

**PUBLIC EMPLOYEE RELATIONS BOARD
FY2021-FY2022 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 FY2021, including the impact of and any adjustments or modifications due to COVID-19?

Response:

Priority 1-Expand access to training: Unfortunately, budget cuts prevented buying any new equipment for the training room. In-person training did not resume due to the prevalence of COVID-19.

Priority 2-Enhance transparency: Due to budget cuts, PERB was unfortunately prevented from buying any new equipment for the hearing and Board room that would have enabled live-streaming of hearings and Board meetings. However, PERB maintained a high degree of transparency by promptly posting its decisions and its monthly meeting minutes on PERB's website. PERB also publishes all its decisions in the D.C. Register within 60 days of issuance.

Priority 3-Upgrade technology: The agency upgraded its outdated, poor-performing laptops with laptops with greater memory that would accommodate larger programs needed for efficient operations of the agency. These laptops serve a dual function for in-office work and replaced poor-performing desktops. The impact of the upgraded laptops increases productivity, as well as reduces the overall number of computers in the agency, which has long-term cost savings. While upgrading technology has been a priority for several years, adjustments made for expanded telework due to the COVID-19 necessitated PERB to accelerate upgrading its equipment.

Priority 4-Electronic retention of documents: PERB identified paper documents that the agency could either convert to electronic records or destroy. The agency could not execute the conversion due to budget cuts.

Priority 5-Training for PERB attorneys: Unfortunately, budget cuts prevented continuing education opportunities and mediation training for the attorneys.

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

Priority 1-Eliminate off-site, document storage: PERB has identified that the documents that are kept in off-site storage no longer need to be maintained. PERB intends to eliminate the cost of off-site, document storage as a result.

Priority 2-Training for PERB attorneys: PERB plans to offer continuing education opportunities to its attorneys.

Priority 3-Resource materials: PERB plans to provide additional, informational resource materials on its website to provide its stakeholders with more information about filing, deadlines, and the Board's processes.

Priority 4-Expand access to training: PERB plans to make available both in-person and virtual training. To allow for virtual training, budget permitting, PERB intends to install equipment in its training room to permit live-streaming of its trainings.

Priority 5-Enhance transparency: PERB plans to install equipment, budget permitting, in the hearing room to livestream its hearings and Board meetings to enhance transparency and access to the public.

2. Please list each **program** or body of work operated or administered by PERB during FY2021 and FY2022. Highlight any programs new in FY2021 or FY2022. 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.

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

based on the record. Notwithstanding, the Board reviews the hearing examiner's application of PERB precedent, and will not adopt a hearing examiner's recommendation if it is not consistent with PERB precedent. Most cases are decided by the Board in accordance with legal requirements and PERB precedent. In FY2021, the Board issued 33 Decision and Orders. In FY2022, the Board issued 6 decision and orders. All of the Board's decision and orders and the minutes of its monthly meetings are available on PERB's website.

- b. Hearings – Generally, hearings are conducted for unfair labor practice and standards of conduct cases. Currently, staff attorneys review and refer motions to independent hearing examiners. Hearing examiners have a demonstrated history as labor relations experts and are the initial triers of fact. Hearings allow the parties to present evidence to a fact-finder (hearing examiner) who ultimately prepares a report with factual findings and recommendations to the Board.
- 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.
- d. Training Program – Second Tuesdays at PERB are monthly, two-hour training sessions conducted by an esteemed, labor relations expert for both management and union participants. PERB advertises its Second Tuesdays trainings on its website and sends monthly notices to PERB's listserve, which provides information about the upcoming training session. Agency-specific or union-specific training sessions are conducted for 4 hours upon request or through outreach by the Executive Director to solicit their participation in the program. Training is conducted by labor relations experts. In FY2021, PERB held seven Second Tuesdays, as well as training on PERB's rules by staff. PERB also conducted four agency-specific training at FEMS. In the first quarter of FY2022, PERB held one Second Tuesdays session and expects to hold five additional sessions for the remainder of the fiscal year.
- e. Representation Elections – When petitioned, PERB conducts representation elections to allow employees to select a bargaining representative. PERB attorneys discuss election issues with the parties. PERB attorneys then develop the ballots and personally conduct the representation election at the employees' work site. PERB attorneys count the ballots and resolve any ballot challenges or other election issues. After reviewing the election results and resolving any additional election issues, the Board members will certify the election results. In FY2021, PERB attorneys adopted new procedures to conduct elections in response to the pandemic. PERB attorneys coordinated with the parties virtually to produce election agreements, ballots, and notice postings. PERB contracted a third-party to run a mail ballot election and virtually conducted the ballot count.

- f. Law Student Internship Program – PERB has partnered with Howard University’s Law School Internship Program. Two law students per year intern at PERB.
3. Please describe any **initiatives** that PERB implemented in FY2021 or FY2022, as of Jan. 1, 2022, 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: PERB initiated changes that allowed filers expanded options to file while PERB’s physical offices were closed. PERB continued to improve its processes caused by disruptions from the public emergency. PERB also focused on improving electronic recordkeeping and access to the agency’s documents.

4. Please provide a copy of PERB’s FY2021 **performance accountability report**.

Exhibit Q4

- a. Please explain which performance plan strategic objectives and key performance indicators (KPIs) were met or completed in FY2021 and which were not.

Response: PERB did not meet its KPI for resolving cases that did not need a hearing within 120 days. The goal for this KPI was 75% and PERB reached 70.8%. PERB met its goals for all other categories.

- 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:

Strategic objective – Resolve cases: For met KPIs, the completion date objective was September 30, 2021, which PERB met. PERB met its budget for this strategic objective.

Strategic objective – Training: The KPI had a completion date objective of September 30, 2021, which PERB met. PERB exceeded its budget, because it fulfilled an unanticipated training request from a District agency.

Strategic objective – Public access to decisions: For met KPIs, the completion date objective was September 30, 2021, which PERB met. PERB met its budget for this strategic objective.

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

Response: The agency did not meet the KPI for resolving cases that do not need a hearing within 120 days due to staffing. Also, due to an error in formulating the fields in Quickbase, the KPIs for mediations appear unmet. However, those KPIs have been changed to a KPI for percentage of settlements resulting from mediation

and a workload measure of number of mediations conducted for the agency's FY22 performance plan.

5. Regarding the PERB's FY2022 **performance plan**:

- a. Please provide a copy of PERB's FY2022 performance plan as submitted to the Office of the City Administrator. **Exhibit Q5**
- 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.

Response: As noted above, the KPIs for mediations were changed to reflect appropriate targets. Also, in consultation with the Office of the City Administrator, the KPI for mediations conducted was changed to a workload measure.

6. Please discuss any remaining disruptions to program activity levels and timeliness of issued decisions due to 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: All of PERB's programs were maintained. However, PERB postponed mediations and hearings from the last quarter of FY21 to the first quarter of FY22 due to PERB's budgetary constraints brought on by the public health emergency.

- 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: No statutory deadlines were affected.

7. How many **mediations** were conducted by PERB in FY2021 and the first quarter of FY2022, and to what result? How many were by PERB employees and how many by contractors, with what results for each group? Please indicate whether PERB expects employees to lead mediations in FY2022 and beyond.

Response: In FY21, PERB conducted 18 mediations, which resulted in 10 settlements. In the first quarter of FY22, PERB held 11 mediations, which resulted in 5 settlements.

PERB was unable to conduct mediations by PERB employees due to staffing. In FY21, PERB had only one mediation-trained attorney and one newly-hired attorney. The trained attorney would have been conflicted out of all the cases he would have mediated, leaving the remaining cases to be worked on by a new attorney who did not have the necessary experience.

No future mediations by PERB staff will be conducted. PERB does not have trained staff or a sufficient number of experienced attorneys to conduct mediations in FY22.

II. Budget and Expenditures

Budget

- 8. **Budget.** Please *complete the attached table* in Excel showing your agency’s budget, including Council-approved original budget, revised budget (after reprogrammings, etc.), and actual expenditures, by program and activity, for fiscal years 2021, and the first quarter of 2022. 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 2022 for each program and activity code.

Exhibit Q8

- 9. Please provide a copy of the detailed FY2022 **non-personnel services spending plan** for each activity and fund in PERB’s budget.

Exhibit Q9

- 10. 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. **Exhibit Q10a**
 - b. Please *complete the attached table* in Excel for all MOUs, including anticipated MOUs. **Exhibit Q10**
- 11. 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. **NONE.**
 - 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	N/A	N/A

- 12. 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 reprogrammings for the remainder of FY2022.

- a. Please *attach copies* of the reprogramming documents, including the Agency Fiscal Officer’s request memo and the attached reprogramming chart. **NONE.**
 - b. For each reprogramming, including anticipated reprogrammings, complete the attached chart in Excel
13. 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 reprogrammings for the remainder of FY2022.
- a. Please *attach copies* of any reprogramming documents. **NONE.**
 - b. Please include in the chart a detailed rationale for the reprogramming: why the funds were available and what they will be used for.
14. Please attach all **budget enhancement requests** submitted by your agency to the Mayor or Chief Financial Officer as part of the budget process for FY2023.

Exhibit Q14

Expenditures

15. Please provide a table of itemized litigation and enforcement costs for all of PERB’s work in FY2021. Please include PERB case numbers and names, the case type and original filing date, and subsequent steps and costs after filing e.g. at Superior Court for enforcement.

Exhibit Q15

16. Please *complete the attached table* in Excel with 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.

Exhibit Q16

17. 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>

Antwanette Murphy	10/27/2020	STAMPS.COM	\$ 19.07	Stamps-Professional Services
Antwanette Murphy	11/16/2020	MICHAEL MATTERS, INC.	\$ 450.00	Legal Software – Technical support and maintenance services
Antwanette Murphy	11/17/2020	OFFICE DEPOT #2521	\$ 49.81	Office Equipment and Supplies
Antwanette Murphy	11/20/2020	COMMONWEALTH DIGITAL O	\$ 8.54	Copier Provider-Copying, rental, Maintenance Repair Operation
Antwanette Murphy	11/30/2020	STANDARD OFFICE SUPPLY	\$ 26.25	Office Supplies
Antwanette Murphy	12/03/2020	MICHAEL MATTERS, INC.	\$ 1,293.75	Legal Software – Technical support and maintenance services
Antwanette Murphy	12/12/2020	ADOBE ACROPRO SUBS	\$ 34.04	Adobe Software
Antwanette Murphy	12/30/2020	IRON MOUNTAIN	\$ 1,011.24	Professional Services-Legal document storage/filing
Antwanette Murphy	01/25/2021	MICHAEL MATTERS, INC.	\$ 1,012.50	Legal Software – Technical support and maintenance
Antwanette Murphy	01/29/2021	COMMONWEALTH DIGITAL O	\$ 5.20	Copier Provider-Copying, rental, Maintenance Repair Operation
Antwanette Murphy	03/05/2021	IRON MOUNTAIN	\$ 339.20	Professional Services-Legal document storage/filing
Antwanette Murphy	03/06/2021	ADOBE ACROPRO SUBS	\$ 407.76	Adobe Software
Antwanette Murphy	03/06/2021	IRON MOUNTAIN	\$ 339.21	Professional Services-Legal document storage/filing
Antwanette Murphy	03/24/2021	STANDARD OFFICE SUPPLY	\$ 97.50	Legal Support-Office Supplies
Antwanette Murphy	03/24/2021	STANDARD OFFICE SUPPLY	\$ 97.50	Office Supplies
Antwanette Murphy	04/19/2021	CHICAGO BOOKS & JOURNA	\$ 164.00	Education-Legal Publication
Antwanette Murphy	05/05/2021	IRON MOUNTAIN	\$ 508.46	Professional Services-Legal document storage/filing
Antwanette Murphy	05/05/2021	IRON MOUNTAIN	\$ 339.21	Professional Services-Legal document storage/filing
Antwanette Murphy	05/18/2021	COMMONWEALTH DIGITAL O	\$ 20.29	Copier Provider-Copying, rental, Maintenance Repair Operation
Antwanette Murphy	07/02/2021	IRON MOUNTAIN	\$ 356.97	Professional Services-Legal document storage/filing
Antwanette Murphy	07/02/2021	IRON MOUNTAIN	\$ 396.56	Professional Services-Legal document storage/filing
Antwanette Murphy	08/27/2021	STANDARD OFFICE SUPPLY	\$ 66.14	Office Supplies

Antwanette Murphy	09/01/2021	IRON MOUNTAIN	\$ 414.19	Professional Services-Legal document storage/filing
Antwanette Murphy	09/01/2021	COMMONWEALTH DIGITAL O	\$ 12.49	Copier Provider-Copying, rental, Maintenance Repair Operation
Antwanette Murphy	09/04/2021	IRON MOUNTAIN	\$ 814.31	Professional Services-Legal document storage/filing
Antwanette Murphy	09/23/2021	COMMONWEALTH DIGITAL O	\$ 17.57	Copier Provider-Copying, rental, Maintenance Repair Operation
Antwanette Murphy	09/27/2021	QUICK MESSENGER SERVIC	\$ 153.83	Courier Services-Legal Support
Antwanette Murphy	09/30/2021	IRON MOUNTAIN	\$ (414.19)	REFUND-Over-charge
Antwanette Murphy	10/28/2021	IRON MOUNTAIN	\$ 400.13	Professional Services-Legal document storage/filing
Antwanette Murphy	11/09/2021	STANDARD OFFICE SUPPLY	\$ 41.55	Legal Support-Office Supplies
Antwanette Murphy	11/22/2021	STANDARD OFFICE SUPPLY	\$ 249.28	Legal Support-Office Supplies
Antwanette Murphy	12/10/2021	SQ *COLE-MINDS LOGISTI	\$ 1,248.00	Warehousing, Freight and Delivery-Surplus Property Warehouse Packaging, removal and delivery
Antwanette Murphy	12/14/2021	COMMONWEALTH DIGITAL O	\$ 15.76	Copier Provider-Copying, rental, Maintenance Repair Operation
Antwanette Murphy	12/14/2021	STANDARD OFFICE SUPPLY	\$ 44.99	Legal Support-Office Supplies
Antwanette Murphy	12/20/2021	STANDARD OFFICE SUPPLY	\$ (63.30)	REFUND- Office Supply return
Antwanette Murphy	12/30/2021	IRON MOUNTAIN	\$ 1,215.62	Professional Services-Legal document storage/filing

18. 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	N/A	N/A	N/A	N/A

III. Agency Organization and Personnel

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

Exhibit Q19

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, 2022.

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, 2022.

Vacant Position	Date position became available	Step/Status of Hiring Process
00077442	10/29/2021	Active position advertised
00035204	11/13/2020	Active position advertised

22. What was the **caseload** for each attorney or attorney adviser each year of FY2020, FY2021, and FY2022, as of Jan. 1, 2022?

Response: PERB attempts to distribute cases to attorney advisors evenly. At the close of FY2020, there were 29 cases closed and 43 cases remaining open. Those cases were roughly split between two attorneys. At the close of FY2021, there were 71 cases closed and 27 cases remaining open. Those cases were roughly split between two attorneys. The first quarter of FY22, 12 cases have been closed. There are 25 open cases. Currently, there is only one attorney.

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

Response: 2 employees (33%)

24. Please complete the following charts about the **residency of new hires** at PERB 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	2	0	0%
Term			
Temporary			

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	0	0	0
Term			
Temporary			

25. 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.

<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, 2022).</i>
N/A	N/A	N/A	N/A	N/A	N/A	N/A

26. For FY2021 and FY2022, as of Jan. 1, 2022, please complete the following table on each **employee separated** from the agency, whether voluntarily or at the agency's initiation.

Employees Separated from Agency, 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>
Merlin George	Attorney Advisor	N/A	N/A	Resignation
Royale Simms	Attorney Advisor	N/A	N/A	Resignation

IV. Public Employee Relations Board

27. Please complete the chart below with board **member information** as of Jan. 1, 2022. 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	Public	12/4/2018	12/12/2021	Y
Mary Anne Gibbons	Management	7/11/2017	12/12/2023	Y
Renee Bowser	Labor	6/15/2021	12/12/2023	Y
Peter Winkler	Public	2/4/2020	12/12/2022	Y
Vacant	Public			

28. Please complete the following charts with information about **PERB cases by case type** in FY2020, FY2021, and FY2022 as of Jan. 1, 2022:

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		
	FY2020	FY2021	FY2022	FY2020	FY2021	FY2022	FY2020	FY2021	FY2022
Arbitration Review Request	8	10	1	10	10	3	2	3	0
Negotiability:	0	4	2	0	4	1	0	1	0
Standards of Conduct:	6	1	1	1	4	1	2	6	0
Impasse (Compensation)	0	2	4	0	0	0	0	0	0
Impasse (Noncompensation)	1	1	1	0	0	0	0	0	0
Unfair Labor Practice Complaint	34	27	5	15	14	0	10	19	2
Enforcement:	5	8	0	3	7	0	3	4	0
Unit Decertification	0	0	0	0	0	0	0	0	0
Unit Clarification:	1	3	0	0	1	0	0	2	0
Election:	0	0	1	2	3	0	0	2	0
Petition to Amend Certification:	1	0	0	1	0	0	0	0	0
Unit Modification	0	1	0	0	1	0	0	1	0

29. Please complete the following charts with **data on PERB cases** in FY2020, FY2021, and FY2022 as of Jan. 1, 2022:

PERB Cases and Decisions, FY2020 through 2022

	FY2020	FY2021	FY2022
Number of complaints or cases filed	56	58	15
Number of decisions issued	40	45	6
Number of petitions for enforcement	5	8	0
Number of cases settled	7	10	4
Number of cases withdrawn	14	23	4
Number of decisions appealed			
• DC Superior Court	8	10	1
• DC Court of Appeals	0	2	0
Number of pending appeals (total)	9	16	18
• DC Superior Court	9	13	14
• DC Court of Appeals	0	3	3
Number of PERB decisions overturned or remanded on appeal (total)	0	1	2
• DC Superior Court	0	1	1
• DC Court of Appeals	0	0	1
Number of PERB decisions upheld on appeal (total)	7	5	0
• DC Superior Court	5	5	0
• DC Court of Appeals	2	0	0

30. Please fill in the chart below with **cases by agency** in each year FY2020, FY2021, and FY2022.

PERB cases or complaints by agency, FY2020-FY2022, as of Jan. 1, 2022

Agency name	Number of cases filed against an agency			Number of cases filed by agency or on behalf of agency by OLRCB or other		
	FY2020	FY2021	FY2022	FY2020	FY2021	FY2022
DBH	1	2*	0	0	1	0
D.C. National Guard	0	1	0	0	0	0
DCHA	1	0	0	0	0	0
DCPS	3	4	1	2	2	0
DCRA	5	6	0	0	0	0
DFS	1	5	1	0	1	0
DGS	2	4	2	0	0	0
DISB	1	2	0	0	0	0
DOC	1	2	0	0	0	0
DOH	1	2	0	0	1	0
DDS	0	2	0	0	0	0
DYRS	1	2	0	0	1	0

DOES	0	2	0	0	0	0
DHCD	0	2	0	0	0	0
DOEE	0	3	2	0	0	0
DPR	0	2	0	0	0	0
DCOZ	0	0	2	0	0	0
DCOP	0	0	1	0	0	0
RHC	1	2	0	0	0	0
OSSE	1	5	1	0	0	1
MPD	7	12	2	7	6	1
OCP	0	0	2	0	0	0
Events DC	0	1	0	0	0	0
FEMS	1	0	0	0	0	0
OAH	0	0	1	0	0	0
OLRCB	4	2	3	0	0	0
PSC	1	0	0	0	0	0
DCHR	0	2	0	0	0	0
OZ	0	1	0	0	0	0
DDOT	0	0	2	0	0	0
DMV	0	0	2	0	0	0
DFHV	0	0	2	0	0	0
UDC	0	1	0	0	0	0
WASA	0	3	4	0	0	0

31. Please provide a narrative description **explaining each decision that was reversed or remanded by Superior Court or the Court of Appeals** in FY2021 or FY2022 as of Jan. 1, 2022. Please attach a copy of any opinion issued with the remand or reversal.

PERB Case No. 16-A-18

In *MPD v. FOP/MPD Labor Committee*, PERB Case No. 16-A-18, MPD filed an Arbitration Review Request (Request), asking the Board to overturn an arbitration award, which reversed an MPD officer's (Grievant's) termination due to the Agency's violation of the 90-Day Rule. MPD asserted that the Arbitrator incorrectly calculated the time-period that a criminal investigation of the Grievant was ongoing. The Board denied MPD's Request, finding no violation of law or public policy. MPD appealed the case to the D.C. Superior Court. The Superior Court reversed the Board, finding that MPD had not violated the 90-Day Rule and affirming the Grievant's termination. The Union appealed the case to the D.C. Court of Appeals. The Court of Appeals vacated the Superior Court judgment and remanded the issue to the lower court for remand to PERB. On December 7, 2021, the Superior Court remanded the case to PERB and a Board decision is pending.

PERB Case No. 20-U-23

In *AFGE, Local 631 v. OLR CB, et al.*, PERB Case No, 20-U-23, AFGE, Local 631 (Union) brought an unfair labor practice complaint against seven agencies (collectively “Agencies). The Union claimed the Agencies had unlawfully refused to negotiate over changes in working conditions precipitated by the coronavirus. The Board found in the Union’s favor, awarding preliminary relief and ordering the Agencies to bargain over changes in working conditions, as well as their impact and effects. After a hearing, the Board found that the Agencies had committed an unfair labor practice by its blanket refusal to bargain with the Union. On appeal, the D.C. Superior Court reversed the Board’s decisions. The court determined that the COVID-19 Response Emergency Amendment Act of 2020 “gives management the sole right to take any necessary personnel action in emergency situations,” “notwithstanding” any contradictory provision of the CMPA. The court held that management has “flexible, expansive, open-ended authority” to take the actions necessary to ensure an effective response to the COVID-19 emergency and determined that such management actions are not subject to bargaining, even over impact and effects.

Copies of the Superior Court and Court of Appeals decisions in these cases are attached as Exhibit Q31.

32. Regarding **training** that PERB provided to members of public unions or agency officials in FY2021 and FY2022, as of Jan. 1, 2022:

- 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	Topic	Agency(s)	# of Attendees	In-Person / Remote
10/20/2020	Rules of the Public Employee Relations Board	DBH, OAG, OSSE, DYRS, MPD, DCRA, DCPL, WASA, DDOT, FEMS	44	Remote
12/8/2020	PERB and the COVID-19 Pandemic	OLRCB, OUC, DISB, WASA, FEMS, MPD, EOM, DC Auditor	29	Remote
1/12/2021	Duty to Bargain:	FEMS, OLR CB, DDOT, DMV, OUC OSSE, DBH, DISB, MPD, DYRS DPW	30	Remote
2/9/2021	Negotiability & Impasse Procedures	DMV, OSSE, DBH, OLR CB	26	Remote
3/9/2021	Duty to Supply Information	EOM, FOP, MPD, DBH	18	Remote

4/13/2021	Weingarten Rights	OSSE, DYRS, OUC, EOM, FEMS, OLRCB, DBH	20	Remote
5/11/2021	Arbitration and the Public Employee Relations Board	OLRCB	12	Remote
6/8/2021	Civility and Ethics in the Practice of Labor Relations	OLRCB, WASA,	10	Remote
7/19/21 7/26/21 8/2/2021 8/9/2021	Labor Law Training	FEMS	34	In - Person
12/14/2021	D.C. Public Employee Relations Board: Structure & Procedures	DBH, FEMS, OUC, EOM, WASA, OLRCB, DCHR	12	Remote

- b. What strategy did PERB use to target outreach to agencies for remote trainings (because of the public health emergency) in FY2021 and so far in FY2022?

Response: PERB advertises its training on its website. PERB also sends a monthly notice of the training to its listserve of District managers and union officials.

- c. How many trainings are planned for the remainder of FY2022? Will they be in person or virtual?

Response: Five trainings are planned for the remainder of FY2022. At this time, they will be virtual due to the ongoing public emergency. However, in-person training will resume when feasible.

33. Complete the table below with information on **each PERB decision issued** in FY2021 or FY2022, until Jan. 1, 2022, **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.

Response: Arbitration review requests are not listed below, as those decisions do not require agencies to implement any action.

PERB decisions requiring action by management, FY2021 and FY2022, as of Jan. 1, 2022

Case Number or identifier	Case Type	Agency	Union Local (name, number)	Brief description of action to be taken	Date of PERB decision	Date of final implement action by agency	If petition for enforcement filed, date of petition
20-U-30	Unfair Labor Practice Complaint	DCPS	WTU, Local #6	Cease and desist from direct dealing and refusing to bargain in good faith	11/2/20	Posting 11/16/20	None
19-RC-01	Election	DFS	NAGE	Recognize unit	3/30/20	Not notified by union	None
20-U-23	Unfair Labor Practice Complaint	OLRCB, DPW, DGS, OP, DCOZ, OCP, and DOEE	AFGE, Local 631	Cease and desist from refusing to bargain and pay the Union's costs	2/3/21	PERB decision reversed by D.C. Superior Court	None
20-UC-01	Unit Clarification on Petition	DCRA	AFSCME, District Council 20, Local 2743	Include three employees in the bargaining unit	2/23/21	Not notified by union	None
19-RC-02	Election	DCNG	NAGE	Recognize unit	5/21/21	Not notified by union	None
21-CU-01	Petition for Compensation Unit Determination	DFS	NAGE, Local R3-09	Place all eligible DFS employees in Compensation Unit 1	8/23/21	Not notified by union	None
21-CU-03	Petition for Compensation Unit Determination	DCNG	NAGE	Place career service DCNG employees into Comp Unit 1 and all eligible wage grade DCNH employees into Comp Unit 2	10/25/21	Not notified by union	None

34. If the chart in Question 33 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.

PERB petitions for enforcement, FY2021 and FY2022, as of Jan. 1, 2022

Under PERB Rule 560.1, a prevailing party in a 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 complaint and bringing their case before the Board again, most prevailing parties will petition the Board to seek judicial process, should the respondent fail to comply with the Board's decision. Prevailing parties filed the following enforcement cases:

21-E-01 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): On October 19, 2020, Fraternal Order of Police/Metropolitan Police Department Labor Committee (FOP) filed a Petition for Enforcement seeking the Board's enforcement in the D.C. Superior Court of the Board's Decision and Order in PERB Case No. 19-A-03, Opinion No. 1707, in which the Board denied review of an arbitration award. On February 19, 2021, the Board issued Opinion No. 1772 in PERB Case No. 21-E-01, granting FOP's petition.

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 seeking the Board's enforcement in the D.C. Superior Court of the Board's Decision and Order in PERB Case No. 19-A-04, Opinion No. 1711, in which the Board denied review of an arbitration award. On February 19, 2021, the Board issued Opinion No. 1773 in PERB Case No. 21-E-02, granting FOP's petition.

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 seeking the Board's enforcement in the D.C. Superior Court of the Board's Decision and Order in PERB Case No. 19-A-01, Opinion No. 1698, in which the Board denied review of an arbitration award. On February 19, 2021, the Board issued Opinion No. 1774 in PERB Case No. 21-E-03, granting FOP's petition.

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 seeking the Board's enforcement in the D.C. Superior Court of the Board's Decision and Order in PERB Case No. 18-A-14, Opinion No. 1688, in which the Board denied review of an arbitration award. On February 19, 2021, the Board issued Opinion No. 1775 in PERB Case No. 21-E-04, granting FOP's petition.

21-E-05 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): On January 19, 2021, FOP filed a Petition for Enforcement of an arbitration award, seeking enforcement of the award against MPD granted in FMCS No. 20035-

05126. On February 16, 2021, FOP requested to withdraw its petition for enforcement without prejudice. The Board granted FOP's request on February 18, 2021.

21-E-06 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): On March 24, 2021, FOP filed a Petition for Enforcement seeking the Board's enforcement in the D.C. Superior Court of the Board's Decision and Order in PERB Case No. 20-A-01, Opinion No. 1731, in which the Board denied review of an arbitration award. On May 21, 2021, the Board issued Opinion No. 1786 in PERB Case No. 21-E-06, granting FOP's petition.

21-E-07 (*Bernard Bryan, Darlene Bryant, Tasheanna Harris, and Nora Thompson v. Fraternal Order of Police/Department of Corrections Labor Committee*): On April 7, 2021, *pro se* Petitioners filed a Petition for Enforcement of the Board's Decision and Order in PERB Case No. 19-S-02, Opinion No. 1750, in which the Board ordered FOP to cease and desist from violating the Standards of Conduct prescribed by the CMPA. On August 23, 2021, the Board issued a letter dismissing PERB Case No. 21-E-07 based on a finding that FOP had complied with the Board's order in PERB Case No. 19-S-02.

21-E-08 (*Fraternal Order of Police/Metropolitan Police Department Labor Committee v. Metropolitan Police Department*): On April 29, 2021, FOP filed a Petition for Enforcement seeking the Board's enforcement in the D.C. Superior Court of the Board's Decision and Order in PERB Case No. 19-A-02, Opinion No. 1705, in which the Board denied review of an arbitration award. On June 21, 2021, the Board issued Opinion No. 1790 in PERB Case No. 21-E-08, granting FOP's petition.

35. In each year of FY2021 and FY2022, how many **unfair labor complaints** alleging non-compliance with an order issued by PERB were filed? In how many cases did PERB require an agency to notify the Board after complying with the Board's order?

Fiscal Year	Number of Unfair Labor Practice Complaints filed alleging noncompliance with a Board order	Number of Unfair Labor Practice cases in which the Board required an agency to notify PERB after complying with a Board order
2021	1	0
2022	0	0

V. Agency Operations, Disputes, and Evaluation

36. 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 FY2021 or FY2022. 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:
- Provide the agency name and office of the complainant at the time the matter occurred.
 - Provide the name of the forum or agency to which the complaint was filed.
 - Specify if the complaint concerns a colleague or supervisor.
 - Provide a brief description of the matter and the current status.
 - Describe the response to the complaint or grievance, including any disciplinary action taken and any changes to agency policies or procedures
 - For any complaint or grievance that was resolved in FY2020 or FY2021, as of Jan. 1, 2021, describe the resolution or outcome.

Response: None.

37. 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 questions 30-32. Include on the chronological list any earlier grievance that is still pending in any forum.
- Describe the complainant (e.g. [Program name] customer)
 - For each grievance or complaint, give a brief description of the matter as well as the current status.
 - Please describe the process utilized to respond to the complaint or grievance and any changes to agency policies or procedures as a result.
 - For any complaints or grievances that were resolved in FY2021 or FY2022, as of Jan. 1, 2022 describe the resolution.

Response: None.

38. 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 FY2021 or FY2022, as of Jan. 1, 2022. 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.

39. Please list all **settlements** entered into by PERB or by the District on behalf of the agency in FY2020, FY2021, or FY2022, as of Jan. 1, 2022, 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.

40. For all **studies, research papers, reports, evaluations, and analyses**, including those provided by contractors or consultants, that PERB prepared or contracted for during FY2021 and FY2022, as of Jan. 1, 2022:
- 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.

41. 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 FY2021 and 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: The DC Auditor requested PERB’s participation in identifying arbitration review requests filed by the D.C. Metropolitan Police Department (MPD) of arbitration awards related to officer terminations. The Auditor also requested enforcement cases filed by the Fraternal Order of Police/Metropolitan Police Department Labor Committee to enforce MPD’s compliance with the arbitration awards. The Auditor asked for an estimated number of hours PERB’s attorneys spent on each case. PERB does not track hours for each case. The information provided to the DC Auditor’s office is attached as Exhibit Q41.

42. 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 PERB. 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.

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

Exhibit Q43

44. 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.

Exhibit Q44