



## FY 2015 Performance Accountability Report Public Employee Relations Board

### INTRODUCTION

The Performance Accountability Report (PAR) measures each agency's performance for the fiscal year against the agency's performance plan and includes major accomplishments, updates on initiatives' progress and key performance indicators (KPIs).

### MISSION

The District of Columbia Public Employee Relations Board (hereafter, "PERB") is an impartial, quasi-judicial, independent agency empowered with the exclusive jurisdiction to resolve labor-management disputes between agencies of the District government, labor organizations representing employees of the various District government agencies and employees covered by the Comprehensive Merit Personnel Act.

### SUMMARY OF SERVICES

PERB determines appropriate compensation and non-compensation bargaining –units; certifies, decertifies, amends, clarifies and modifies labor organizations as exclusive bargaining representatives; facilitates and reviews election procedures and results concerning the selection of labor organizations as the exclusive bargaining representative; investigates and adjudicates unfair labor practices and standards of conduct complaints; reviews appeals of grievance arbitration awards; determines impasse status of collective bargaining between District government agencies and District government employee unions; facilitates Impasse arbitration bargaining between District government agencies and District government employee unions; determines negotiability of proposals submitted during collective bargaining contract negotiations between District government agencies and District government employee unions; mediates disputes submitted to PERB; issues subpoenas and conducts hearings; and adopts rules and regulations for conducting PERB business.

### OVERVIEW – AGENCY PERFORMANCE

The following section provides a summary of PERB performance in FY 2015 by listing PERB's top three accomplishments, and a summary of its progress achieving its initiatives and progress on key performance indicators.

### TOP THREE ACCOMPLISHMENTS

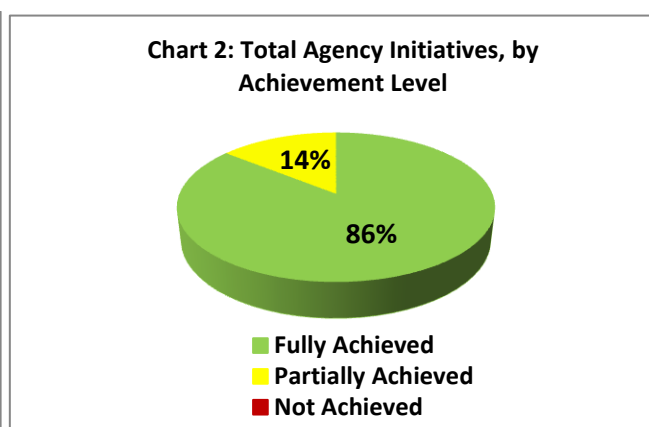
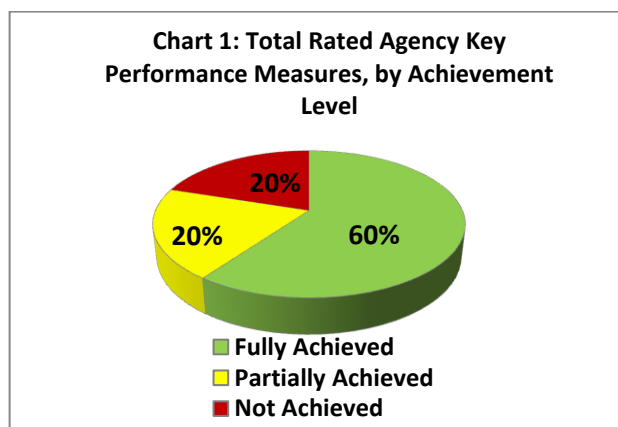
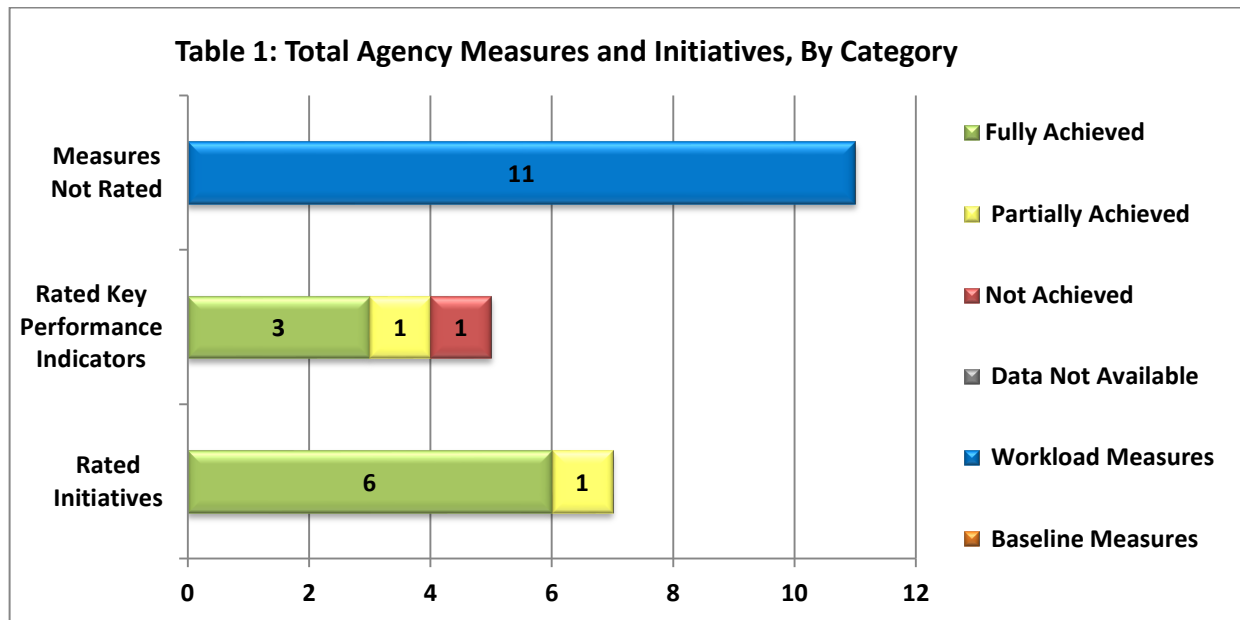
The top three accomplishments of PERB in FY 2015 are as follows:

- ✓ Establishment of the Hearing Examiner Settlement Program which led to a record number of settled cases
- ✓ District wide labor relations training of D.C. Government labor and management representatives
- ✓ Reduction in pending cases



## SUMMARY OF PROGRESS TOWARD COMPLETING FY 2015 INITIATIVES AND PROGRESS ON KEY PERFORMANCE INDICATORS

Table 1 (see below) shows the overall progress the PERB made on completing its initiatives, and how overall progress is being made on achieving the agency's objectives, as measured by their key performance indicators.



In FY 2015, PERB fully achieved more than eighty percent of its initiatives and sixty percent of its rated key performance measures. Table 1 provides a breakdown of the total number of performance metrics PERB uses, including key performance indicators and workload measures, initiatives, and whether or not some of those items were achieved, partially achieved or not achieved. Chart 1 displays the overall progress being made on achieving PERB objectives, as measured by their rated key performance indicators. Please note that chart 2 contains only rated performance measures. Rated performance measures do not include measures where data is not available, workload measures or baseline measures. Chart 2 displays the overall progress PERB made on completing its initiatives, by level of achievement.



The next sections provide greater detail on the specific metrics and initiatives for PERB in FY 2015.

## PERFORMANCE INITIATIVES – ASSESSMENT DETAILS

### Adjudication

**OBJECTIVE 1: Efficiently resolves labor management disputes between District agencies and labor organizations.**

**INITIATIVE 1.1: Reduce the number of unresolved cases.**

Since 2008, unresolved cases have accumulated for reasons including the lack of a Board quorum needed for decision making; staff shortages; lengthy mediations; and lack of funding to conduct the number of hearings to keep pace with the number of cases filed. This fiscal year, within the constraints of its budget, PERB will continue to increase the number of hearings held and, when possible, consolidate cases for hearings for the efficient use of time and resources. **Completion Date: September 2015.**



**Performance Assessment Key: Fully Achieved.** The Agency was able to increase the number of cases decided within 120 days by resolving cases through mediation, promptly addressing cases that did not require a hearing and effectively adjudicating cases through the process in a more efficient manner. While the Agency saw 78 new cases filed in 2015, it closed 128 total cases with 59 of those being new 2015 cases.

**INITIATIVE 1.2: Integrate the electronic case filing system with the electronic case management system.**

In April 2012, PERB adopted and implemented the policy requiring the electronic filing of new cases. In FY14, PERB acquired and installed an electronic case management system to maximize the use of technology and enable work enhancements that streamline PERB's case management process. PERB will work to integrate the electronic filing system with the electronic case management system to create a consistent and comprehensive management and tracking of cases filed, decided and issued by PERB. **Completion date: September 2015.**



**Performance Assessment Key: Fully Achieved.** Pending cases at the Agency continue to be merged together from both the electronic filing and electronic case management systems. The overall efficiency of the system integration is evident in the amount of time it is now taking the Agency to dispose of cases. We have 100% integrated systems with all cases filed in 2015.



**OBJECTIVE 2: Maintain and/or increase the number of matters that are settled through mandatory mediation program.**

**INITIATIVE 2.1: Identify newly filed cases for mandatory mediation.**

PERB adopted mandatory mediation rules in January 2012. The purpose of this program is to allow parties the opportunity to reach a settlement of both specific cases and multiple cases concerning similar issues. In FY15, PERB staff will evaluate each newly-filed case for mediation, paying particular attention to the potential for “issues based” grouping of cases to mediate. **Completion Date: September 2015**

- **Performance Assessment Key: Fully Achieved.** The alternative dispute resolution program at the Agency is one of its major achievements for 2015. Depending on the case, the program uses an in house mediator or a hearing examiner to conduct two different types of mediation sessions with the parties to assist them in coming to a resolution. In 2015, 42 total cases went through the ADR program with successful resolution in 21 cases. This high rate of success saves time and resources for the parties as well as the Agency.

**OBJECTIVE 3: Maintain a high rate of success concerning matters that are appealed to either the D.C. Superior Court or the D.C. Court of Appeals.**

**INITIATIVE 3.1:** In FY14, PERB transferred responsibility for cases appealed to the D.C Superior Court or the D.C. Court of Appeals to outside counsel following a slight upswing in remands and reversals. In FY15, outside counsel will continue to achieve the high rate of success as in previous years. PERB has temporarily employed an analyst to review and evaluate the manner in which decisions are drafted and to ensure that PERB decisions are drafted with the optimum effect and clarity to withstand appellate scrutiny. **Completion date: September 2015.**

- **Performance Assessment Key: Partially Achieved.** PERB saw a total of 13 cases decided from appeals to the Superior Court in 2015. In those appeals, the Board was reversed only 4 times; a rate of 31%. However, in cases that were appealed to the Court of Appeals, the Board’s decisions were reversed or remanded 3 out of 4 times. While most of these cases were not decided by the current Board and were decided more than 5 years ago, PERB will continue to work closely with outside counsel to ensure that future cases yield better outcomes.

**OBJECTIVE 4: Continue to review PERB’s rules in order to determine if PERB needs to amend its rules or promulgate new rules.**

**INITIATIVE 4.1: Amend rules to achieve consistency with statutory mandates.**

The Board will revise its rules to improve the agency’s efficiency and delivery of services. Specifically, PERB is currently reviewing possible rule revisions including rules related to e-service, *pro se* filing requirements, filing deadlines in representation cases and to correct



inconsistent provisions and misstated references to the D.C. Official Code. Revisions to PERB rules will clarify agency procedures and give the public a greater understanding and easier access to the PERB process.

**Completion Date: September 2015.**

- ***Performance Assessment Key: Fully Achieved.*** In 2015, the Board successfully drafted, approved and implemented new Board rules. These rule changes were made to reflect the new nature of the technology being used in the area of electronic filing. The revisions also helped to make clear our rules as they relate to the increase in pro se litigants at the Agency.

**OBJECTIVE 5: Assist District government agencies and unions representing District government employees enhance skills needed for successful and productive labor/management relations.**

**INITIATIVE 5.1: Conduct labor/management workshops and lectures as a resource for education and assistance in the collective bargaining and contract administration process.**

Many cases filed with PERB share common themes that could have been resolved prior to the complaint stage if the representatives were more familiar with contract administration and grievance handling. The training will familiarize representatives with Weingarten rights, duty to bargain, interference and discrimination, information requests under the statute and timeliness. The training should have the effect of reducing the number of complaints filed.

**Completion Date: September 2015**

- ***Performance Assessment Key: Fully Achieved.*** In 2015, the Agency implemented “2<sup>nd</sup> Tuesdays at PERB.” This training component was offered to District government labor relations professionals and was taught by a preeminent professor and expert in labor law. The Agency conducted 8 sessions in 2015 and they were all well attended.

**INITIATIVE 5.2: Create an opportunity to bring labor and management together to discuss general labor topics with Board members.**










PERB will host an open house for labor and management representatives to commingle in a none adversarial setting and discuss general labor relations issue with themselves and labor experts. This will foster and encourage the development of collegial relationships and with the intended effect of collaborative relationships in general leading to dispute resolution.

**Completion Date: September 2015**

- ***Performance Assessment Key: Fully Achieved.*** While the Agency did not host an open house, the “2<sup>nd</sup> Tuesdays at PERB” training proved to be an excellent place for labor and management representatives to meet and commingle with each other, PERB staff and the Board.

**KEY PERFORMANCE INDICATORS– Public Employee Relations Board**



   	KPI	Measure	FY 2014 YE Actual	FY 2015 YE Target	FY 2015 YE Revised Target	FY 2015 YE Actual	FY 2015 YE Rating	Budget Program
	1.1	Percent of cases decided within 120 days of submission to PERB	8.23%	12%		24%	201%	Adjudication
	1.2	Percent of decisions transmitted to the D.C. Register for publication within 60 days of issuance	97.83%	100%		100%	100% <sup>1</sup>	Adjudication
	1.1	Percent of compensation impasse cases resolved by mediation within 30 days	100%	100%		NA** <sup>2</sup>	NA**	Adjudication
	1.7	Percent of compensation impasse cases arbitrated within 45 days	100%	100%		NA** <sup>3</sup>	NA**	Adjudication
	3.1	Percent of cases upheld <sup>4</sup> by D.C. Superior Court upon appeal	80%	100%		71%	88%	Adjudication

<sup>1</sup> 100% of decisions were transmitted within 60 days of issuance. However, in FY2015 Q4 only 7% were transmitted and captured within the 60 day window. The remaining 93% were transmitted within 60 days after issuance but were in FY2016 Q1.

<sup>2</sup> No cases of this type were reported in FY2015.

<sup>3</sup> No cases of this type were reported in FY2015.

<sup>4</sup> Stated as “affirmed” in the KPI Tracker.



●	3.2	Percent of cases upheld <sup>5</sup> by the D.C. Court of Appeals upon appeal	NA	100%		40%	40%	Adjudication
●	5.2	Percent of four workshops or lectures conducted	NA	100%		100%	100%	Adjudication

## WORKLOAD MEASURES – APPENDIX

### WORKLOAD MEASURES

Measure Name	FY 2013 YE Actual	FY 2014 YE Actual	FY 2015 YE Actual	Budget Program
Number of cases filed with the Board	72	42	<b>78</b>	OFFICE OF THE DIRECTOR
Number of hearings conducted	8	11	<b>22</b>	Adjudication
Number of mediations conducted	23	18	<b>21</b>	Adjudication
Number of cases closed	123	84	<b>128</b>	Adjudication
Number of workshops or lectures	NA	NA	<b>6</b>	Adjudication

Number of cases issued		0	<b>128</b>	ADJUDICATION
Number of open cases, yearend			<b>130</b>	ADJUDICATION
Number of cases resolved by HE		0	<b>13</b>	ADJUDICATION

<sup>5</sup> Stated as “affirmed” in the KPI Tracker.



Settlement Program				
Number of cases affirmed by Superior Court		11	12	ADJUDICATION
Number of cases issued by Superior Court		14	17	ADJUDICATION
Number of cases affirmed by Court of Appeals		1	2	ADJUDICATION
Number of cases issued by Court of Appeals		3	5	ADJUDICATION