

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



**Fiscal Years 2018-2019
Performance Oversight Hearing**

**Testimony of
E. Lindsey Maxwell II, Esq.
Director, Office of Labor Relations and Collective Bargaining**

**Before the
Committee of Labor and Workforce Development
Council of the District of Columbia
The Honorable Elissa Silverman, Chairperson**

John A. Wilson Building
Room 412
1350 Pennsylvania Avenue, NW
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10:00AM

Good morning, Chairperson Silverman and members of the Committee on Labor and Workforce Development. My name is E. Lindsey Maxwell II, and I am the Director of the Office of Labor Relations and Collective Bargaining (OLRCB). Thank you for this opportunity to provide testimony on the performance and activities of OLRCB during Fiscal Year 2018 and the first quarter of 2019. I was appointed Director of OLRCB on January 22, 2019 by Mayor Bowser, and I would like to thank her for her support and trust in me to lead this agency. Joining me today at the table is Kathryn Naylor, Supervisory Attorney, and Michael Levy, Supervisory Attorney and former Interim Director of OLRCB.

Mayor Bowser's Fiscal Year 2018 budget made investments that support our efforts to deliver on the promise of shared DC values. These efforts include creating economic opportunity, making our neighborhoods safe, and providing more effective and efficient government services. We continue that effort as we work each day to fulfill our commitment to provide every District resident a fair shot at opportunity. Specifically, as the Executive's representative in labor relations and collective bargaining matters, OLRCB believes that positive employee and labor relations are essential to creating a productive work environment.

OLRCB is charged with administering the labor relations program for agencies under the Mayor's authority. We administer the labor relations program in a manner that enhances efficiency of government operations while also recognizing and respecting employee rights. To be clear, the vision of administering the labor relations program is to work with the labor force as partners, rather than adversaries. As it stands now, the unionized workforce of the District of Columbia, who are our labor partners, is approximately 75 percent of the entire workforce. As such, a significant part of OLRCB's work involves negotiating collective bargaining agreements and representing management in related labor litigation.

As Director, I meet and speak with labor leaders on a consistent basis to discuss a broad range of topics to advance an amicable relationship between labor and management. To that end, I attempt to always have a direct line of communication between myself and local labor presidents to facilitate those relationships. I have also recently worked with the Office of the City Administrator, as leaders of the Labor Management Roundtable, to advance productive relationships with labor leadership. Part of this relationship-building was exemplified when the Office of the State Superintendent for Education was recently able to move almost 200 workers from part-time employment to full-time employment, thereby providing many in our unionized workforce a pathway to the middle class.

To fulfill its mission, OLRCB is broken into three units that work both independently and collaboratively with one another: (1) the Negotiations and Contract Administration Unit, (2) the Litigation Unit, and (3) the Administrative Unit. The Negotiations and Contract Unit is responsible for negotiating collective bargaining agreements; the process by which wages, benefits, and other terms and conditions of employment for unionized employees are established.

The Litigation Unit is focused on initiating, prosecuting, defending, and monitoring a wide range of litigation activity for and on behalf of agencies under the authority of the Mayor. Litigation activity consists primarily of grievance arbitrations, unfair labor practice complaints (ULPs), enforcement actions, and arbitration review requests (ARRs) before the Public Employee Relations Board (PERB), which you heard testimony from last week. Litigation activity for the unit also flows from interest arbitrations, negotiability appeals, and similar actions that directly arise from the negotiation activities carried out by OLRCB.

The Administrative Unit is responsible for providing general agency support and

conducting research and analysis necessary to support management's position during negotiations. This unit also provides training to agencies regarding the labor relations program and the legal obligations which emanate from D.C. law and collective bargaining agreements. The unit is also responsible for providing program support to the Negotiations and Litigation Units as well as providing human resources, contracting and procurement, and other related customer and operational services for the agency.

The Office of Labor Relations and Collective Bargaining is proud of the work it accomplished during FY18 and FY19, to date. During this time, our activity centered mainly on negotiations; litigation; and research, training, and citywide initiatives. By law, collective bargaining compensation agreements are effective for a minimum of three years, the work of the Negotiation Unit can be cyclical in nature, assuming contracts are reopened, negotiated, completed, and implemented as expected. This often results in either a period of numerous completed contracts or a period where most contracts are being re-negotiated, approved, and implemented on schedule.

Currently, OLRCB administers and negotiates 25 separate collective bargaining compensation agreements, including the agreement for Compensation Units 1 and 2 that covers approximately 9,000 employees. OLRCB is also currently negotiating 45 working conditions agreements, of which 21 are related to Compensation Units 1 and 2. The other 24 have both their compensation and working conditions negotiated simultaneously. OLRCB remains vigilant in negotiating agreements with an effort to have them completed as soon as possible.

Just recently, OLRCB completed negotiations for several significant contracts. Most notably, we concluded bargaining with the DC Police Union and with Compensation Units 1 and

2. The contract with the DC Police Union was the first contract completed in over a decade without the need to resort to interest arbitration. The conclusion of this contract demonstrates the Mayor's commitment to our first responders who serve residents in every ward of the District and to creating a safer, stronger Washington, DC.

In addition to contract negotiations, OLRCB is also responsible for engaging in impact and effects bargaining. As it stands now, the D.C. Code specifies the management rights deemed necessary for the administration of agencies and makes them non-negotiable. PERB, however, has determined that while these rights may be non-negotiable, unions have the right and management has the obligation to engage in impact and effects bargaining over the exercise of those management rights.

The next major activity for OLRCB during FY18 and FY19, to date, was litigation. Litigation resources in OLRCB were used in three major areas: arbitration, unfair labor practice cases, and representation issues before PERB. The litigation of arbitrations and unfair labor practice complaints consumed the bulk of OLRCB's resources. Each attorney in the Office carries a litigation caseload and is responsible for all related pleadings, hearings, interviews, evidentiary matters, and appeals. In FY18, and thus far in FY19, 44 new cases have been handled by the Office. Of that number, 18 are new arbitration matters, 25 are PERB matters, and one is a petition for review at the DC Superior Court. Of the 18 new arbitration cases, 16 are grievance arbitrations and two are interest arbitrations. Of the 25 PERB matters, 11 are unfair labor practice charges, four are arbitration review requests, four are negotiability appeals, two are unit recognition petitions, and one each are unit clarification, compensation unit, unit modification and enforcement petitions.

Last fiscal year, the Office coordinated multiple training sessions for approximately 241 employees on a variety of topics. OLRCB also conducted quarterly Labor Liaison Forums in FY18, and we are preparing for our next one that is being planned for March 2019. These forums are intended for labor liaisons who are management representatives at the agency level, so they can provide immediate guidance on labor matters to the managers and supervisors at their respective agencies. These forums serve as an opportunity to share information and discuss recent labor decisions, new cases, and other issues impacting the unionized workforce.

OLRCB is also responsible for administering citywide initiatives, one of which is the Commuter Benefit program. This initiative was implemented in October 2007, when the District committed to provide a \$25 monthly commuter benefit to eligible employees who use Metro to commute to and from work. Under the most recently concluded contract for Compensation Units 1 and 2, the District increased this benefit to \$50 monthly. Approximately 8,000 unionized employees are registered and eligible to take advantage of this benefit program. OLRCB continues to work with DCHR, WMATA, agencies, employees, and labor representatives to ensure that all eligible and interested employees are provided the opportunity to take advantage of this benefit.

In closing, OLRCB will continue to provide high-quality legal services to agency directors, labor liaisons, and HR professionals. Our proactive and collaborative approach in working with our labor partners will be a major factor in improving overall labor relations. Additionally, OLRCB will focus on improving our case management system and document management process.

I believe the time and effort put forth during Fiscal Years 2018 and 2019 to date has strengthened the relationship with labor, and has resulted in a renewed level of trust and engagement that is conducive to long-term, substantive, and productive engagement with our labor partners.

Thank you for the opportunity to testify today, and I am happy to answer any questions that you may have.