

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia  
Public Employee Relations Board**

_____	)	
In the matter of:	)	
	)	
Federation of Administrative	)	
Law Judges – D.C.	)	
	)	
Petitioner,	)	PERB Case No. 16-RC-01
and	)	
	)	Opinion No. <b>1562</b>
Office of	)	
Administrative Hearings	)	
	)	
Respondent.	)	
_____	)	

**DECISION ON UNIT DETERMINATION**

**AND VOLUNTARY RECOGNITION**

On November 18, 2015, the Federation of Administrative Law Judges – D.C. (“Petitioner”) filed a Recognition Petition (“Petition”) with the Public Employee Relations Board. Petitioner seeks to represent, for the purpose of collective bargaining, a unit of unrepresented professional employees at the Office of Administrative Hearings (“OAH”). The Petition was in compliance with Board Rule 502.1, and included a roster of Petitioner’s officers, and a copy of Petitioner’s constitution, bylaws, articles of incorporation and a statement of its objectives. Pursuant to Board Rule 502.1(d) the Petitioner represented a community of interest based on the following factors: (1) similar skills relating to legal analysis, research and writing; (2) same working conditions; (3) same supervisor; (4) same worksite location; and (5) performance of same duties.<sup>1</sup>

On December 8, 2015, OAH submitted an alphabetical list of employees in the proposed bargaining unit. Subsequent to filing the Petition, Petitioner delivered to the Board a showing of interest that satisfied Board Rule 502.2. Notices concerning the Petition were issued on December 15, 2015, with the requirement that they be conspicuously posted by December 28, 2015 for fourteen (14) days at OAH. The Notices required that comments or requests to

<sup>1</sup> Petition at 1.

intervene be filed no later than fourteen (14) days after the posting of the notice. No requests to intervene were received by the Board. Petitioner seeks to represent the following proposed bargaining unit:

All Attorney-Advisors in the District of Columbia Office of Administrative Hearings (“OAH” or “Agency”) appointed pursuant to D.C. Code § 2-1831.12, excluding all management officials, supervisors, confidential employees, employees engaged in personnel work other than in a purely clerical capacity, and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.<sup>2</sup> D.C. Official Code § 1-617.09(a) (2001 ed.) requires that a community of interest exist among employees for a unit to be found appropriate by the Board for collective bargaining over terms and conditions of employment. Petitioner set forth factors demonstrating that the employees in the proposed bargaining unit share a community of interest, as required by the CMPA.<sup>3</sup> An investigation of this matter further disclosed that there is no existing labor-management agreement covering the employees in the unit nor are there any additional employees who might reasonably be considered for inclusion in the proposed unit. OAH does not dispute the appropriateness of the proposed bargaining unit, pursuant to the criteria set forth under D.C. Official Code § 1-617.09(a). After reviewing the Petition, the Board finds that a community of interest exists among the employees in the proposed bargaining unit and that certification of the unit will promote effective labor relations and efficiency of agency operations.

The Executive Director determined that a majority of the employees in the proposed bargaining unit desired to be represented by Petitioner. Board Rule 502.12 provides in relevant part that “the Board may permit the employing agency to recognize the labor organization without an election on the basis of evidence that demonstrates majority status (more than 50%) ... indicating that employees wish to be represented by the petitioning labor organization.” On December 21, 2015, OAH notified the Board of its intent to voluntarily recognize the Petitioner as the exclusive representative of the employees in the proposed unit.

The Board finds in all other respects that the requirements of D.C. Official Code § 1-617.10 (b)(1) and Board Rule 502.12 have been met. Based upon its review of this matter, the Board concludes that the proposed unit is appropriate for collective bargaining. A certification of representation shall be granted to Petitioner without an election.

### **ORDER**

#### **IT IS ORDERED THAT:**

1. The following unit is an appropriate unit for collective bargaining over terms and conditions of employment:

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<sup>2</sup> Petition at 1.

<sup>3</sup> Id.

All Attorney-Advisors in the District of Columbia Office of Administrative Hearings (“OAH” or “Agency”) appointed pursuant to D.C. Code § 2-1831.12, excluding all management officials, supervisors, confidential employees, employees engaged in personnel work other than in a purely clerical capacity, and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.<sup>4</sup>

2. Pursuant to D.C. Official Code § 1-617.10 (b)(1)(2014 ed.) and in accordance with Board Rule 502.12, the District of Columbia Office of Administrative Hearings is permitted to voluntarily recognize, without an election, the Federation of Administrative Law Judges – D.C., as the collective bargaining representative of the unit found to be appropriate above.
3. The attached Certification of Representative is granted to the Federation of Administrative Law Judges – D.C. as the exclusive collective bargaining representative for the unit found appropriate for collective bargaining over compensation and other terms and conditions of employment.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By unanimous vote of Board Chairperson Charles Murphy, Member Yvonne Dixon, Member Ann Hoffman, and Member Keith Washington.

January 21, 2016

Washington, D.C.

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<sup>4</sup> Petition at 1.

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 16-RC-01, Opinion No. 1562, was served by File & ServXpress on the following parties on this the 3rd day of February, 2016.

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/s/ Sheryl Harrington \_\_\_\_\_

PERB