DC Court of Appeals	<b>0</b>	<b>0</b>	<b>0</b>
Number of PERB decisions upheld on appeal (total)			
• DC Superior Court	<b>8</b>	<b>11</b>	<b>2</b>
• DC Court of Appeals	<b>1</b>	<b>5**</b>	<b>0</b>

\*Data corrected last year's number had 6 filings

\*\*Vacated Superior Court Order- DGS refusal to defend appeal in 2016-CA-006901

33. Please fill in the chart below with **cases by agency** in each year FY2018, FY2019, and FY2020.

**PERB cases or complaints by agency, FY2018-FY2020, as of Jan. 15, 2020**

<b>Agency name</b>	<b>Number of cases filed against an agency</b>			<b>Number of cases filed by agency or on behalf of agency by OLRCB or other</b>		
	<b>FY2018*</b>	<b>FY2019</b>	<b>FY2020</b>	<b>FY2018</b>	<b>FY2019</b>	<b>FY2020</b>
Department of Behavioral Health	7	3	1	1	0	0
Department of Transportation	1	0	0	0	0	0
Metropolitan Police Department	24	6	2	12	6	3
Department of Youth Rehabilitation Services	3	1	0	1	0	0
Department of Corrections	0	1	0	0	1	0

University of District of Columbia	2	0	0	1	0	0
Child and Family Services Agency	1	0	0	0	0	0
Office of Administrative Hearings	1	0	0	0	0	0
Housing Authority	0	1	0	0	1	0
Water and Sewer Authority	6	2	0	1	1	0
Office of State Superintendent of Education	3	1	1	1	0	0
District of Columbia Public Schools	3	8	1	2	0	0
Department of Health	2	0	1	1	0	0
Department of General Services	2	0	1	1	0	0
Department of Forensic Sciences	0	2	1	1	1	0
Public Services Commission	1	0	0	1	0	0
Department of Motor Vehicles	1	0	0	0	0	0
Office of Unified Communications	1	2	0	0	0	0
Office of Chief Medical Examiner	1	0	0	0	0	0
Office of Labor Relations and Collective Bargaining	0	3	1	0	0	0
D.C. National Guard	0	1	0	0	0	0
Department on Disability Services	0	2	0	0	0	0
Department of Parks and Recreation	0	1	0	0	0	0
Department of Consumer and Regulatory Affairs	0	1	0	0	0	0
Department of Public Works	0	0	1	0	0	0

\*Some cases caption more than one agency on a single filing

34. Please provide a narrative description **explaining each decision that was reversed or remanded by Superior Court or the Court of Appeals** in FY2019 or FY2020 as of Jan. 15, 2020. Please attach a copy of any opinion issued with the remand or reversal.

**Response:**

In FY2019: In *District of Columbia Metropolitan Police Department v. Public Employee Relations Board*, 2016 CA 008659 P(MPA) (D.C. Superior Court October 23, 2018), the court reversed the Board's decision in PERB Case No. 15-A-13, without reaching the merits, after determining that the arbitrator lacked jurisdiction to hear an appeal. In an arbitration review request before the Board, the agency contended that the arbitrator exceeded his jurisdiction and that the award was contrary to law and public policy, because the underlying matter was not arbitrable. PERB denied the request. On appeal in the Superior Court of the District of Columbia, the court determined that the arbitrator lacked the necessary jurisdiction to consider the Grievant's appeal of his termination. The court found that D.C. Official Code § 1-616.52(f) authorized an aggrieved employee to pursue an appeal to the Office of Employee Appeals (OEA) or through the parties' negotiated grievance procedure, but not both. The court determined that the Grievant chose the OEA process prior to appealing his termination through the negotiated grievance procedures; and therefore, the Arbitrator lacked jurisdiction to consider the Grievant's appeal.

**See Exhibit Q34.**

35. Regarding **training** that PERB provided to members of public unions or agency officials in FY2019 and FY2020, as of Jan. 15, 2020:

- a. Please provide a list of each training by date, along with the topic, agencies in attendance, and the number of attendees.

<b>Date and Topic</b>	<b>Nov-14-2018: PERB Training for Managers</b>	
Agencies	OTR	
Number of Attendees	49	
<b>Date and Topic</b>	<b>Jan-8-2019: Arbitration Advocacy Skills</b>	
Agencies	DBH OLR CB MPD DHS WASA EOM	
	DOC DYRS DISB DCRA OUC	
Number of Attendees	27	
<b>Date and Topic</b>	<b>Feb-12-2019: Interviews and Interrogations</b>	
Agencies	OUC DYRS DHCF OLR CB DBH	
	DFS EOM FEMS DDOT	
Number of Attendees	20	
<b>Date and Topic</b>	<b>Mar-12-2019: Arbitration and PERB</b>	
Agencies	DBH DFS DOC MPD	
	OAH DOH OUC	
Number of Attendees	15	
<b>Date and Topic</b>	<b>Apr-9-2019: Bargaining</b>	
Agencies	DYRS OUC DBH DISB	
	DOH OAH DFS	
Number of Attendees	22	

<b>Date and Topic</b>	<b>Apr-23-26-2019: FEMS Battalion Chiefs Labor-Relations Training</b>	
Agencies	FEMS	
Number of Attendees	51	
<b>Date and Topic</b>	<b>May-14-2019: Duty to Supply Information</b>	
Agencies	DBH FEMS DFHV EOM DYRS OUC	
	OLRCB DOC DOH DISB	
Number of Attendees	23	
<b>Date and Topic</b>	<b>Jun-11-2019: Duty of Fair Representation and Proposed Rules Presentation</b>	
Agencies	Council DISB DOH DOC EOM	
	OLRCB FEMS DBH	
Number of Attendees	17	
<b>Date and Topic</b>	<b>Jul-9-2019: Negotiability an Impasse</b>	
Agencies	DBH EOM DOC DOH WASA	
Number of Attendees	19	
<b>Date and Topic</b>	<b>Aug-13-2019: Representation Elections</b>	
Agencies	DFS DISB DOH DBH FEMS OP	
Number of Attendees	12	
<b>Date and Topic</b>	<b>Nov-6-2019: AFSCME Local 2743 Labor-Relations Training</b>	
Agencies	N/A	
Number of Attendees	8	
<b>Date and Topic</b>	<b>Dec-11-2019: AFSCME Local 2743 Labor Relations Training</b>	
Agencies	N/A	
Number of Attendees	9	
<b>Date and Topic</b>	<b>Dec-10-2019: Practical Tips for Engaging in Labor Relations</b>	
Agencies	DBH EOM WASA DISB DYRS DGS	
Number of Attendees	20	
<b>Date and Topic</b>	<b>Jan-14-2020: Ethics</b>	
Agencies	DDOT, OLRCB, DBH, WASA, OUC	
Number of Attendees	20	

- b. What strategy did PERB use to target outreach to agencies for these trainings in FY2019 and so far in FY2020?

**Response:**

PERB's strategy is to provide labor organizations and agencies with training upon request. PERB maintains an email listserv with agency and labor representatives. PERB provides regular notice of its Second Tuesdays at PERB training series. Additionally, PERB has a

quarterly newsletter, which summarizes the trainings held, announces upcoming events, and invites interested parties to request training. These notices also are uploaded to PERB's website. The Executive Director also solicits agency directors and union officials to participate in training.

c. How many trainings are planned for the remainder of FY2020?

**Response:**

PERB has held two Second Tuesdays at PERB trainings, and there are six sessions scheduled in the upcoming months. Also, PERB held union-specific training for AFSCME Local 2743. PERB plans to hold two more union- or agency-specific training.

36. Complete the table below with information on **each PERB decision issued** in FY2019 or FY2020, until Jan. 15, 2020, **that required action by agency management**. For example, an order for a unit to move to a different union (list the union local name) would be the description and date of implementation would be the date the unit received the necessary pay adjustment. If the date of implementation is not known, please state so. Add rows as necessary.

**PERB decisions requiring action by management, FY2019 and FY2020, as of Jan. 15, 2020**

Case Number or identifier	Case Type	Agency	Union Local (name, number)	Brief description of action to be taken	Date of PERB decision	Date of final implementation by agency	If petition for enforcement filed, date of petition
18-CU-02	CU	HEPR A-DOH	AFGE, Local 2978	Employees placed in Comp Units 1 and 2	11/2/18		N/A
18-RC-02	RC	OCME	NAGE	NAGE recognized as exclusive bargaining rep	3/25/19		N/A
18-S-02	S		FOP/M PD	Union to cease and desist from denying fair and equal treatment to Complainant and post notices of violation	5/24/19		7/11/19
19-CU-01	CU	DBH	SEIU, Local 1199	Employees placed in Comp Unit 1	6/28/19		8/29/19
17-U-31	ULP	OAH	FALJ	OAH to cease and desist from violating 1-617.04(a)(1) and post notices	7/24/19		N/A

13-U-07	ULP	DOES	AFGE, Local 1000	DOES to post notices	10/29/19		N/A
18-U-33	ULP	MPD	FOP/MPD	Cease and desist from violating sections 1-617.04(a)(1) and (5) and post notice	11/15/18		N/A

37. If the chart in Question 36 does not include **every petition for enforcement** filed (indicated by the date in the final column), please list those cases separately and describe the circumstances, including the agency at issue.

**Response:**

19-E-01 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): The Fraternal Order of Police filed a petition for enforcement on November 16, 2018, alleging that the Metropolitan Police Department (MPD) failed to comply with the Board's order in PERB Case No. 18-U-19, Opinion No. 1674. In its answer to the enforcement petition, MPD did not dispute the material allegations. The petition was granted on January 4, 2019, and is now pending before the Superior Court of the District of Columbia.

19-E-02 (*Washington Teachers' Union v. District of Columbia Public Schools*): The Washington Teacher's Union filed a petition for enforcement on November 29, 2018, alleging that the District of Columbia Public Schools failed to comply with the Board's order in PERB Case No. 14-U-02, Opinion No. 1657. The petition was administratively dismissed on September 30, 2019, after the parties notified the Board that they had settled.

19-E-03 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): The Fraternal Order of Police filed a petition for enforcement on March 29, 2019, alleging that the Metropolitan Police Department (MPD) failed to comply with the Board's order in PERB Case No. 17-A-09, Opinion No. 1644. In its answer to the enforcement petition, MPD did not dispute the material allegations. The petition was granted on May 20, 2019, and is now pending before the Superior Court of the District of Columbia.

19-E-04 (*Washington Teachers' Union, Local 6 v. District of Columbia Public Schools*): The Washington Teachers' Union filed a petition for enforcement on April 10, 2019, alleging that the District of Columbia Public Schools failed to comply with the Board's order in PERB Case No. 18-A-03, Opinion No. 1692. The parties jointly requested, and were granted, a stay of the proceedings.

19-E-05 (*Greggory Pemberton v. Fraternal Order of Police/Metropolitan Police Department Labor Committee*): Pemberton filed a petition for enforcement on July 11, 2019, alleging that the Fraternal Order of Police failed to comply with the Board's order in PERB Case No. 18-S-02, Opinion No. 1712. The petition was administratively dismissed on January 31, 2020, after the parties notified the Board that they had settled.

19-E-06 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): The Fraternal Order of Police filed a petition for enforcement on August 21, 2019, alleging that the Metropolitan Police Department (MPD) failed to comply with the Board's order in PERB Case No. 17-U-26, Opinion No. 1651. In its answer to the enforcement petition, MPD did not dispute the material allegations. The petition was granted on October 18, 2019, and is now pending before the Superior Court of the District of Columbia.

19-E-07 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): The Fraternal Order of Police filed a petition for enforcement on August 21, 2019, alleging that the Metropolitan Police Department (MPD) failed to comply with the Board's order in PERB Case No. 18-A-11, Opinion No. 1686. In its answer to the enforcement petition, MPD did not dispute the material allegations. The petition was granted on October 18, 2019, and is now pending before the Superior Court of the District of Columbia.

19-E-08 (*Local 1199, SEIU v. Department of Behavioral Health*): Local 1199 filed a petition for enforcement on August 29, 2019, alleging that the Department of Behavioral Health failed to enforce the Board's order in PERB Case No. 19-CU-01, Opinion No. 1714. The petition was administratively dismissed on January 31, 2020, after the petitioner filed a notice of withdrawal.

38. What methods does PERB use, other than review of petitions for enforcement, to **determine whether and when agencies implement** PERB's orders? Please describe the methods and provide examples. In each year of FY2019 and FY2020, how many complainants did PERB reach out to on its own to determine if PERB'S order had been enforced?

**Response:**

Other than petitions for enforcement, the Board has two procedures for determining whether and when an agency complies with the Board's orders: (1) reporting by the prevailing party through filing an unfair labor practice complaint; and (2) requiring an agency to notify the Board when it has complied with the Board's order. For instance, in one case, the Board ordered the agency to file a sworn certification of a responsible official attesting to the steps the agency took to comply with the Board's order.



39. In light of recent concerns expressed by labor organizations about a **perceived bias toward of management by PERB**, please discuss the specific steps PERB is taking or will take to ensure it always acts neutrally and to restore its reputation as a neutral body.

**Response:**

The Board members are disappointed that there is a perception of bias. The Board members feel that this perception may be based on a lack of knowledge of PERB processes and misunderstanding of the Board's case law. To address potential misunderstandings, the Board intends to expand its outreach and education through increased training opportunities and resource materials on its case law.

The Board is extremely proud of how it works, and maintains its neutrality through a series of checks and balances. The Board is comprised of five members, who were nominated and confirmed based on their expert knowledge of labor relations and who were chosen for their integrity and impartiality necessary to carry out PERB's mission. All decisions by the Board statutorily require a three-member quorum. As a result, decision-making power is not vested in one individual.

Board members spend a great deal of time in making a decision. At least a week prior to its monthly Board meeting, Board members receive case records, which include all relevant filings in a case along with transcripts and hearing examiners' reports and recommendations, and staff attorneys' written recommendations. Board members regularly direct staff attorneys to provide additional legal research prior to the meeting. At the Board meeting, Board members engage in serious discussion of all issues in a case, and may table a case for additional information or research, prior to making a final decision. Once Board members have determined the issues and made a decision in a case, Board members take a vote on a decision and order. When a decision and order is approved by a quorum, Board members instruct the staff attorneys to ensure the written decision and order that is issued to the parties reflects the decision and order agreed-upon by the Board members. Board members may make multiple rounds of changes and edits to a written decision and order until approving a final decision. Board members strive to ensure that decisions are clear and follow relevant, established precedent. Board members may also reject, modify or table for further review and discussion a staff attorney's written recommendation. Board members receive copies of all administrative dismissals, and may reconsider the dismissal if a party appeals. In matters of first impression, Board members may request that outside counsel provide additional legal consultation.

As for PERB's case law, most of the Board's decisions rely on established precedent, which dictates the legal outcome of a case. Additionally, in cases which have disputed, material facts, a hearing examiner will conduct a hearing. As part of the hearing process, parties have the ability to present their arguments, evidence, and witnesses to the hearing examiner, who submits a report of factual findings and legal recommendations (Report) to the Board. PERB issues the Report to the parties, who may file with the Board any factual or legal disagreements with the Report (Exceptions). Regardless of whether Exceptions are filed, Board members review the entire record and relevant case law, before rendering a

decision. The Board is limited to the factual findings of the hearing examiner as the initial trier of fact, as long as the factual findings are reasonable and based on the record, which creates a narrow exception for the Board to overturn the hearing examiner's factual determinations. However, the Board can (and has) overturned a hearing examiner's legal conclusions. For instance, in one notable case, a hearing examiner granted a unit modification petition filed by an agency. The Board determined that the unit modification petition was proscribed by PERB's governing statute, and did not adopt the hearing examiner's legal conclusion and decided the petition in favor of the respondent labor organizations.

The Superior Court of the District of Columbia is an external check on the Board and ensures that Board members' decisions comply with governing law. After the Board members have rendered a decision, a party may petition the Superior Court to review the Board's decision. Since FY2014, labor organizations have received sixty-seven unfavorable decisions by the Board. Of the sixty-seven decisions, labor organizations appealed twelve decisions. Of the twelve decisions appealed, the Superior Court affirmed eight Board decisions, and three appeals were either dismissed by the Superior Court or withdrawn by the petitioning labor organization. For one appeal, the Board's decision was affirmed, in part, and remanded, in part. For another appeal, at the Board members' request, the Board's decision was remanded back to the Board by the Superior Court without reaching the merits of the Board's decision. Since FY2014, the majority of the Board's decisions have remained in good standing.

PERB is committed to the preservation of long-standing bargaining relationships. PERB offers free mediation to parties by absorbing mediation costs, and the program has resulted in over 140 settlements since 2014.

PERB also is a member of the Association of Labor Relations Agencies, which is an association of government agencies across the United States and Canada that resolve labor-management disputes related to collective bargaining. Staff attorneys and the Executive Director have attended its annual conference in recent years, which provided education and discussion opportunities to learn about best practices in the labor relations community and programs that other agencies have implemented. As recently as FY2019, the Executive Director and staff attorneys attended a training session on neutrality. The training addressed ways in which staff working for quasi-judicial bodies could maintain their neutrality to avoid practices that could create the appearance of bias.

The Board members hope that continuing to expand its outreach and education will prevent a perception of bias based on a misunderstanding of its processes and case law. Furthermore, the Board invites further discussion from those concerned about the Board's neutrality.

## **V. Agency Operations and Disputes**

40. Please list in chronological order any other (non-union) **grievances or complaints against or regarding the agency or any of its personnel, filed by any District government employee**, that were filed or pending in FY2019 or FY2020. Do not include items covered in question 34. Include complaints filed in any forum, including with other District agencies; complaints on any matter, including human resources, personnel, sexual harassment, financial, or other matters; and complaints filed against a current agency employee related to their employment at the agency, or related to any previous employment at another District agency. Include on the list any earlier grievance that is still pending in any forum, including review by another District agency. For each grievance or complaint:
- Provide the agency name and office of the complainant at the time the matter occurred.
  - Provide the name of the forum or agency to which the complaint was filed.
  - Specify if the complaint concerns a colleague or supervisor.
  - Provide a brief description of the matter and the current status.
  - Describe the response to the complaint or grievance, including any disciplinary action taken and any changes to agency policies or procedures
  - For any complaint or grievance that was resolved in FY2019 or FY2020, as of Jan. 15, 2020, describe the resolution or outcome.

**Response:** None.

41. Please list in chronological order all **administrative grievances or complaints filed by parties outside District government** against the agency regarding services provided by or actions of the agency or any employee of the agency in FY2019 or FY2020, as of Jan. 15, 2020. Do not include items covered in question 34. Include on the chronological list any earlier grievance that is still pending in any forum.
- Describe the complainant (e.g. [Program name] customer)
  - For each grievance or complaint, give a brief description of the matter as well as the current status.
  - Please describe the process utilized to respond to the complaint or grievance and any changes to agency policies or procedures as a result.
  - For any complaints or grievances that were resolved in FY2019 or FY2020, as of Jan. 15, 2020 describe the resolution.

**Response:** None.

42. Please list all **lawsuits** that name or are concerned with the agency, division, or employee of the agency (related to the employee's work) as a party, which are pending or which concluded in FY2019 or FY2020, as of Jan. 15, 2020. Do not include items covered in question 34.
- Provide the case name, court, where claim was filed, case docket number, current status of case, and a description of all causes of action, counts, and/or allegations in the filed complaint.
  - Attach a copy of each complaint and any response filed by the agency or its legal representative.

**Response:** None.

43. Please list all **settlements** entered into by PERB or by the District on behalf of the agency in FY2018, FY2019, or FY2020, as of Jan. 15, 2020, including those authorized by D.C. Code § 2-402(a)(3), which requires the Mayor to pay certain settlements from agency operating budgets if the settlement is less than \$10,000 or results from an incident or allegation within two years of the filing date. For each settlement, provide:
- The parties' names: Margaret Cox, District of Columbia, and Clarene Martin
  - The date the underlying claim was filed with the agency/District government: September 6, 2016
  - The date the settlement was executed: August 20, 2018
  - The amount of the settlement and time period over which it was/will be paid: \$400,000 paid upon execution of the agreement.
  - Non-financial terms required of the agency, such as rescission of discipline, waiver of future claims, etc.: None.
  - If related to litigation, court where claim was initially filed, case docket number, and a description of the allegations; or Superior Court of the District of Columbia, 2016 CA 004990 B, claims alleged discrimination, hostile work environment, and retaliation under the D.C. Human Rights Act based on an alleged failure to reasonably accommodate disability and refusal to renew term contract of employment.
  - If unrelated to litigation, please describe the underlying dispute (e.g. administrative complaint related to sexual harassment, etc.). N/A.