

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 formal 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:)	
)	
UNIONS IN COMPENSATION UNIONS 21,)	
i.e., AFSCME LOCAL 2097,)	PERB Case No. 99-U-37
)	
IBPO LOCAL 446)	
)	
and)	
)	
AFGE Local 631)	
)	
)	Opinion No. 653
)	
Complainants,)	
)	
v.)	
)	
DISTRICT OF COLUMBIA)	
HEALTH AND HOSPITALS PUBLIC)	
BENEFIT CORPORATION)	
)	
Respondent.)	

DECISION AND ORDER

This matter involves an Unfair Labor Practice Complaint (Complaint) filed by the three labor organizations which comprise Compensation Unit 21 (Complainants).¹ The Complainants contend

¹Compensation Unit 21 consists of the three following unions:

- International Brotherhood of Police Officers, Local 446 - security guards;
- American Federation of Government Employees, Local 631 - skilled trade wage grade employees; and
- American Federation of State, County, and Municipal Employees, Local 2097- non-skilled trade wage grade employees.

(continued...)

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that the District of Columbia Health and Hospitals Public Benefit Corporation² ("PBC" or "Respondent") violated D.C. Code § 1-618.4 (a)(1) and (5). (Compl. at p.5) Specifically, the Complainants allege that the PBC violated the CMPA by failing to: (1) generate and provide cost and funding information to the District of Columbia Financial Responsibility and Management Assistance Authority ("Authority" or "Control Board"); (2) generate and provide cost and funding information to the Complainants; and (3) implement the parties' negotiated compensation agreement ("Agreement" or "Contract"). (Compl. at p.5) The relief sought by the Complainants includes: (1) implementation of the negotiated wage increases, retroactively with backpay and interest; and (2) providing to the Control Board and the Complainants cost and funding information. (Compl. at p.6)

The Respondent denies the allegations. The PBC asserts that it has submitted the requested information to both the Control Board and the Complainants. (R & R at p.8) Furthermore, it claims that it has performed all of the necessary acts required to get the contract approved. (R & R at p. 8) Moreover, it contends that it cannot do anything further until the Control Board approves the agreement.³ (R & R at p. 8)

A hearing was held. The Hearing Examiner found that the PBC committed an unfair labor practice by failing to: (1) implement the negotiated compensation agreement and (2) promptly deliver the cost and funding information to the Control Board. (R & R at p. 10, 12) In addition, the

¹(...continued)

These three units were established as a single compensation unit pursuant to the Board's decision in District of Columbia Health and Hospitals Public Benefit Corporation and all Unions..., 45 DCR 6743, Slip Op. No. 559, PERB Case Nos. 97-UM-06 and 97-CU-02 (1998).

²The Health and Hospitals Public Benefit Corporation was created by the Health and Hospitals Public Benefit Emergency Act of 1996 (D.C. Act 11-388), provisions of which remained effective through a series of additional emergency acts (D.C. Acts 11-421, 11-487, and 12-39). The permanent legislation [Health and Hospitals Public Benefit Corporation Act of 1996] D.C. Law 11-212 was approved by the U.S. Congress and became effective on April 9, 1997. This law is codified at D.C. Code §32-261 *et. seq.*(R &R at 2)

³At the hearing, the PBC argued that throughout the negotiations it believed that the PBC had the final legal authority to implement the compensation agreement pursuant to D.C. Code §32-262.8(b) This section provides that the Corporation [PBC] "shall have sole authority with respect to the development and approval of compensation agreements." (R &R at 2) However, the PBC stated that it decided to cooperate with the Control Authority because it did not want to legally challenge the Control Board's authority. (R &R at 10)

Hearing Examiner determined that the PBC did *not* commit an unfair labor practice by failing to promptly deliver cost and funding information to the Complainants. (R & R at p. 13) The Hearing Examiner's Report & Recommendations (R & R) and the Parties' Exceptions and Opposition are before the Board for disposition.

We have reviewed the record in this case. However, we are not prepared to rule on this matter at this time. Instead, we will hold this matter in abeyance for thirty days. During this period we are requesting that the parties submit briefs and other supplemental material⁴ concerning this matter. The briefs should address, among other things, the following issues:

1. When will the PBC be completely dissolved?
2. Will any Compensation Unit 21 members remain employees of the District of Columbia government once the PBC is dissolved? If so, what proportion?
3. Is the successor to the PBC obligated to fund the compensation agreement? Why or why not?
4. If the Board orders the PBC to implement the negotiated agreement, on what date could the contract be effective, in view of the fact that the PBC is scheduled to cease existence in the near future?
5. What impact, if any, will the Anti-Deficiency Act have on implementation date of the parties' negotiated agreement?
6. What if any continuing effect could the Board's decision have?

The parties' briefs shall be filed within (15) days from the service of this Decision and Order.

⁴The Board requests that the parties submit with their briefs, a copy of the official plan which seeks to dissolve the PBC.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Unfair Labor Practice Complaint is held in abeyance for thirty days.
2. The parties shall submit briefs concerning this matter. The parties' briefs shall be filed fifteen (15) days from the service of this Decision and Order.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

May 22, 2001

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 99-U-37 was transmitted via U.S. Mail to the following parties on this 22nd day of May 2001.

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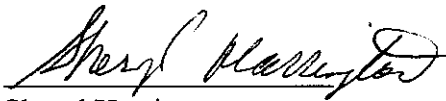
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