Fiscal Year 2019–2020
Performance Oversight Public Hearing

Testimony of
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Director

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

February 21, 2020
10:00AM
Room 500
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004
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 2019 and the first quarter of 2020.

I. Agency Mission

As you know, OLRCB is the Executive’s representative in labor relations and collective bargaining matters. In that role, we administer the labor relations program for agencies under the Mayor’s personnel authority. The unionized workforce of the District of Columbia, or our labor partners as we like to call them, is approximately 75 percent of the entire workforce. Consequently, a significant part of OLRCB’s work involves negotiating collective bargaining agreements and representing management in related labor litigation. Our office believes that positive employee and labor relations are essential to creating a productive work environment. We administer the labor relations program in a manner that enhances efficiency of government operations while also recognizing and respecting employee rights. The vision of this office remains administering the labor relations program in a way where we work with the labor force as partners, rather than adversaries.

In that regard, as Director, I meet 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 that relationship. I am also part of the leadership of the Labor Management Roundtable, which advances productive relationships with our labor partners.
II. Agency Structure

The best way to describe OLRCB’s structure is to break the agency out into three sections: (1) Negotiations and Contract Administration Section, (2) Litigation Section, and (3) the Administrative Section. The Negotiations and Contract Section 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; training management representatives on the provisions of each collective bargaining agreement applicable to their agency; and conducting “impact and effects” bargaining.

The Litigation Section is focused on initiating, prosecuting, defending, and monitoring a wide range of litigation activity, 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 (ULPs), enforcement actions, and arbitration review requests (ARRs) before the Public Employee Relations Board (PERB). Litigation activity also flows from interest arbitrations, negotiability appeals and similar actions that directly arise from the negotiation activities carried out by OLRCB.

The Administrative Section 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 the collective bargaining agreements. The Administrative Section is also responsible for program support to the Negotiations and Litigation Units, and providing human resources, contracting and procurement, and other related customer and operational services for the Agency.
III. OLRCB Staff and Budget

The fiscal year 2019 and 2020 budgets authorized 17 full-time equivalent positions (FTEs) for OLRCB. Of those positions, 10 are designated for attorneys, six are for administrative and program support and one is designated for the Director position. OLRCB is currently fully staffed with the exception of two vacant attorney advisor positions, which we are in the process of filling.

Attorneys are directly involved in carrying out the primary mission of the Office by providing advice, counsel, and representation to agencies on all matters concerning labor relations. In addition, attorneys actively negotiate collective bargaining agreements with representatives of the various labor organizations representing District government employees.

The administrative and program staff, support the Director and attorneys and assist in carrying out the Office’s customer service and other District mandates. Their role is critical in the Office’s efforts to administer an efficient labor relations program because they are often the first point of contact with the public, employees, management and labor representatives with whom we interact on a daily basis.

IV. FY 2019 and thus far in FY 2020 Activities

Collective bargaining compensation agreements are, by law, effective for a minimum of three years. As a result of this, the work of the Negotiations and Contract Section 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. OLRCB administers and negotiates 43 collective bargaining agreements. Of those 43, 25 are working conditions agreements, nine are combined working conditions and compensation agreements, and nine are
compensation agreements. Among the compensation agreements is the one for Compensation Units 1 and 2, which covers approximately 9,000 employees. In FY19, OLRCB successfully negotiated collective bargaining agreements with the Council of School Officers, representing the more than 800 principals, assistant principals, and related service providers employed by District of Columbia Public Schools. The Agreement with the Council of School Officers is evidence of the Mayor’s continued commitment to DC schools and providing its school leadership with additional professional compensation and benefits. OLRCB also negotiated agreements with the District of Columbia Doctors Council, representing the medical doctors; the vast majority of whom are employed by the Department of Behavioral Health (DBH) at the St. Elizabeth’s Hospital. Moreover, in FY20 to date, OLRCB has reached agreement with the National Union of Hospital and Health Care Employees, 1199DC, AFSCME Chapter 3758, representing the Clinical Psychologists at DBH. These Agreements will help assure that the District can recruit and retain the highest quality staff to serve District residents, especially at St. Elizabeth’s Hospital.

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. However, PERB has determined that while these rights may be non-negotiable, unions have the right and management a corresponding obligation, to engage in impact and effects bargaining over the exercise of those management rights.

Litigation resources in OLRCB are used in three major areas: arbitration, unfair labor practice cases, and representation of issues before PERB. The litigation of arbitrations and
unfair labor practice complaints consumes the bulk of OLRCB’s litigation resources. Each attorney in the office carries a litigation caseload and is responsible for all related pleadings, hearings, interviews, evidentiary matters, and appeals. In FY19, there were 28 new cases filed and a total of 15 cases closed. So far in FY20, OLRCB has handled 12 new cases and of that number, eight have been closed.

In FY19, the OLRCB coordinated multiple training sessions of approximately 381 employees; a 36 percent increase from FY18. Employees were trained on topics such as “Managing in a Unionized Environment and Contract Implementation,” “Union Dues Processing,” “Progressive Discipline.” and “Negotiations under D.C. Law.” Additionally, OLRCB continues to conduct Quarterly Labor Liaison Forums. These forums are intended for Labor Liaisons, who are management representatives at the agency level, to 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, such as the Commuter Benefit. 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. Approximately 8,000 unionized employees are registered and eligible to take advantage of this benefit. OLRCB continues to work with the Department of Human Resources, WMATA, other sister 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 service to agency Directors, Labor Liaisons, and Human Resources 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 continue to focus on improving our case management system as well as our document management process.

I believe the time and effort put forth during Fiscal Years 2019 and 2020 to date have 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. I am available to answer any questions that you may have.