

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Labor Relations and Collective Bargaining



Response to Fiscal Year 2021-2022
Performance Oversight Questions

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Director

Submission to

Committee of Labor and Workforce Development
Council to the district of Columbia
The Honorable Elissa Silverman, Chairperson

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John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington, DC 20004

OFFICE OF LABOR RELATIONS AND COLLECTIVE BARGAINING
FY2021 - FY2022 Performance Oversight Questions
Committee on Labor and Workforce Development
Councilmember Elissa Silverman (At-Large), Chair

I. Agency Priorities and Performance	2
II. Budget and Expenditures	6
III. Agency Organization and Personnel.....	9
IV. OLRCB Litigation & Related Matters.....	12
V. Collective Bargaining	13
VI. Agency Operations & Programs	18
VII. Agency Disputes.....	20
VIII. Evaluation and Information	21

I. Agency Priorities and Performance

1. Please discuss OLRCB's **top five priorities**.
 - a. How did the agency address its top five priorities in FY2021, including the impact of and any adjustments or modifications due to COVID-19?

Response:

1. Development of E-Risk.

OLRCB collaborated with the Office of Risk Management (ORM) to create and implement E-Risk, a new cloud-based case management system. We continue to tailor the database for administration-specific needs, including integration of all litigation-related electronic data. By the end of FY2021, OLRCB's staff was fully trained on E-Risk and began to regularly utilize the database for case management purposes.

2. Continue to strengthen relations with labor leaders.

OLRCB maintains an open-door policy for union leaders seeking to discuss wide-ranging labor issues—from bargaining matters and litigation concerns to working through disputes between management and unionized employees. These relationships have led to the resolution or withdrawal of unfair labor practice complaints and, in coordination with achieving OLRCB's other top priorities, have also led to more successful mediations of cases with labor unions. OLRCB's strengthened relations have also resulted in negotiations with Compensations Unit 1 and 2 that are tracking to agreement at an unprecedented pace. Moreover, during the ongoing and everchanging pandemic, OLRCB led the COVID Labor Response, working with our labor partners and directly addressing their COVID-related concerns and issues. Lastly, OLRCB kept labor unions informed of the Mayor's COVID-related policy changes to provide space to vet our partners concerns and recommendations ahead of engaging in impact and effects bargaining.

3. Continued effort to reduce litigation costs.

OLRCB achieved reductions in costs by successfully mediating and settling cases. OLRCB will continue to work with the employing agencies and the Office of the City Administrator (OCA) to determine the best course of action (i.e., mediate, settle, or proceed to decision on the merits) that best serves the public interest and taxpayer funds while still maintaining equity and fairness to our unionized workforce.

4. Promotion of employee growth.

OLRCB encouraged its attorney employees to attend trainings related to legal writing and labor and employment law. OLRCB will continue to provide training opportunities for all employees, but this year will also conduct its own trainings on litigation and bargaining, and have more employees serve as the lead negotiator for management teams in collective bargaining on working conditions agreements. OLRCB will also work with the employees in the administrative unit to prioritize training as related to their respective duties.

5. Litigation Training Curriculum

OLRCB's fifth priority for FY021 was the continuing development and enrichment of a training curriculum based upon litigation case data. OLRCB held quarterly labor liaison forums and conducted case studies based upon litigation case data for District Government management officials and labor law practitioners.

- b. What are the agency's top five priorities in FY2022? Please explain how the agency expects to address these priorities in FY2022.

Response: OLRCB's top five priorities for FY22 are to:

1. Digitize all negotiation matters into E-risk.

OLRCB will continue to work with ORM to digitize the negotiations matters by mirroring the implementation plan used to migrate the litigation data into the system in FY2021.

2. Expand staff by filling vacancies.

OLRCB received additional funding to right-size its attorney vacancy from a Grade 12 to a Grade 13 position. We are actively recruiting for this position. As of December 31, 2021, OLRCB is also working to fill a vacant attorney advisor and program support administrative position.

3. Reduce litigation costs.

As the protection of public funds remains important, the reduction of litigation costs will remain a top priority for FY2022. OLRCB will continue to manage litigation costs by assessing disputes as early as practicable to determine which matters may be resolved amicably through settlement or mediation to avoid costs associated with unnecessary litigation.

4. Increase number and availability of trainings.

OLRCB provides ongoing training on labor relations to MSS employees as part of DCHR's new employee orientation sessions. In FY2022, we will incorporate a segment into this mandatory training to highlight the importance of and to encourage these employees to participate in racial equity training with the Office of Racial Equity. At an agency's request, OLRCB currently provides "Managing in a Unionized Environment" training to their management team. Beginning in FY2022, OLRCB plans to affirmatively offer this training to each subordinate agency's executive team, General

Counsel suite and labor liaisons to ensure upper management is familiar with applicable labor law and policy in the District.

5. Continue to strengthen relations with labor leaders.

OLRCB will continue to cultivate strong labor relations with our union partners by maintaining open communications and seeking to amicably resolve issues when practical.

2. Please list each **program** or body of work operated or administered by OLRCB during FY2021 and FY2022. Highlight any programs new in FY2021 or FY2022 or changes made or planned as part of the agency's independence from the Office of the City Administrator. For each program, please provide a description of the program, the office that carries out the program, activities in FY2021 and FY2022, and any documented results of the program.

Response: OLRCB consists of three major program units: (1) the Negotiations and Contract Administration Unit, (2) the Litigation Unit, (3) the Administrative and Program Support Unit.

- 1) The **Negotiations and Contract Unit** is responsible for: negotiating CBAs; the process by which wages, benefits, and other terms and conditions of employment for unionized employees is established; training management representatives on the provisions of each CBA applicable to their agency; and conducting "impact and effects" bargaining necessitated by new policies, programs and initiatives, or changes to existing policies and programs prior to decision making and implementation.
- 2) The **Litigation Unit** is focused on initiating, prosecuting, defending, and monitoring a wide range of litigation activity, primarily for and on behalf of agencies under the personnel authority of the Mayor. This litigation activity consists primarily of grievance arbitrations, unfair labor practice complaints, enforcement actions, and arbitration review requests before the Public Employees Relations Board (PERB).
- 3) The **Administrative and Program Support Unit** is responsible for program and administrative support to the other two units. This unit also provides human resources, contracting and procurement, dues processing, operational services, technological support, and other related services for OLRCB personnel and the office. This unit is also responsible for the Citywide Initiatives such as the Negotiated Employee Assistance Home Purchase Program (NEAHP) and the Commuter Benefit Program.

OLRCB did not add or change programs, from FY2021 through the present, as we transitioned from being a part of the OCA to becoming a standalone agency.

3. Please describe any **initiatives** that the OLRCB implemented in FY2021 or FY2022, to date, 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.

Response: In FY2021, OLRCB implemented a data system integration strategic initiative to improve internal operations of the agency. This was implemented by creating E-Risk. This initiative was completed in Q4 of FY2021. OLRCB staff worked closely with ORM to complete the requirements to build this system in a way that would benefit internal operations and external interactions with the agencies we serve. OLRCB staff was trained in the new case management system and all litigation-related documents were made electronic and uploaded into the cloud by Q4 of FY2021. As a result of implementing E-Risk, OLRCB is now able to quickly pull data and run reports on litigation trends.

OLRCB's second initiative that was implemented was improving labor relations by engaging in various communication and negotiation meetings throughout the year and working closely with labor unions during the pandemic. OLRCB's strategy was to engage the unions with seasonal labor meetings, continual negotiation sessions, and roundtable discussions with labor leaders. OLRCB continued to host quarterly labor meetings with labor leaders and unionized employees. Lastly, OLRCB maintained communications with labor leaders regarding COVID-19 related matters and the changing mandates that affect their members. By continuing to improve labor relations, OLRCB was able to foster a collegial environment amongst the Executive and management and our union partners which allowed for amenable resolution of oftentimes difficult and complex issues (e.g., navigating COVID-19 related policy changes and initiatives).

4. Please provide a copy of OLRCB's FY2021 **performance accountability report**.
 - a. Please explain which performance plan strategic objectives and key performance indicators (KPIs) were met or completed in FY2021 and which were not.

Response: Please see attachment Q4.

- 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: The KPI's that were met and completed in FY2021 were percentage of cases closed (Up is Better), and percent of cases litigated to decision (Up is Better). Both metrics were completed on time within the FY21 and also within budget.

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

Response: The KPI that was not met in FY21 was percentage of cases that resulted in award of attorney's fees (Up is Better). This KPI has been changed for the FY2022, because attorney's fees are awarded when the District loses a case; thus, the fewer cases that result in attorney's fees awarded, the better. Essentially, the "up is better" metric does not align with the purpose of the metric or OLRCB's goals.

5. Regarding the OLRCB's FY2022 **performance plan**:
 - a. Please provide a copy of OLRCB's FY2022 performance plan as submitted to the Office of the City Administrator.
 - b. Discuss any changes to any outcomes measurements in FY2022, 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.

Responses: Please see attachments Q5a, and Q5b.

II. Budget and Expenditures

Budget

6. **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 fund source, program, and activity, for FY2021 and the first quarter of FY2022. Please also include any over- or under-spending in each program and activity. Explain the reason for any variation between the revised budget and actual expenditures for FY2021 for each program and activity code.

Response: In FY2021 and FY2022, the OLRCB worked through the Office of the City Administrator to develop its budget. The FY2021 and FY2022 budgets submitted by the Mayor to the Council reflect those efforts. Effective FY2022, OLRCB became a stand-alone agency that is separate from the OCA, so OLRCB now has a separate budget.

Please see attachment Q6.

7. Related to question 6, please explain any difference between budgeted and actual litigation costs in each year FY2021 and FY2022.

Response: There are no differences in costs between FY2021 and FY2022.

8. Please provide a copy of the detailed FY2021 and FY2022 NPS **spending plans** for each activity and fund in OLRCB's budget.

Response: In FY2021 and as a part of OCA, OLRCB did not have a separate budget and instead developed its budget by worked through OCA. In FY2022, as a new agency separate from OCA, the OLRCB now has its own NPS spending plan.

Please see attachment Q8.

9. Please provide the following information for all **intra-District memoranda of understanding (MOUs)** for FY2021 and FY2022 as of Jan. 1, 2022, *including anticipated MOUs* for the remainder of FY2022.
 - a. *Attach copies* of all intra-district MOUs.
 - b. Please *complete the attached table* in Excel for all MOUs, including anticipated MOUs.

Response: In FY2021 and as a part of OCA, OLRCB worked through OCA to facilitate the execution of MOUs. In FY2022, as a new agency, OLRCB has now executed its own MOU(s).

Please see attachment Q9.

10. Please provide the following information for all **intra-District memoranda of agreement (MOAs)** for FY2021 and FY2022 as of Jan. 1, 2021, including anticipated MOAs for the remainder of FY2022.
 - a. *Attach copies* of all intra-district MOAs, other than those for overhead or logistical services, such as routine IT services or security.
 - b. For each MOA, including anticipated MOAs, complete the table below; add rows as necessary.

Memoranda of Agreement, FY2021 and FY2022, 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		

Response: In FY2021 and as a part of OCA, the OLRCB worked through OCA on intra-District MOA's. The FY2021 response was submitted by OCA to the Council. In FY2022, as a new agency, the OLRCB did not execute intra-District memoranda of agreements.

11. Please *complete the attached table* for each **interagency reprogramming** of funds into and out of the agency for FY2021 and FY2022, as of Jan. 1, 2022, including anticipated inter-agency reprogramming's for the remainder of FY2022.
 - a. Please *attach copies* of the reprogramming documents, including the Agency Fiscal Officer's request memos and the attached reprogramming chart.
 - b. For each reprogramming, including anticipated reprogramming's, complete the attached chart in Excel

Response: OLRCB had no interagency reprogramming's in FY2021.

12. Please *complete the attached table* for each **intra-agency reprogramming** *within* your agency during FY2021 and FY2022, as of Jan. 1, 2022, as well as any anticipated intra-agency reprogramming's for the remainder of FY2022.
- Please *attach copies* of any reprogramming documents.
 - Please include in the attached Excel chart a detailed rationale for the reprogramming: why the funds were available and what they will be used for.

Response: OLRCB had no intra-agency reprogramming's in FY2021.

13. Please attach all **budget enhancement requests** submitted by your agency to the Mayor or Chief Financial Officer as part of the budget process for previous fiscal years of FY2020, FY2021, and FY2022.

Response: In FY2020, 2021 and FY2022, the OLRCB worked through OCA to develop its budget. The FY2021 and FY2022 budgets submitted by the Mayor to the Council reflect those efforts.

Expenditures

14. Please *complete the attached table* in Excel with the following information on each **contract, procurement, and lease** leveraged in FY2021 and FY2022 as of Jan. 1, 2022, 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: In FY2021 and as a part of OCA, the OLRCB worked through OCA on its contracts and procurement. The FY2021 response was submitted by the City Administrator to the Council. OLRCB had no contract, procurement, and lease(s) for FY2021.

15. Please complete the following table with information on all **credit card, p-card, or purchase card purchases and expenditures** for FY2021 and FY2022, as of Jan. 1, 2022; 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, FY2021 and FY2022

<i>Employee name</i>	<i>Date of expenditure</i>	<i>Vendor name (do not list "PayPal;" name the ultimate vendor)</i>	<i>Dollar amount</i>	<i>Purpose of expenditure</i>
Mary Redfearn	Oct-Sept.2021	Comcast	654.12	Equipment
Mary Redfearn	Oct-Sept.2021	DC Bar	1639.00	Training
Mary Redfearn	Oct-Jan.2022	Airlines (various)	2058.04	Travel

16. Were any protests or appeals filed with the **Contract Appeals Board** in FY2021 or FY2022 as of Jan. 1, 2022, 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 FY2021 or FY2022, as of Jan. 1, 2022

<i>Case number</i>	<i>Name of complainant</i>	<i>Date of complaint</i>	<i>Description of complaint</i>	<i>Disposition or Status</i>
N/A				

Response: There were no protests or appeals filed against OLRCB with the Contract Appeals Board in FY2021 and through January 1, 2022.

III. Agency Organization and Personnel

17. Please provide an **organizational chart** for the agency, arranged by division and subdivision, as of Jan.1, 2022.
- 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.1, 2022.

Response: Please see attachment Q17.

18. Please *complete the attached table* in Excel with a **chart of all positions (i.e., Schedule A)** at the agency, as of January 1, 2022.

Response: Please see attachment Q18.

19. How many staff members are assigned to negotiate collective bargaining agreements and how are workloads balanced among CBAs? For instance, what was the workload or caseload for each staffer who participated in negotiations or litigation, in each year FY2020 and FY2021?

Response: OLRCB has nine Attorney Advisor positions. Generally, all attorneys have been assigned to negotiate successor working conditions and/or compensation agreements based on competing priorities with litigation caseload and deadlines and complexity of negotiations. Also, negotiations assignments are also made based on consideration of the employees' experience dealing with the relevant agencies and compensation units with litigation and/or impact and effects negotiations. The Supervisory Attorney Advisor for Negotiations has been significantly involved as Chief or Co-Chief Negotiator in several negotiations, as well as ongoing deliberations with Director and attorneys on issues and progress in respective negotiations. Overall, OLRCB anticipates that each attorney will handle on average four to five negotiations assignments for working conditions and/or compensation agreements. Each attorney is also assigned to approximately 20 litigation matters.

20. 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, 2022.

Response: OLRCB has three vacant positions:

- (1) An Attorney Advisor position that has been vacant since October 1, 2020- this position was recently reclassified from a Grade 12 to Grade 13 and is currently pending approval from the Mayor's Office of Legal Council (MOLC) to post for recruitment.
- (2) An Attorney Advisor position that has been vacant since December 31, 2021- OLRCB is preparing the recruitment package for review and approval by DCHR and the MOLC, and plan to post within the next few weeks; and
- (3) A Program Support Specialist position that has been vacant since December 31, 2021- OLRCB is reassessing agency needs and may be seeking approval to re-classify this position before recruiting a replacement.

21. Regarding **term and temp employees**:

- a. For each term or temp employee (by position number) included in the schedule A who started in the position in FY2021 or FY2022, please provide a brief narrative to specify why the hire was done on a term or temp basis and not on a continuing basis.
- b. For each term or temp employee (by position number) included in the schedule A, indicate the start date of the position and the expected end date; and
- c. For each term employee (by position number) employed during FY2021 or FY2022 whose hire date is before FY2017, please explain why the employee is term and has not been converted to a permanent employee.

Response: OLRCB did not employ term or temp employees in FY2021.

22. How many and what percentage of employees at OLRCB as of Jan.1, 2022, were **District residents**?

Response: Currently, six OLRCB employees, or 43%, are District residents.

23. Please complete the following charts about the **residency of new hires** at OLRCB in FY2021 and FY2022:

DC Residency of Employees Hired in FY 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	N/A		
Term	N/A		
Temporary	N/A		

Response: There were no new hires in FY2021.

DC Residency of Employees Hired in FY 2022, as of Jan.1, 2022

<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	N/A		
Term	N/A		
Temporary	N/A		

Response: There were no new hires in FY2022 to date.

24. Please complete the following table regarding employees placed on **administrative leave** in FY2021 or FY2022. 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 FY2021 and FY2022

<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. 1, 2021).</i>
N/A						

Response: OLRCB did not place employees on administrative leave in FY2021 or FY2022 to date.

25. For FY2021 and FY2022, as of Jan. 1, 2022, please complete the following table on each **employee separated** from the agency. Add rows as necessary.

Employees Separated from OLRCB, FY2021 and FY2022

<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>
Mamadou Samba	Chief of Staff	N/A	N/A	Transfer to another agency
Kimberly Turner	Attorney Advisor	N/A	N/A	Transfer to another agency
Issac McLaughlin	Program Support Specialist	N/A	N/A	Transfer to another agency

IV. OLRCB Litigation & Related Matters

26. For any **litigation** in which OLRCB was involved as the representative of District government management (DC government as an employer) in FY2021 or FY2022, as of Jan. 1, 2022, please provide the case name, court where filed, date of filing, cause of action or allegations, and current status of any litigation which is pending, and outcome of litigation which concluded. If it is unclear from the case name which party initiated the litigation, please provide this information.

Response: Please see attachment Q26.

27. Please list any agency under the authority of the Mayor that represents itself before PERB or in District courts (as opposed to representation by OLRCB) and explain the division of responsibility between OLRCB and the covered agency with regards to representation.

Response: DBH self-represents at PERB in cases related to its working conditions CBAs. MPD self-represents at PERB in all cases.

28. How many **labor-management disputes were mediated** in FY2021 and in FY2022, as of Jan.1, 2022, (whether or not they were ultimately resolved through mediation)? Please list the agencies and unions involved and the outcome (if the matter settled through mediation, was litigated, etc.).

Response: Please see attachment Q28.

29. In its FY2021 Performance Oversight responses, OLRCB stated that it would continue to work to **reduce its litigation costs**.

- a. What steps has OLRCB taken, or strategies has it implemented to reduce these costs?

Response: The Litigation Supervisor regularly meets with line attorneys to discuss cases and to help determine if valid disputes and available defenses exist and take steps to resolve matters when they do not. By doing so, we avoid unnecessary litigation and needless expenditure of agency resources and personnel time.

- b. Please list total litigation costs for FY2021 and FY2022, as of Jan. 1, 2022, and itemize by reason for the expense (for example, contract attorney services or court filing fees).

Response: OLRCB did not incur litigation costs for FY2021 through January 1, 2022.

V. Collective Bargaining

30. Please provide a **current union contact list** of all unions representing District employees. Please include the name of the agency; union local name and number; and the names, titles, and contact information of the union local's leadership.

Response: Please see attachment Q30.

31. Please list in a searchable Excel table format (in its original form and not a scanned copy), and alphabetized by agency, **every operative collective bargaining agreement** the District government has entered into. Since bargaining units typically have two agreements (wages and working conditions), there will be two lines in the table, together, for those agencies. Include the following information: agency name, union ID, type of agreement (e.g., wages, or working conditions), terms of the agreement, (e.g., 1/1/13 – 1/1/16), approximate number of employees covered, current status of agreement and a column for any comments. For the several agreements covering multiple agencies, list those first in the table.

Response: Please see attachment Q31.

32. CBAs entered after expiration date

- a. Please list every collective bargaining agreement for which the **expiration date passed** in FY2021 or the first quarter of FY2022, and for which a new agreement was not reached by the expiration date; include any agreement even if it continued to be in effect past the expiration date. Identify the agreement, agency(ies), unions, and the expiration date, and explain the status of that agreement (i.e., whether it is effective or not), and status of the negotiation for a new agreement.

Response: Please see attachment Q31, which reflects the expiration dates of all compensation and working conditions agreements.

- b. Please list any contracts that have passed their prior contract's expiration date but are still in negotiations. Please discuss the reason(s) for delay and describe how the agency intends to resolve each delay.
- c. Please list any negotiation which began more than six months after the bargaining unit formally demanded to begin negotiations and explain the cause of any delay.

Responses to (b) and (c): Overall, the majority of compensation agreements expired on September 30, 2020, except the agreements for Washington Teachers Union (WTU), the Committee of Interns and Residents (CIR), and the Federation of Administrative Law Judges (FALJ), which all expired on September 30, 2019. In addition, the agreements for Compensation Units 1 and 2 and AFSCME Local Union 2921 expired in FY 2021.

Generally, due to the unprecedented and unforeseeable COVID 19 public health emergency that started in mid-March 2020, the OCFO forecasted significant loss of revenue as well as significant financial costs and liability attributed to dealing with the District's response to this public health crisis. This, in turn, made compensation negotiations for successor agreements wholly impractical. Importantly, the DC Council passed the Fiscal Year 2021 Budget Support Act (BSA) of 2020, which precluded negotiations of any wage increases for FY2021. Even though the BSA did not preclude compensation negotiations beyond FY2021, OLRCB relied on past precedent and informal discussions with the unions to glean that they would not have been receptive to including post-FY2021 reopener provisions if they did not include any actual wage increases for

those years. As a result, compensation successor negotiations were significantly delayed, but we are now on track to continue negotiating with more regularity and consistency.

33. DC. Code requires that contracts must be sent to the Council for review within 60 days of any agreement being reached. Please explain why each of the following contracts was submitted to Council more than 60 days after the date on which the CBAs were signed:
- a. Compensation agreement between the District and Compensation Unit 19 (PR 23-252)
 - b. Compensation agreement between Department of Behavioral Health and the Doctor's Council (PR 23-278)
 - c. Compensation agreement between Department of Behavioral Health and the District of Columbia Nurses Association (PR 23-278)
 - d. Compensation agreement between the Department of Health and Compensation Unit 13 and the District of Columbia Nurses Association (PR 23-226)
 - e. Compensation agreement between the Office of the State Department of Education and AFSCME District Council 20, Local 1959 (PR 23-59)

Response: We recognize that the DC Code requires that contracts must be sent to the Council for review within 60 days of any agreement being reached, and OLRCB does seek to comply with this provision. However, there are several reasons why the District was unable to meet the 60-day requirement for these matters.

First, even though the negotiating parties have signed off on agreements in principle or made tentative agreements, additional time is usually required for the parties to finalize the express language in the final version of the agreement, and then the final agreement must be ratified by the union's membership. That process alone can take longer than 60 days. Second, the DC Code requires that such submissions must be supported by Fiscal Impact Statement and other requisite documents. This process requires multiple levels of preparation, review, and approval across different agencies. OLRCB submits the tentative agreements to OAG for legal sufficiency review and to OCFO for fiscal impact sufficiency. Once both agencies approve the agreements, then OLRCB submits them to the Executive Office of the Mayor for final review. Once approved, the final contracts and accompanying documentation is filed with Council.

Here, we were unable to meet the 60-day deadline in the above-named five agreements that were submitted in 2018 or 2019, because the parties took additional time to finalize the draft agreement and/or OLRCB needed additional time to receive the requisite legal sufficiency determinations and/or fiscal impact statements, or for EOM review process.

34. Have any **CBAs been agreed to but not yet sent to the Council** for review? Please list the agreement date (signatures by negotiating parties), union(s), and reason the contract has not been submitted.

Response: As of January 3, 2022, there are no compensation agreements that have been agreed upon that have not been sent to the Council.

35. Please provide a brief explanatory paragraph for every agreement that was at an **impasse** during FY2021 or the first quarter of FY2022, including agency(ies) and unions, describe the issues unresolved, and provide current status.

Response:

In FY2021, NAGE and the Department of Forensic Sciences (DFS) were still at impasse in its negotiations over a successor working conditions agreement. The impasse relates to the scope of matters that can be filed under the negotiated grievance and arbitration process. At this juncture, the parties and arbitrator are working on a consent agreement for provision at impasse.

On September 27, 2021, AFSCME Local Union 1959 filed for impasse with PERB in its negotiations over their combined successor compensation and working conditions agreement with OSSE. The impasse relates to compensation matters, wages and benefits, and certain working conditions items, including seniority. The parties are currently in mediation to try to resolve the impasse.

On November 5, 2021, the FALJ filed for impasse with PERB over successor negotiations with the Office of Administrative Hearings. The impasse relates solely to wages and compensation for the unit. The parties are currently in mediation to try to resolve the impasse.

36. Please provide the following information regarding the **length of time to complete negotiations** for each CBA that was entered into in FY2021 or FY2022, as of Jan.1, 2022. For each CBA, include the date of expiration of the previous CBA (even if the CBA remained in effect); the date negotiations started; the date negotiations were completed; the implementation date of the newly negotiated contract; and the number of days between the date of the previous CBA's expiration and the implementation date of the newly negotiated CBA. Please also state what milestone you used to determine the implementation date for each CBA; for example, the date a pay raise appeared on members' paychecks.

CBA entered into in FY 2021 (October 2020 – September 30, 2021) Also through January 1, 2022	Stated Expiration Date	Starting Date of Negotiations (Exchange of Proposals)	Completion Date of Negotiations	Effective Date/ Implementation Date of New CBA (Council Approval Date)	Number of Days from expiration date and new effective date/ (Council Approval date – January 8, 2022)
District of Columbia and Office of the Attorney General and AFGE Local 1403 (Compensation Unit 33) for FY 2021- FY 2023	9/30/2020	12/6/2019 and 12/20/2019	9/22/21- sign off on TA's.	1/8/2022- effective once approved by Council; implementation date will be once retro compensation is disseminated. While implementation date is not yet known, the District will work with agency partners to prioritize retro pay.	465 days

37. Please list all **impacts and effects bargaining** conducted in FY2021 and FY2022, including the agency(ies), union(s), description of subject matters bargained or in bargaining, and status as of Jan.1, 2022 (e.g., if complete, the result; if it's negotiations currently, etc.).

Response: Please see attachment Q37.

VI. Agency Operations & Programs

38. How many **unfair labor practice complaints** at PERB were filed by unions against District agencies represented by OLRCB in FY2021 and FY2022, thus far? Please note the agencies and unions involved and the case number issued by PERB. For those with a decision that has been issued, please summarize the results, e.g., number decided in favor of management, number decided in favor of unions, or other result, etc.?

Response: Please see attachment Q38.

39. How many **unfair labor practice complaints at PERB were filed against unions** by the District or a District agency in FY2021 and FY2022? Please note the agencies and unions involved. For those with a decision that has been issued, please summarize the results, e.g., number decided in favor of management, number decided in favor of unions, number withdrawn, etc.?

Response: There were three cases filed by OLRCB on behalf of agencies against a union during the requisite period. Two cases were unfair labor practice complaints (ULPs) filed by DCPS against the Washington Teachers' Union (WTU) (PERB Case Nos. 21-U-03 & 21-U-05). The third case was filed for Expedited Preliminary Relief by OSSE against AFSCME District Council 20, Local 1959 when its members threatened a potential strike (PERB Case No 22-U-02). The parties were able to amicably resolve each matter prior to a hearing and they were resolved when management voluntarily withdrew the cases.

40. Please provide the following information regarding the **Negotiated Employee Assistance Home Purchase Program (NEAHP)**:

Negotiated Employee Assistance Home Purchase Program, FY2021-FY2022

	FY2019	FY2020	FY2021	FY2022 (as of Jan. 1, 2022)
Applications received	153	94	0	0
Applications received from DC residents	139	69	0	0
Number of employees who purchased homes using NEAHP funds	38	38	N/A	N/A
Total funds distributed	\$244,000	\$208,000	N/A	N/A
Total/maximum funds available	\$			

******There has been no activity with NEAHP as of 1/1/21 due to the exhaustion of funds

41. According to the FY2022 budget book's operating appendices (see [here](#) page 335, top row), NEAHP had \$244,000 in spending in FY019 and \$208,000 in FY2020. Please confirm these figures. However, no funding was approved for FY2021 or FY2022. Furthermore, OLRCB's performance responses from 2021 said that there has been no activity for FY2021 "due to the exhaustion of funds." Please explain this statement further and overall, how funding works for NEAHP, including the process, when and how funds are identified, how funding levels are set, etc.

Response: Pursuant to the collective bargaining agreement between the Government of the District of Columbia and the bargaining units comprised within Compensation Units 1&2, the parties agree on the funding that will be set aside to be used toward Negotiated Employee Assistance Home Purchase Program (NEAHP) for the duration of the agreement. Any funds set aside shall be available for the expenditure in the fiscal years covered by the Compensation Units 1 and 2 Agreement.

42. Please provide the **number of homes purchased by Ward** with NEAHP funds, if available, in FY2019, FY2020, FY2021, and FY2022, as of Jan.1, 2022.

Response:

Number of Homes Purchased by Wards	FY2018	FY2019	FY2020 (as of Jan. 15, 2020)
Ward 1	0	1	0
Ward 2	0	1	0
Ward 3	0	0	0
Ward 4	0	2	2
Ward 5	1	2	3
Ward 6	2	2	0
Ward 7	1	13	4
Ward 8	4	17	3
Total	8	38	12

**There has been no activity with NEAHP as of 1/1/21 due to the exhaustion of funds

43. For each **PERB decision issued** in FY2021 or FY2022, until Jan.1, 2022, that required corrective action by management, please list the case number, agency involved, union(s) involved, brief description of the decision or action to be taken, date of the decision, and date of implementation. For example, an order for a unit to move to a different union would be the description and date of implementation would be the date the unit received the necessary pay adjustment.

Response: There are no PERB decisions issued in FY2021 through January 1, 2022 that are responsive to this question.

VII. Agency Disputes

44. Please list in chronological order any other (non-union) **complaints against or regarding OLRCB or its employees, filed by any District government employee**, that were filed or pending in FY2021 or FY2022. Do not include items covered in question 26. Include complaints originating 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. For each complaint:
- Provide the agency name and office of the complainant at the time the matter occurred.
 - Provide the name of the forum or agency notified of the complaint (whether or not it was a written complaint).
 - Specify if the complaint concerns a colleague or supervisor of the complainant.
 - Provide a brief description of the allegations or conduct at issue 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 FY19 or FY20, to date, describe the resolution or outcome.

Response: There were no complaints filed against OLRCB by District government employees in FY2021 through January 1, 2022.

45. 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 FY2021 or FY2022, as of Jan.1, 2022. Do not include items covered in question 26.
- 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 FY2021 or FY2022, to date, describe the resolution.

Response: There were no such cases filed against OLRCB during the requisite period in its own capacity. Any cases filed naming OLRCB was properly against it only in its representative capacity for other agencies as reflected in the spreadsheet in response to Q26.

46. Please list all **settlements** entered into by OLRCB or by the Office of the City Administrator or the District on behalf of OLRCB in FY2021 or FY2022, as of Jan.1, 2022, including any covered 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 within the last two years. Do not include items covered in question 26. For each, provide
- The parties' names,
 - The date the settlement was entered into;
 - The amount of the settlement,
 - If related to litigation, the case name, court where claim was filed, case docket number, and the allegations; or
 - If unrelated to litigation, please describe the allegations or nature of the dispute that led to the settlement (e.g., sexual harassment, etc.).

Response: There are no settlement agreements responsive to this question.

VIII. Evaluation and Information

47. For all **studies, research papers, reports, evaluations, and analyses**, including those provided by contractors or consultants, that OLRCB prepared or contracted for during FY2021 and FY2022, as of Jan. 1, 2022:
- For any study, paper, report, or analysis that is complete, please attach a copy.
 - 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: OLRCB has not prepared any such reports but has contracted for reports and analyses in the context of compensation bargaining. However, those reports and analyses are protected under the work-product doctrine and D.C. Official Code § 1-617.17(h), which provides that “[c]ompensation negotiations pursuant to this section shall be confidential among the parties” and that “[a]ll information concerning negotiations shall be considered confidential until impasse resolution proceedings have been concluded or upon settlement.” The relevant requested information is concerning pending negotiations; thus, it is confidential and cannot be disclosed until resolved by either impasse or settlement.

48. Please list and describe any **investigations, audits, or reports by outside entities** that have requested or required participation by the OLRCB or any employee that were conducted during FY2021 or FY2022, as of Jan. 1, 2022, 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: During FY2021 and FY2022 to date, there were no ongoing investigations or audits of or reports involving OLRCB or any OLRCB employees.

49. Please list all **recommendations identified by the Office of the Inspector General, DC Auditor, or other federal or local oversight entities** during FY2020, FY2021, or FY2022, as of Jan. 1, 2022 about OLRCB or DC government labor-management 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: There were no recommendations identified by the Office of the Inspector General, D.C. Auditor, or other federal or local oversight entity about OLRCB during FY2020, FY2021, or FY2022 as of Jan. 1, 2022.

50. Please attach a copy the agency's **FOIA disclosure report(s)** for FY2021.

Response: Please see attachment Q50.

51. Please attach a **log of all FOIA requests** received in FY2021 and FY2022 with the request number, the name of the requestor, the request date, and a brief description of the information requested.

Response: Please see attachment Q51.