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

In the Matter of:	)	
	)	
Local 1199, Service Employees International Union	)	
	)	
Complainant	)	PERB Case No. 19-CU-01
	)	
v.	)	Opinion No. 1714
	)	
District of Columbia	)	
Department of Behavioral Health	)	
	)	
Respondent	)	
	)	

**DECISION AND ORDER ON COMPENSATION UNIT DETERMINATION**

On October 3, 2018, Local 1199, Service Employees International Union (Union) filed an Unopposed Petition for Compensation Unit Determination (Petition) to designate Compensation Unit 1 as the appropriate compensation unit for a bargaining unit at the Department of Behavioral Health (Agency). Pursuant to Board Rule 503.4, a notice was posted at the Agency for fourteen (14) consecutive days. No comments regarding the notice were received by the Board.

This Union was originally certified as the representative for this bargaining unit in 1992 and the Board, at that time placed the bargaining unit in Compensation Unit 1.<sup>1</sup> For the reasons stated herein, the Board rules that this bargaining unit should be placed in Compensation Unit 1.

In 1992, the Union was certified to represent all licensed social workers at the District of Columbia Department of Human Services, Commission on Mental Health Services.<sup>2</sup> The Commission became the Department of Mental Health which then became the Department of Behavioral Health.<sup>3</sup> The Union and the Agency recently filed, and the Board granted, a joint petition for unit modification in order to update the bargaining unit description.<sup>4</sup> The Union is currently the certified exclusive bargaining representative for:

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<sup>1</sup> *District 1199E-DC of the National Union of Hospital and Health Care Employees, SEIU and District of Columbia Commission on Mental Health Services, Department of Human Services*, Cert. No. 68, PERB Case No. 90-R-06 (1992).

<sup>2</sup> *Id.*

<sup>3</sup> Petition at 1-2.

<sup>4</sup> See *Local 1199, SEIU and DBH*, 66 D.C. Reg. 5738, Slip Op No. 1703, PERB Case No. 19-UM-01 (2018).

All licensed Social Workers employed by the Department of Behavioral Health, excluding all other classifications of workers, all other classifications of Social Workers, 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.

When the Union was originally certified in 1992, the Board ruled that the bargaining unit be placed in Compensation Unit 1.<sup>5</sup> Regardless of this determination by the Board, for several years the Agency bargained compensation-related matters for social workers separately from Compensation Unit 1.<sup>6</sup> According to the Union, the parties may have agreed to bargain independently because the Agency is not under the personnel authority of the Mayor. The Union would like to now be recognized as part of Compensation Unit 1 since currently Compensation Units 1 and 2 include employees of agencies not within the personnel authority of the Mayor.<sup>7</sup>

The Board authorizes compensation units pursuant to D.C. Official Code § 1-617.16(b), which provides:

In determining an appropriate bargaining unit for negotiations concerning compensation, the Board shall authorize broad units of occupational groups so as to minimize the number of different pay systems or schemes. The Board may authorize bargaining by multiple employers or employee groups as may be appropriate.

The Board recognizes a two-part test from this provision to determine an appropriate compensation unit: (1) the employees of the proposed unit comprise broad occupational groups; and (2) the proposed unit minimizes the number of different pay systems or schemes.<sup>8</sup>

The Board has previously ruled that single-agency compensation units are not consistent with the requirement for “broad occupational groups” unless there is clear statutory authority for establishing a separate compensation unit, or where there are unique pay schedules.<sup>9</sup> The bargaining unit consists of 80 employees, all of whom are social workers.<sup>10</sup> The Union is not asking to be placed in a single-agency compensation unit, but rather in Compensation Unit 1

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<sup>5</sup> Petition at 2.

<sup>6</sup> Petition at 2.

<sup>7</sup> Petition at 2.

<sup>8</sup> *AFSCME, D.C. Council 20, Local 2401 v. D.C. Pub. Schs.*, 59 D.C. Reg. 4954, Cert. No. 962 at p. 3, PERB Case No. 08-CU-01 (2009).

<sup>9</sup> *International Brotherhood of Teamsters, Local 246 v. D.C. Department of Corrections*, 34 D.C. Reg. 3495, Slip Op. No. 152, PERB Case No. 85-RC-07 (1987); *D.C. Water and Sewer Authority v. American Federation of Government Employees, et al.*, Slip Op. No. 1308, PERB Case Nos. 96-UM-07, 07-UM-01, 07-UM-03, and 07-CU-01 (August 15, 2012); *Service Employees International Union, Local 722 v. D.C. Department of Human Services/Home Services Bureau*, 48 D.C. Reg. 8493, Slip Op. No. 383, PERB Case No. 93-R-01 (1994).

<sup>10</sup> Petition at 3.

which already contains broad occupational groups. Furthermore, the Board already found this unit appropriate for Compensation Unit 1 in its 1992 certification.<sup>11</sup> The Board finds that the Petitioners have satisfied the first statutory requirement that the proposed group of employees consists of a broad range of occupational groups.

Petitioners further assert that the Agency is the only personnel authority or agency affected by the petition and, until recently, all of the social workers at the agency were paid under the exact same pay scale as social workers in Compensation Unit 1.<sup>12</sup> The Board finds that placement of the employees in Compensation Unit 1 would minimize the different pay systems or schemes in the District. The Petitioners have satisfied the second statutory requirement.

For the foregoing reasons, the Board grants the Unopposed Petition for Compensation Unit Determination and places the above-referenced bargaining unit in Compensation Unit 1.

### **ORDER**

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

1. The Petitioner's Unopposed Petition for Compensation Unit Determination is granted.
2. The following employees are placed in Compensation Unit 1:

All licensed Social Workers employed by the Department of Behavioral Health, excluding all other classifications of workers, all other classifications of Social Workers, 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.

3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

By unanimous vote of Board Chairperson Charles Murphy and Board Members Ann Hoffman, Mary Anne Gibbons, and Douglas Warshof.

Washington, D.C.

June 20, 2019

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<sup>11</sup> *District 1199E-DC of the National Union of Hospital and Health Care Employees, SEIU and District of Columbia Commission on Mental Health Services, Department of Human Services*, Cert. No. 68, PERB Case No. 90-R-06 (1992).

<sup>12</sup> Petition 3-4.

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 19-CU-01, Op. No. 1714 was sent by File and ServeXpress to the following parties on this the 28<sup>th</sup> day of June, 2019.

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