

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**

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| In the Matter of: |) | |
| |) | |
| AFSCME, District Council 20, Local 3758, AFL-CIO, |) | |
| |) | |
| and |) | |
| |) | |
| AFSCME, National Union of Hospital and Health Care Employees, AFL-CIO, |) | PERB Case Nos. 00-AC-01 |
| |) | and 00-UM-03 |
| Petitioners, |) | |
| |) | Opinion No. 650 |
| and |) | |
| |) | |
| District of Columbia Commission on Mental Health Services, |) | |
| |) | |
| Agency. |) | |
| |) | |
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DECISION AND ORDER

On June 15, 2000, the American Federation of State, County and Municipal Employees, District, Council 20, Local 3758, AFL-CIO (AFSCME or Petitioner) filed a Petition to Amend Certification and a Petition for Unit Modification. The Petitioner is seeking to Amend Certification Nos. 66 and 75.¹ AFSCME contends that the proposed amendment reflects the administrative change

¹PERB Certification Nos. 66 and 75 (PERB Case Nos. 90-R-01 and 92-R-08, respectively) certified AFSCME, Council 20, as the exclusive representative for the following bargaining units:

All psychologist employed by the Commission on

(continued...)

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in the affiliation of Local 3758 from District Council 20 to the National Union of Hospital and Health Care Employees (NUHHCE).

In addition, AFSCME is seeking to modify Certification Nos. 66 and 75.² Specifically, AFSCME is seeking to consolidate the psychologist unit with the unit of clinical interns and residents.

The Commission on Mental Health Services (CMHS) does not object to AFSCME's Petition to Amend Certification. However, CMHS objects to AFSCME's Petition for Unit Modification.³

¹(...continued)

Mental Health Services, excluding management officials, confidential employees, supervisors, any employee engaged in personnel work in other than a purely clerical capacity, and any employee engaged in the administration of the provisions of Title 17 of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

All clinical psychology interns and residents who are being paid by the District of Columbia Commission on Mental Health Services, excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than 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.

²Pursuant to Board Rule 504.1(d) a labor organization may seek a unit modification in order "to consolidate (2) two or more [bargaining] units within an agency that are represented by the same [union]."

³CMHS claims that if AFSCME wishes to modify Certification Nos. 66 and 75, "into a single unit, the appropriate procedure would be to hold an election to insure that the professional
(continued...)

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After CMHS' objection was filed, AFSCME and CMHS requested that the Board hold the "Petition for Unit Modification" in abeyance. Therefore, the "Petition for Unit Modification" is not properly before the Board.

Board Rule 516.1 permits amendments to certifications "whenever there is a change in the identity of the exclusive representative that does not raise a question concerning representation."⁴ Therefore, the issue before the Board is whether the change in affiliation from Council 20 to NUHHCE, raises a question concerning representation.

The Board has previously considered a similar Petition filed by AFSCME. In PERB Case No. 99-AC-01, AFSCME filed a Petition to Amend Certification Nos. 71 and 103. In its petition, AFSCME asserted that the reason for the proposed amendment was to reflect the administrative change in affiliation of the Locals from District Council 20 to NUHHCE.

In that case, representatives from AFSCME Locals 1033 and 2097 (Intervenors) filed objections. The objections were twofold. First, they argued that NUHHCE was not a subordinate body of AFSCME, but rather a separate entity. Second, they raised due process issues concerning how AFSCME effected the change from D.C. Council 20 to NUHHCE. The Board determined that the continuity of representation had been preserved and that the members' due process rights had not been violated. Furthermore, the Board concluded that AFSCME's constitution authorized the President of the International to merge local affiliates with other unions. As a result, the Board granted AFSCME's Petition to Amend Certification Nos. 71 and 103. (See, American Federation of State, County and Municipal Employees and District of Columbia Health and Hospitals Public Benefit Corporation, 47 DCR 6991, Slip Op. No. 620, PERB Case No. 99-AC-01 (2000).).

AFSCME's present Petition is similar to its Petition in PERB Case No. 99-AC-01. As a result, we conclude that our holding in PERB Case No. 99-AC-01 is controlling in the present case. Therefore, we find that the change in the affiliation of Local 3758 from Council 20 to NUHHCE, does not raise a question concerning representation. As a result, we grant AFSCME's Petition to Amend Certification Nos. 66 and 75.

³(...continued)

Psychologist's desire to be included in a consolidated unit of non professional employees." CMHS argues that there is a legitimate question concerning whether a unit that contains interns and residents is a professional unit appropriate for automatic consolidation.

⁴A change in the identity of the representative that does not raise a question concerning representation may include a change in name of the labor organization.

ORDER

IT IS HEREBY ORDERED THAT:

1. Certification Nos 66 and 75 (PERB Case Nos. 90-R-01 and 92-R-08, respectively), are amended to reflect a change in affiliation of the exclusive representative set forth therein from Council 20 to 1199 Metropolitan District, DC, National Union of Hospital and Health Care Employees (NUHHCE).
2. AFSCME and CMHS' request to hold the "Petition for Unit Modification" in abeyance is granted. Therefore, PERB Case No. 00-UM-03 is separated from this proceeding and will be processed by the Board as a separate matter.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

May 15, 2001

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD**

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| In the Matter of: |) | |
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| AFSCME, District Council 20, Local 3758, AFL-CIO, |) | |
| |) | |
| and |) | |
| |) | |
| AFSCME, National Union of Hospital and Health Care Employees, AFL-CIO, |) | PERB Case Nos. 00-AC-01 and 00-UM-03 |
| |) | |
| Petitioners, |) | Certification No. 120 |
| |) | |
| and |) | |
| |) | |
| District of Columbia Commission on Mental Health Services, |) | |
| |) | |
| |) | |
| Agency. |) | |
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AMENDED CERTIFICATION OF REPRESENTATION

The Public Employee Relations Board (Board), in accordance with the Comprehensive Merit Personnel Act of 1978 and with Board Rules conducted, a representation proceeding in the above-captioned matter.

Pursuant to the authority vested in the Board by D.C. Code 1-605.2(1); 1-618.9(c) and Board Rule 504.1(d),

IT IS HEREBY CERTIFIED THAT:

American Federation of State, County and Municipal Employees (AFSCME), 1199DC Metropolitan District, DC, National Union of Hospital and Healthcare Employees (NUHHCE), Local 3758, AFL-CIO has been designated by a majority of the employees in the unit described below, as their preference for its exclusive representative for the purpose of collective bargaining concerning both the terms and conditions of employment and compensation.

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Unit Description:

All psychologist employed by the Commission on Mental Health Services, excluding management officials, confidential employees, supervisors, any employee engaged in personnel work in other than a purely clerical capacity, and any employee engaged in the administration of the provisions of Title 17 of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

All clinical psychology interns and residents who are being paid by the District of Columbia Commission on Mental Health Services, excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than 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.

BY ORDER OF THE PUBLIC EMPLOYEES RELATIONS BOARD
Washington, D.C.

May 11, 2001

CERTIFICATE OF SERVICE

This is to certify that the attached Certification in PERB Case Nos. 00-AC-01 and 00-UM-03 was transmitted via U.S. Mail to the following parties on this 16th day of May 2001.

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