

PUBLIC EMPLOYEE RELATIONS BOARD
FY2020-FY2021 Performance Oversight Questions
Committee on Labor and Workforce Development
Councilmember Elissa Silverman (At-Large), Chair

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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 FY2020, including the impact of and any adjustments or modifications due to COVID-19?

Priority 1- PERB Rules:

Response: PERB successfully published its new rules with minimal impact or disruption caused by the COVID-19 pandemic. Prior to the pandemic, PERB published its proposed rules for comment and conducted a full board panel hearing with the public. The Board considered the public's comments and issued a second notice of proposed rulemaking that included revisions of the proposed rules. The Board adopted its final rules on March 19, 2020, with an effective date of May 1, 2020.

Priority 2-Training:

Response: COVID-19 significantly impacted PERB's ability to conduct its in-person training sessions. PERB held 4 of its planned 8 in-person training sessions due to technology and budget constraints attributable to the pandemic. PERB now holds its training sessions via WebEx.

Priority 3- Resource Materials:

Response: PERB continues to create materials that help *pro se* individuals navigate the complaint process. PERB has redrafted the *pro se* complaint forms to provide clearer guidance on what is being filed. PERB has created additional templates to help *pro se* individuals properly file and serve documents with the office. COVID-19 has had minimal impact on this priority.

Priority 4- Staff Conducted Mediations:

Response: COVID-19 had some impact on this priority. At the onset of the pandemic PERB was forced to suspend all in-person mediations for 2-3 months. At the same time, PERB had significant employee turnover during the pandemic that reduced the number of attorneys available for mediation and required them to assume responsibilities of support staff, limiting the time available for attorneys to act as mediators.

Priority 5- Modernization:

Response: COVID-19 impacted this priority. Budget constraints and the change in work place/ work flow delayed acquisition of new technology for the office. PERB delayed the purchase of a computer for *pro se* use. The pandemic shifted PERB's focus on technology from in-office tools to tools that connect virtually and provide more flexibility.

- b. What are the agency's top five priorities in FY2021? Please explain in detail how the agency expects to address each priority in FY2021.

Priority 1 -Expand access to training:

Upon returning to in-person activities, PERB plans to make available both in-person and virtual training. To allow for virtual training, budget permitting, PERB intends to install a video camera in its training room to permit live-streaming of the training.

Priority 2- Enhance transparency:

PERB will install a video camera, budget permitting, in the hearing room to livestream its hearings and Board meetings to enhance transparency and access to the public.

Priority 3-Upgrade Technology:

PERB anticipates removing most of the restraints on remote telework for its employees and will provide employees with equipment more conducive to multiple work locations.

Priority 4- Electronic retention of documents:

PERB will begin to catalog remaining paper documents in storage and archive electronically, budget permitting.

Priority 5-Training for PERB Attorneys:

PERB will offer its attorneys continuing education opportunities and mediation training, budget permitting.

2. Please list each **program** or body of work operated or administered by PERB during FY2020 and FY2021. Highlight any programs new in FY2020 or FY2021. For each program, please provide a description of the program, the office that carries out the program, activities in FY2020 and FY2021, 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 some 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. A hearing examiner's report is reviewed by the Board to determine 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. Most cases are decided by the Board in accordance with PERB and judicial precedent. In FY2020, the Board issued 32 Decision and Orders, including 22 that closed cases, 4 election cases, and 6 motion for reconsiderations.

- b. Hearings – Generally, hearings are conducted in unfair labor practice and standard of conduct cases. Hearings are conducted by independent attorneys contracted by PERB who have a demonstrated history as labor relations experts. They are known as hearing examiners. PERB attorney-advisors review and research complaints and responses before a case is referred to a hearing examiner. Hearings allow the parties to present evidence to the hearing examiner, who ultimately prepares a report with factual findings and recommendations to the Board.

The hearing examiner's report is initially received by PERB attorney-advisors. PERB attorney-advisors review the hearing examiner's report, transcript, and hearing exhibits in light of the hearing examiner's recommendations and the subsequent exceptions filed by parties. PERB staff researches relevant law and drafts an independent decision and orders to present to the board for an ultimate determination.

- 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. PERB utilizes its hearing examiners as mediators.
- d. Training Program – Second Tuesdays at PERB are conducted monthly for two hours for both management and union participants. PERB advertises its Second Tuesdays training on its website and sends monthly emails to PERB's listserv 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 participation in the program. Training is conducted by labor relations experts. In FY2020, PERB held four in-person training sessions and a two day training session

for a union. In FY2021, PERB held a virtual training for the new PERB rules and held two second Tuesday's at PERB.

- 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 FY2020 and FY2021, PERB attorneys have adopted new procedures to conduct elections in response to the pandemic. PERB attorneys coordinated with the parties to produce election agreements, ballots, and notice postings. PERB contracted services from Honest Ballot Company to run a mail ballot election. The counting of ballots was conducted virtually.
 - f. Law Student Internship Program - PERB has participated in Howard University's Law School Internship Program. PERB will take on two law students per year.
3. Please describe any **initiatives** that PERB implemented in FY2020 or FY2021, as of Jan. 1, 2021, 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.
- a. PERB completed 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 Smart Board to provide a more interactive training experience. The training facility will be used to expand PERB's outreach.
 - b. PERB created a dedicated mediation room 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 increased its activity and visibility in the International Association of Labor Relations Agencies. ALRA provides resources and training for labor relations boards. Prior to the pandemic, a PERB attorney attended the fall planning session for the ALRA 2020 conference. In addition, another attorney was granted a \$1000 credit to attend the July 2020 annual conference, which was not held because of COVID-19.
 - d. PERB has partnered with Howard University Law School internship program, and has two law students for the academic year.
 - e. PERB continues to improve its Information Technology infrastructure to improve internal operations. PERB now operates virtually and uses WebEx to conduct hearings, mediations, Board meetings, and trainings. In FY2021, PERB has started the process of updating hardware and exchanged 3 desktops for laptops and docking stations.

4. Please provide a copy of PERB's FY2020 **performance accountability report**.

Exhibit: Q4

- a. Please explain which performance plan strategic objectives and key performance indicators (KPIs) were met or completed in FY2020 and which were not.

Response:

PERB did not meet the targeted percentage for the Percent of Cases Requiring a Hearing resolved within 300 days. The target was 50%. In FY2020 PERB reached 42%. PERB created new KPIs for all other measures in FY2020. KPIs are measured in the initial year and targets are set against the measurements in subsequent years. .

- b. 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:

With the exception of the target for percent of cases requiring a hearing, all other KPIs in the FY2020 performance accountability report set new measures.

- c. For any objective not met or completed, please provide an explanation.

Response:

As a result of COVID-19, PERB had to transition from in-person to virtual hearings and mediations. For a short period of time hearings were suspended. PERB had to secure the necessary tools and platforms as well as train mediators and hearing examiners on how to conduct virtual hearings and mediations.

5. Regarding the PERB's FY2021 **performance plan**:

- a. Please provide a copy of PERB's FY2021 performance plan as submitted to the Office of the City Administrator.

Exhibit: Q5a

- b. Discuss any changes to any outcomes measurements in FY2021, 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: None

6. Please discuss how PERB plans to maintain program activity levels and timeliness of issued decisions during the **Coronavirus public health emergency**. Please include:
 - a. The impact of the public health emergency on the regular operation of each program listed in the answer to question #2, and the agency's response to those challenges, if any,

Response:

The public health crisis had a significant impact on PERB operations. PERB has retooled and developed new protocols for processing cases at a critical time for labor relations between unions and the District government. PERB adapted its operations to efficiently process cases during the public health emergency. PERB's operations are virtual and PERB adjusted its filing and service requirements to allow *pro se* parties to use email. Hearings, Mediations, Trainings and Board Meetings are conducted using the WebEx platform. Currently, PERB has procedures in place to maintain regular operations.

- b. For each statutory deadline, please describe any challenges, if any, specific to the public emergency, which reduce the ability of the agency to meet the deadline, if any. Please list any resolution implemented or recommended by the agency.

Response:

In FY2020, PERB missed the deadline for publishing 13 decisions in the D.C. Register within the 60 day statutory deadline. Of these cases, nine were delayed because of the death of one staff member and the decision of another staff member to end her employment at the advent of the pandemic. The additional four cases were late because of miscommunication between staff members. We have hired two new support staff with the responsibility for publishing in the D.C. Register and on the website. Issues have been resolved and PERB is now structured to meet this goal 100% of the time.

7. How many **mediations** were conducted by PERB employees in FY2020 and the first quarter of FY2021, and to what result? Please describe the expectations for employee-led mediations in FY2021 and beyond.

Response:

None. In response to the coronavirus, PERB paused hearing and mediation activity. With current budget adjustments, PERB does not anticipate that it will have capacity to train new attorneys or the necessary capacity for attorneys to conduct mediation along with other responsibilities.

8. During FY2020, PERB **published and adopted new agency rules**. Please evaluate the implementation of these rules in FY2020 and the first quarter of FY2021, and identify:

- a. Any training or information provided on the new rules to parties who appear before the agency, and

Response: PERB issued notices and announced its new rules on its website. The new rules are currently posted on the website in an easy-to-find location from the homepage. On October 20, 2020 PERB attorneys conducted a virtual training to explain changes in the rules and to provide guidance to the public on how to access the rules.

- b. Additional rule changes, if any, that may be proposed because of issues with the implementation of the new PERB rules.

Response: PERB does not anticipate any new changes at this time.

II. Budget and Expenditures

Budget

9. **Budget.** Please *complete the attached table* in Excel showing your agency's budget, including Council-approved original budget, revised budget (after reprogramming's, etc.), and actual expenditures, by program and activity, for fiscal years 2020, and the first quarter of 2021. 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 2021 for each program and activity code.

Exhibit: Q9

10. Please provide a copy of the detailed FY2021 **non-personnel services spending plan** for each activity and fund in PERB's budget. **Exhibit: Q10**

11. Please provide the following information for all **intra-District memoranda of understanding (MOUs)** for FY2020 and FY2021 as of Jan. 1, 2021, *including anticipated MOUs* for the remainder of FY2021.

- a. *Attach copies* of all intra-district MOUs. **Exhibit: Q11a**

- b. Please *complete the attached table* in Excel for all MOUs, including anticipated MOUs. **Exhibit: Q11b**

12. Please provide the following information for all **intra-District memoranda of agreement (MOAs)** for FY2020 and FY2021 as of Jan. 1, 2020, including anticipated MOAs for the remainder of FY2021.

- a. *Attach copies* of all intra-district MOAs. **None**

- b. For each MOA, including anticipated MOAs, complete the table below; add rows as necessary. **n/a**
13. Please *complete the attached table* for each **interagency reprogramming** of funds into and out of the agency for FY2020 and FY2021, as of Jan. 1, 2021, including anticipated inter-agency reprogramming for the remainder of FY2021.
- a. Please *attach copies* of the reprogramming documents, including the Agency Fiscal Officer’s request memo and the attached reprogramming chart. **Exhibit: Q13a**
- b. For each reprogramming, including anticipated reprogramming, complete the attached chart in Excel **Exhibit: Q13b**
14. Please *complete the attached table* for each **intra-agency reprogramming** *within* your agency during FY2020 and FY2021, as of Jan. 1, 2021, as well as any anticipated intra-agency reprogramming for the remainder of FY2021.
- a. Please *attach copies* of any reprogramming documents. **Exhibit: Q14a**
- b. Please include in the chart a detailed rationale for the reprogramming: why the funds were available and what they will be used for. **Exhibit: Q14b**
15. 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. **Exhibit: Q15**

Expenditures

16. Please *complete the attached table* in Excel with information on each **contract, procurement, and lease** leveraged in FY2020 and FY2021 as of Jan. 1, 2021, 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. **Exhibit: Q16**
17. Please complete the following table with information on all **credit card, p-card, or purchase card purchases and expenditures** for FY2020 and FY2021, as of Jan. 1, 2021; 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.

Credit, p-card, and purchase card expenditures, FY2020 and FY2021

Employee Name	Date of Expenditure	Vendor Name	Dollar Amount	Purpose of Expenditure
Antwanette Murphy	10/15/2019	AMTRAK .CO28	\$ 257.00	Transportation - Other/ Attorney Travel to ALRA Training
Antwanette Murphy	10/30/2019	VERITAS CONSULTING GRO	\$ 1,330.00	Professional Services

Antwanette Murphy	10/30/2019	WWW.AMANET.ORG	\$ 1,984.00	Education-Training
Antwanette Murphy	10/31/2019	IRON MOUNTAIN	\$ 284.78	Professional Services/Legal Document Storage
Antwanette Murphy	11/05/2019	MICHAEL MATTERS, INC.	\$ 1,950.00	Attorney Software Technical Support-Computer, Hardware, Software and Peripherals
Antwanette Murphy	11/05/2019	CAPITAL SERVICES & SUP	\$ 990.00	Surplus Property Removal/Delivery
Antwanette Murphy	11/05/2019	STANDARD OFFICE SUPPLY	\$ 149.74	Office Support/Supplies
Antwanette Murphy	11/05/2019	STANDARD OFFICE SUPPLY	\$ 242.58	Office Support/Supplies
Antwanette Murphy	11/07/2019	SUPERIOR COURIERS LLC	\$ 26.00	Warehousing, Freight and Delivery
Antwanette Murphy	11/07/2019	SUPERIOR COURIERS LLC	\$ 112.00	Warehousing, Freight and Delivery of Surplus Property
Antwanette Murphy	11/09/2019	IRON MOUNTAIN	\$ 284.78	Professional Services/Legal Document Storage
Antwanette Murphy	11/21/2019	STANDARD OFFICE SUPPLY	\$ 171.36	Office Supplies-Legal Support
Antwanette Murphy	11/25/2019	METRO 083-WATERFRONT	\$ 22.00	Transportation - Board Member/PERB Staff
Antwanette Murphy	11/26/2019	METRO FARE AUTOLOAD	\$ 15.00	Transportation - Board Member
Antwanette Murphy	11/28/2019	STAMPS.COM	\$ 38.16	Professional Services/Office Supplies-Stamps
Antwanette Murphy	12/16/2019	SUPERIOR COURIERS LLC	\$ 84.00	Warehousing, Freight and Delivery
Antwanette Murphy	12/24/2019	CALVIN PRICE GROUP	\$ 1,250.00	Legal/Office Support/Supplies/Warehouse Services
Antwanette Murphy	12/27/2019	STAMPS.COM	\$ 19.07	Professional Services/Office Supplies-Stamps
Antwanette Murphy	01/13/2020	SUPERIOR COURIERS LLC	\$ 168.00	Warehousing, Freight and Delivery
Antwanette Murphy	01/15/2020	IRON MOUNTAIN	\$ 566.36	Professional Services/Legal Document Storage
Antwanette Murphy	01/15/2020	IRON MOUNTAIN	\$ 284.78	Professional Services/Legal Document Storage
Antwanette Murphy	01/17/2020	SQ *SQ *COLMONI'S CATE	\$ 450.00	District-Wide Training-Legal Support/Award/Ceremony
Antwanette Murphy	01/27/2020	STAMPS.COM	\$ 19.07	Professional Services/Office Supplies-Stamps
Antwanette Murphy	02/03/2020	STANDARD OFFICE SUPPLY	\$ 778.65	Maintenance Repair Operation-Legal Office Supplies/Office Support
Antwanette Murphy	02/04/2020	STANDARD OFFICE SUPPLY	\$ 171.20	Maintenance Repair Operation-Legal Office Supplies/Office Support
Antwanette Murphy	02/11/2020	ACROBAT PRO SUBS	\$ 216.11	Computer, Hardware, Software and Peripherals
Antwanette Murphy	02/11/2020	SUPERIOR COURIERS LLC	\$ 84.00	Warehousing, Freight and Delivery
Antwanette Murphy	02/12/2020	COMMONWEALTH DIGITAL O	\$ 2,447.98	Printing, Maintenance, Computer, Hardware, Software and Peripherals
Antwanette Murphy	02/14/2020	ADOBE PRODUCTS	\$ (12.23)	Tax Credit

Antwanette Murphy	02/18/2020	ARNOLD ENGRAVERS	\$ 30.00	Board Member Plaques
Antwanette Murphy	02/18/2020	METRO 002-FRGUT N SE	\$ 85.00	Transportation - Other
Antwanette Murphy	02/27/2020	STAMPS.COM	\$ 19.07	Professional Services/Office Supplies- Stamps
Antwanette Murphy	02/27/2020	MVS	\$ 1,525.00	Professional Services- Office Supplies/Equipment
Antwanette Murphy	03/03/2020	IRON MOUNTAIN	\$ 284.78	Professional Services/Legal Document Storage
Antwanette Murphy	03/04/2020	AMAZON.COM*SQ8N H8S83 A	\$ 90.34	Legal Office Support- Election Boxes
Antwanette Murphy	03/03/2020	STANDARD OFFICE SUPPLY	\$ 54.20	Maintenance Repair Operation
Antwanette Murphy	03/12/2020	USPS STAMPS ENDICIA	\$ 50.00	Government- Stamps/Mailing Supplies/Services
Antwanette Murphy	03/24/2020	SUPERIOR COURIERS LLC	\$ 140.00	Warehousing, Freight and Delivery
Antwanette Murphy	03/27/2020	STAMPS.COM	\$ 19.07	Professional Services
Antwanette Murphy	03/27/2020	IRON MOUNTAIN	\$ 284.78	Professional Services
Antwanette Murphy	04/02/2020	AMZN MKTP US	\$ 137.30	Office Supplies-Legal Support-Voting Ballot Boxes
Antwanette Murphy	04/03/2020	AMAZON PRIME	\$ 13.77	Service Fees
Antwanette Murphy	04/02/2020	STANDARD OFFICE SUPPLY	\$ 55.99	Professional Services/Office Support
Antwanette Murphy	04/02/2020	STANDARD OFFICE SUPPLY	\$ 114.47	Professional Services/Office Support
Antwanette Murphy	04/15/2020	SUPERIOR COURIERS LLC	\$ 112.00	Warehousing, Freight and Delivery
Antwanette Murphy	04/27/2020	STAMPS.COM	\$ 19.07	Professional Services-Monthly Stamp Fee
Antwanette Murphy	04/27/2020	STANDARD OFFICE SUPPLY	\$ 23.99	Maintenance Repair Operation
Antwanette Murphy	05/03/2020	AMAZON PRIME	\$ 13.77	Professional Services
Antwanette Murphy	05/08/2020	IRON MOUNTAIN	\$ 569.56	Professional Services/Legal Document Storage
Antwanette Murphy	05/18/2020	QUICK MESSENGER SERVICE	\$ 72.26	Legal Officer Support Services/Board
Antwanette Murphy	05/27/2020	STAMPS.COM	\$ 19.07	Professional Services-Monthly Stamp Fee
Antwanette Murphy	06/03/2020	AMAZON PRIME	\$ 13.77	Professional Services
Antwanette Murphy	06/03/2020	LEASE DIRECT	\$ 3,089.75	Legal Support Maintenance Repair Operation-Copier Lease
Antwanette Murphy	06/27/2020	STAMPS.COM	\$ 19.07	Professional Services-Monthly Stamp Fee
Antwanette Murphy	07/01/2020	CARAHSOFT TECHNOLOGY C	\$ 1,794.39	Computer, Hardware, Software and Peripherals
Antwanette Murphy	07/01/2020	COMMONWEALTH DIGITAL O	\$ 1,514.44	Print and Duplicating Services
Antwanette Murphy	07/02/2020	IRON MOUNTAIN	\$ 284.78	Professional Services/Legal Document Storage
Antwanette Murphy	07/02/2020	IRON MOUNTAIN	\$ 332.73	Professional Services/Legal Document Storage
Antwanette Murphy	07/03/2020	AMAZON PRIME	\$ 13.77	Professional Services
Antwanette Murphy	07/27/2020	STAMPS.COM	\$ 19.07	Professional Services-Monthly Stamp Fee
Antwanette Murphy	08/03/2020	AMAZON PRIME	\$ 13.77	Professional Services

Antwanette Murphy	08/04/2020	AMAZON PRIME	\$ (13.77)	Monthly Service Fee Reimbursement-Cancellation
Antwanette Murphy	08/20/2020	OFFICE DEPOT #2521	\$ 25.43	Office Equipment and Supplies
Antwanette Murphy	08/27/2020	STAMPS.COM	\$ 19.07	Professional Services
Antwanette Murphy	08/25/2020	STANDARD OFFICE SUPPLY	\$ 50.78	Maintenance Repair Operation
Antwanette Murphy	08/28/2020	MVS INC	\$ 126.40	Professional Services
Antwanette Murphy	09/04/2020	IRON MOUNTAIN	\$ 336.05	Professional Services/Legal Document Storage
Antwanette Murphy	09/04/2020	IRON MOUNTAIN	\$ 336.05	Professional Services/Legal Document Storage
Antwanette Murphy	09/09/2020	COMMONWEALTH DIGITAL O	\$ 9.20	Print and Duplicating Services
Antwanette Murphy	09/27/2020	STAMPS.COM	\$ 19.07	Professional Services
Antwanette Murphy	09/28/2020	PAYPAL	\$ 633.75	Computer, Hardware, Software and Peripherals
Antwanette Murphy	09/28/2020	PAYPAL	\$ 2,096.25	Computer, Hardware, Software and Peripherals
Antwanette Murphy	09/30/2020	IRON MOUNTAIN	\$ 336.05	Professional Services
Antwanette Murphy	09/30/2020	MICHAEL MATTERS, INC.	\$ 146.25	Computer, Hardware, Software and Peripherals
Antwanette Murphy	09/30/2020	MVS INC	\$ 2,394.80	Professional Services
Antwanette Murphy	10/27/2020	STAMPS.COM	\$ 19.07	Professional Services
Antwanette Murphy	11/16/2020	MICHAEL MATTERS, INC.	\$ 450.00	Computer, Hardware, Software and Peripherals
Antwanette Murphy	11/17/2020	OFFICE DEPOT #2521	\$ 49.81	Office Equipment and Supplies
Antwanette Murphy	11/20/2020	COMMONWEALTH DIGITAL O	\$ 8.54	Maintenance Repair Operation
Antwanette Murphy	11/30/2020	STANDARD OFFICE SUPPLY	\$ 26.25	Office Equipment and Supplies

18. Were any protests or appeals filed with the **Contract Appeals Board** in FY2020 or FY2021 as of Jan. 1, 2021, against or involving your agency? If so, please complete the following table with information on each such protest or appeal; add rows as necessary.

Response: No

III. Agency Organization and Personnel

19. Please provide an **organizational chart** for the agency, arranged by division and subdivision, as of Jan. 1, 2021. **Exhibit: Q19**

- a. Show for each division and subdivision:
 - a. The names and titles of all personnel;
 - b. Include on the chart, and denote as vacant or frozen, any such positions
- b. Note on the chart the date of the information if not Jan. 1, 2021.

20. Please *complete the attached table* in Excel with a **chart of all positions (i.e., Schedule A)** at the agency, as of Jan. 1, 2021. **Exhibit: Q20**

21. 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. 1, 2021.

Response:

Position Number: 00077442
Position: Attorney Advisor
Vacancy: November 13, 2020
Grade/Step: LS-12/4

22. What was the **caseload** for each attorney or attorney adviser each year of FY2019, FY2020, and FY2021, as of Jan. 1, 2021?

PERB Attorneys	FY2019	FY2020	FY2021	Comment
Attorney 1	9	1		Separated from agency – February 2020 (special project drafting PERB rules 2019-2020)
Attorney 2	14	16	1	Separated from agency - November 2020
Attorney 3	4			Separated from agency- February 2019
Attorney 4	19	15	5	
Attorney 5			1	New hire in FY 2021

23. How many and what percentage of employees at PERB as of Jan. 1, 2021, were **District residents**?

Response: 3 employees, 43%

24. Please complete the following charts about the **residency of new hires** at PERB in FY2020 and FY2021:

DC Residency of Employees Hired in FY 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	1	1	100%
Term	0	0	0%
Temporary	0	0	0%

DC Residency of Employees Hired in FY 2021, as of Jan. 1, 2021

<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	0	0	0%
Temporary	0	0	0%

25. Please complete the following table regarding employees placed on **administrative leave** in FY2020 or FY2021. 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.

Response: None

26. Has any PERB employee contracted COVID-19 during FY20 or FY21? If so, please provide:

Response: To my knowledge and belief, none have contracted COVID-19

27. For FY2020 and FY2021, as of Jan. 1, 2021, please complete the following table on each **employee separated** from the agency, whether voluntarily or at the agency’s initiation.

Employees Separated from Agency, FY2020 and FY2021

<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>
Merlin George	Attorney-Advisor	0	0	Voluntary
Joyce Phillips	Term- Staff Assistant	0	0	Voluntary
Sheryl Harrington	Administrative Assistant	0	0	Deceased
Alexis Anderson	Attorney-Advisor	0	0	Voluntary

IV. Public Employee Relations Board

28. Please complete the chart below with board **member information** as of Jan. 1, 2021. 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>
Douglas Warshof	Chairperson	12/4/2018	12/12/2021	Y
Barbara Somson	Labor	1/9/2018	12/12/2020	Y
Mary Anne Gibbons	Management	7/11/2017	12/12/2020	Y

Peter Winkler	Public	2/4/2020	12/12/2022	Y
Vacant	Public		12/12/2019	Y

29. Please complete the following charts with information about **PERB cases by case type** in FY2019, FY2020, and FY2021 as of Jan. 1, 2021:

PERB Cases by Type

Case 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		
	FY2019	FY2020	FY2021	FY2019	FY2020	FY2021	FY2019	FY2020	FY2021
Arbitration Review Request	11	8	6	16	10	2	9	4	0
Negotiability:	1	0	1	2	0	1	1	0	0
Standards of Conduct:	3	6	1	1	1	0	1	1	0
Impasse (Compensation)	1	0	0	0	0	0	0	0	0
Impasse (Non-compensation)	2	1	0	2	0	0	0	0	0
Unfair Labor Practice Complaint	22	34	9	12	15	3	8	7	0
Enforcement:	8	5	4	2	3	0	0	0	0
Unit Decertification	0	0	0	0	0	0	1	0	0
Unit Clarification:	0	1	0	2	0	0	0	0	0
Election:	4	0	0	2	2	2	1	0	1
Petition to Amend Certification:	0	1	0	0	1	0	0	0	0
Unit Modification	1	0	0	1	0	0	0	0	0

30. Please complete the following charts with **data on PERB cases** in FY2019, FY2020, and FY2021 as of Jan. 1, 2021:

PERB Cases and Decisions, FY2019 through 2021

	FY2019	FY2020	FY2021
Number of complaints or cases filed	54	57	21
Number of decisions issued	40	32	8
Number of petitions for enforcement	8	5	4
Number of cases settled	1	6	6
Number of cases withdrawn	10	14	13
Number of decisions appealed	10	8	0
• DC Superior Court	2	0	0
• DC Court of Appeals			
Number of pending appeals (total)			
• DC Superior Court	10	12	15
• DC Court of Appeals	1	1	2
Number of PERB decisions overturned or remanded on appeal (total)			
• DC Superior Court	1	0	0
• DC Court of Appeals	0	1	0
Number of PERB decisions upheld on appeal (total)			
• DC Superior Court	8	5	2
• DC Court of Appeals	1	2	0

31. Please fill in the chart below with **cases by agency** in each year FY2019, FY2020, and FY2021.

PERB cases or complaints by agency, FY2019-FY2021, as of Jan. 1, 2021

Agency name	Number of cases filed against an agency			Number of cases filed by agency or on behalf of agency by OLRCB or other		
	FY2019	FY2020	FY2021	FY2019	FY2020	FY2021
DBH	2	0	0	0	0	0
DCHA	1	1	0	1	0	0
DCPS	8	3	2	0	2	2
DCRA	1	5	0	0	0	0
DDS	2	0	0	0	0	0
DFS	2	1	0	1	0	0
DGS	0	2	0	0	0	0
DISB	0	1	0	0	0	0
D.C. National Guard	1	0	0	0	0	0
DOC	1	1	0	1	0	0
DOH	1	2	0	0	0	0
DPR	1	0	0	0	0	0

DPW	0	3	0	0	0	0
DYRS	1	1	0	0	0	0
EOM	1	0	0	0	0	0
FEMS	0	1	0	0	0	0
MPD	6	8	9	6	7	5
OLRCB	3	4	0	0	0	0
OSSE	1	1	1	0	0	0
OUC	2	0	0	0	0	0
PSC	0	1	0	0	0	0
RHC	0	1	0	0	0	0
WASA	2	0	3	1	0	0

32. Please provide a narrative description **explaining each decision that was reversed or remanded by Superior Court or the Court of Appeals** in FY2020 or FY2021 as of Jan. 1, 2021. Please attach a copy of any opinion issued with the remand or reversal.

Response:

American Federation of Government Employees v. District of Columbia Public Employee Relations Board, Case No. 17-CV-383 (September 10, 2020)

The D.C. Court of Appeals determined that PERB inappropriately asserted jurisdiction over a national union and remanded the case back to DC Superior Court to grant the Union's motion to dismiss. PERB is waiting for the Superior Court order. **Exhibit: Q32**

33. Regarding **training** that PERB provided to members of public unions or agency officials in FY2020 and FY2021, as of Jan. 1, 2021:

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

Date of Training	Topic	Agencies in Attendance	Number of Attendees	Remote or In-person
11/6/2019	AFSCME Training- CMPA and Labor Relations	AFSCME-DISB Union	8	In-Person
12/11/2019	AFSCME Training- CMPA and Labor Relations	AFSCME-DISB Union	9	In-Person
12/10/2019	Practical Tips for Engaging in Labor Relations	WASA, DBH, DISB, OAH,	8	In-Person

1/14/2020	Civility and Ethics in the Practice of Labor Relations	DBH, WASA, OLRCB, DDOT, DOC	25	In-Person
2/11/2020	Duty to Bargain	WASA, FEMS, DBH, OUC,	15	In-Person
3/10/2020	Review and Discussion of Recent and Interesting Board Decisions	OLRCB, DISB, DYRS, WASA,	18	In-person
10/20/2020	Rules of the Public Employee Relations Board	DBH, OAG, OSSE, MPD, DYRS, DCRA, WASA, DCPL, FEMS	44	Remote
12/8/2020	PERB and the COVID-19 Pandemic	OUC, WASA, OLRCB, DISB, FEMS, EOM, MPD,	29	Remote

- b. What strategy did PERB use to target outreach to agencies for remote trainings (because of the public health emergency) in FY2020 and so far in FY2021?

Response: PERB has expanded its listserv and invited more participants to join in the training. In addition, PERB surveyed participants to determine which training topics would be most useful in crafting our curriculum. PERB will also continue outreach to offer agencies and unions specific labor relations trainings.

- c. How many trainings are planned for the remainder of FY2021? Will they be in person or virtual?

Response: PERB has conducted two trainings in FY2021 and has six remaining trainings to conduct in FY2021. The trainings will be virtual.

34. Complete the table below with information on **each PERB decision issued** in FY2020 or FY2021, until Jan. 1, 2021, **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, FY2020 and FY2021, as of Jan. 1, 2021

Case #	Type	Agency	Union Local	Brief description of action to be taken	Date of PERB decision	Date implemented by agency	Date of Enforcement Pet'n, if any.
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13-U-07	ULP	DOES	AFGE, Local 1000	Post Notice	10/17/19 (Decision and Order – Opinion No. 1730)	Not notified by union	N/A
13-U-07	ULP/MFR	DOES	AFGE, Local 1000	Cease and desist from violating D.C. Official Code § 1-617.04(a)(1) and (5) Return to a position of <i>status quo ante</i> Post Notice	3/19/20 (Decision and Order granting Motion – Opinion No. 1742)	Not notified by union	N/A
19-E-06	Petition for Enforcement	MPD	FOP	Petition granted.	10/18/19 (Decision and Order – Opinion No. 1728)	Not notified by union	12/5/2019 Granted 8/12/2020
19-E-07	Petition for Enforcement	MPD	FOP	Petition granted	10/18/19 (Decision and Order – Opinion No. 1729)	(8/17/2020, following court order there was compliance)	12/5/2019 Granted 8/6/2020
19-S-02*	Standards of Conduct	DOC	FOP	Cease and desist from violating its by-laws, constitution, and the CMPA Cease and desist from failing to adopt, subscribe, or comply with the Standards of Conduct for labor organizations prescribed under the CMPA in any like or related manner. Post notice Provide notice of decision to bargaining unit members. Notify Board that notice has been posted.	6/17/20 (Decision and Order – Opinion No. 1750)	7/8/20 (Notice of Compliance filed)	N/A
20-E-02	Petition for Enforcement	MPD	FOP	Comply with terms of arbitration award. Notify PERB of compliance.	07/02/20 (Decision and Order – Opinion No. 1752)	Noncompliance	Petition prepared for filing
20-U-26	Unfair Labor Practice	DCPS	WTU, Local 6, AFT, AFL- CIO	Bargain in good faith Cease and desist Post notice	6/18/20 (Decision and Order – Opinion no. 1755)	7/15/20 (Notice of compliance, posting on website)	N/A

				Notify PERB that notice has been posted.			
20-U-30	Unfair Labor Practice	DCPS	WTU, Local 6, AFT, AFL-CIO	Bargain over health and safety conditions Rescind Guidelines and Intent Form and notify bargaining unit members. Rescind health and safety protocols and survey issued and notify members of the bargaining unit. Certify to PERB the actions taken to implement Order.	10/20/20 (Preliminary Relief Order – Opinion No. 1760)	10/27/20 Notice of compliance filed	N/A
20-U-30	Unfair Labor Practice	DCPS	WTU, Local 6, AFT, AFL-CIO	Cease and desist from interfering with, restraining, or coercing employees in rights guaranteed to them under D.C. Official Code § 1-617.04 (a)(1) and (a)(5). Cease and desist from directly dealing with bargaining unit members in a manner that serves to undermine WTU; refusing to bargain in good faith with WTU; and implementing changes in employment pertaining to health and safety without fulfilling bargaining obligation with WTU. Bargain in good faith Post notice Notify Board of posting.	10/29/20 (Decision and Order – Opinion No. 1762) 11/17/20 (Motion for Reconsideration filed) 12/17/20 (Decision and Order denying Motion – Opinion No. 1767)	By information and belief, the underlying issues of this case was resolved by mutual agreement	N/A

35. 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:

Under PERB Rule 560.1, a prevailing party in an unfair labor practice case may petition the Board to seek judicial process to enforce an order of the Board if the respondent has failed to comply with the order and no motion for reconsideration or timely request for judicial review is pending or remains available. Rather than filing another unfair labor complaint and bringing their case before the Board again, most prevailing parties in unfair labor matters will petition the Board to seek judicial process, should the respondent fail to comply with the Board’s decision. During FY2020 and FY2021, no prevailing parties in unfair labor complaints filed secondary unfair labor practice complaints to enforce previous Board orders. Prevailing parties filed the following Enforcement cases:

20-E-02 (*Fraternal Order of Police MPD Labor Committee v. Metropolitan Police Department*): On May 4, 2020, FOP filed a Petition for Enforcement of the Board's Decision and Order in PERB Case No. 18-A-09, Opinion No. 1684. The petition has been prepared for filing in Superior Court.

20-E-03 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. D.C. Metropolitan Police Department*): On September 17, 2020, FOP filed a Petition for Enforcement of the Board's Decision and Order in PERB Case No. 18-A-10, Opinion No. 1691. The Decision and Order directed MPD to pay the Grievant for scheduled but unworked overtime. Subsequently, this case was successfully settled with the use of PERB mediation. PERB expects the parties to file a settlement letter soon.

20-E-04 (*Fraternal Order of Police Protective Services Division Labor Committee v. Department of General Services, PSPD*): On September 24, 2020, FOP filed a Petition for Enforcement of the Board's Decision and Order in Case No. 18-U-01, Opinion No. 1739. The Decision and Order found DGS committed an ULP and ordered DGS to cease and desist from interfering with, restraining, or coercing FOP employees in exercising their rights under the CMPA. It ordered various additional forms of relief including mandated free worksite parking for employees and reimbursement for past parking expenses. Mediation occurred on December 22, 2020. The parties have partially settled the dispute and agreed to dates for compliance. PERB expects that the parties will fully resolve the issues without the need for further litigation.

20-E-05 (*Bryant et al v. FOP/DOC Labor Committee*): On September 22, 2020, the Complainant filed a Petition for Enforcement of the Board's Decision and Order in PERB Case No. 19-S-02, Opinion No. 1750. PERB issued a deficiency letter on September 30, 2020, informing the Complainant of its failure to allege non-compliance with the Board's Order but rather raising a new charge. The Complainant failed to remedy the deficiencies. PERB dismissed the case on November 18, 2020.

21-E-01 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): On October 19, 2020, FOP filed a Petition for Enforcement of the Board's Decision and Order in Case No. 19-A-03, Opinion No. 1707, in which the Board denied review of an arbitration award. Mediation is pending.

21-E-02 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): On October 19, 2020, FOP filed a Petition for Enforcement of the Board's Decision and Order in Case No. 19-A-04, Opinion No. 1711, in which the Board denied review of an arbitration award. Mediation is pending.

21-E-03 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): On November 4, 2020, FOP filed a Petition for Enforcement of the Board's Decision and Order in Case No. 19-A-01, Opinion No. 1698, in which the Board denied review of an arbitration award. Mediation is pending.

21-E-04 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): On November 13, 2020, FOP filed a Petition for Enforcement

of the Board's Decision and Order in Case No. 18-A-14, Opinion No. 1688, in which, the Board denied review of an arbitration award. Mediation is pending.

36. In each year of FY2020 and FY2021, how many **prevailing parties filed unfair labor complaints** alleging non-compliance with an order issued by PERB? In how many cases did PERB require an agency to notify the Board after complying with the Board's order?

Response: None (See response to question 35)

V. Agency Operations, Disputes, and Evaluation

37. 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 FY2020 or FY2021. Do not include items covered in question 30-32. 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:

- a. Provide the agency name and office of the complainant at the time the matter occurred.
- b. Provide the name of the forum or agency to which the complaint was filed.
- c. Specify if the complaint concerns a colleague or supervisor.
- d. Provide a brief description of the matter and the current status.
- e. Describe the response to the complaint or grievance, including any disciplinary action taken and any changes to agency policies or procedures
- f. For any complaint or grievance that was resolved in FY2019 or FY2020, as of Jan. 1, 2020, describe the resolution or outcome.

Response: None

38. 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 FY2020 or FY2021, as of Jan. 1, 2021. Do not include items covered in questions 30-32. Include on the chronological list any earlier grievance that is still pending in any forum.

- a. Describe the complainant (e.g. [Program name] customer)

Response: In the only complaint received, the Complainant was a female attorney representing a party in a PERB case

- b. For each grievance or complaint, give a brief description of the matter as well as the current status

Response: Party's attorney was critical of the manner in which she was treated by a hearing examiner during a virtual pre-hearing conference. She claimed that the male hearing examiner treated her male opposing counsel with more deference than she. She claims the difference in treatment was based on her sex. The hearing examiner was replaced.

- c. Please describe the process utilized to respond to the complaint or grievance and any changes to agency policies or procedures as a result.

Response: The complaint was shared with the Board. Future hearing examiners' contracts will include a nondiscrimination clause. Also, PERB will require nondiscrimination training for hearing examiners.

- d. For any complaints or grievances that were resolved in FY2020 or FY2021, as of Jan. 1, 2021 describe the resolution.

Response: The Complainant was informed of the change in hearing examiners and agreed to discuss possible adjustments to avoid similar occurrences.

39. 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 FY2020 or FY2021, as of Jan. 1, 2021. Do not include items covered in questions 30-32

- a. 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.
- b. Attach a copy of each complaint and any response filed by the agency or its legal representative.

Response: None

40. Please list all **settlements** entered into by PERB or by the District on behalf of the agency in FY2019, FY2020, or FY2021, as of Jan. 1, 2021, 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:

- a. The parties' names;
- b. The date the underlying claim was filed with the agency/District government;
- c. The date the settlement was executed;
- d. The amount of the settlement and time period over which it was/will be paid;
- e. Non-financial terms required of the agency, such as rescission of discipline, waiver of future claims, etc.;
- f. If related to litigation, court where claim was initially filed, case docket number, and a description of the allegations; or

- g. If unrelated to litigation, please describe the underlying dispute (e.g. administrative complaint related to sexual harassment, etc.).

Response: None

- 41. For all **studies, research papers, reports, evaluations, and analyses**, including those provided by contractors or consultants, that PERB prepared or contracted for during FY2020 and FY2021, as of Jan. 1, 2021:
 - 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

- 42. Please list and describe any **investigations, audits, or reports by outside entities** that have requested or required participation by PERB or any employee that were conducted during FY2020 and FY2021, as of Jan. 1, 2021, or that are ongoing. Also, please provide the url or *attach copies* 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

- 43. Please list all **recommendations identified by the Office of the Inspector General, DC Auditor, or other federal or local oversight entities** during FY2019, FY2020, or FY2021, as of Jan. 1, 2021 about PERB or DC government personnel practices. 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

- 44. Please attach a copy the agency's **FOIA disclosure report(s)** for FY2020. **Exhibit: Q44**
- 45. Please attach a **log of all FOIA requests** received in FY2020 and FY2021 with the request number, the name of the requestor, the request date, and a brief description of the information requested. **Exhibit: Q45**