

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:)	
)	
AFSCME, District Council 20, Local 2095, AFL-CIO,)	
)	
and)	
)	
AFSCME, National Union of Hospital and Health Care Employees, AFL-CIO,)	PERB Case No. 01-AC-01 Opinion No. 651
Petitioners,)	
)	
and)	
)	
District of Columbia Commission on Mental Health Services,)	
)	
Agency.)	
)	
)	

DECISION AND ORDER

On February 16, 2001, the American Federation of State, County and Municipal Employees, District Council 20, Local 2095, AFL-CIO (AFSCME or Petitioner) filed a Petition to Amend Certification (Petition). The Petitioner is seeking to Amend Certification No. 45.¹

¹PERB Certification No. 45 (PERB Case No.87-R-15) certified AFSCME, District Council 20, Local 2095 and American Federation of Government Employees, Local 383 as the joint representative for the following bargaining unit:

All non-professional, non-supervisory employees
in the Commission on Mental Health Services,
Department of Human Services, excluding management
executives, confidential employees, supervisors,
non-professional employees of the Construction,
Electrical Mechanical Preventive Maintenance,
Garage and Fabric Care Sections, and any

(continued...)

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AFSCME contends that the proposed amendment reflects the administrative change in the affiliation of Local 2095 from Council 20 to the National Union of Hospital and Health Care Employees (NUHHCE).

The current certification identifies the American Federation of State, County and Municipal Employees, Council 20, Local 2095, AFL-CIO and the American Federation of Government Employees, Local 383, as the joint representative for a unit of employees at the Commission on Mental Health Services, Department of Human Services.

The Commission on Mental Health Services (CMHS) does not object to AFSCME's Petition to Amend Certification. However, they claim that AFSCME failed to serve AFGE, Local 383.² In addition, CMHS requests that the Board Amend Certification No. 45 to correctly reflect the agency name.

Objections to the Petition were filed by Mary Horne, President of AFSCME, Local 2095.³ AFSCME responded to the objections.⁴

Board Rule 516.1 permits amendments to certifications "whenever there is a change in the

¹(...continued)

employees engaged in personnel work in other than a purely clerical capacity or employees engaged in administering the provisions of D.C. Law 2-139.

²CMHS notes that AFGE, Local 383 is the joint representative for the bargaining unit referred to in Certification No. 45. As a result, CMHS believes that Local 383 should be served and "included as a party." The Board's staff reviewed AFSCME's certificate of service and concluded that John Walker, President of AFGE Local 383 was served with a copy of AFSCME's Petition.

³Mary Horne filed similar objections in PERB Case No. 99-AC-01. In addition, she filed a consolidated Unfair Labor Practice and Standards of Conduct Complaint (PERB Case Nos. 98-U-19 and 98-S-07) concerning the same issues.

⁴AFSCME claims in their response that the objections raised by Ms. Horne are identical to the objections she raised previously in PERB Case Nos. 99-AC-01, 98-U-19 and 98-S-07. Also, AFSCME contends that the same objections have been considered and rejected by the Board.

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identity of the exclusive representative that does not raise a question concerning representation.”⁵ 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 the affiliation of several Locals from District Council 20 to NUHHCE.

In that case, some members and officers of 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 District 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).)

Similarly, in a another related matter, representatives from AFSCME, Local 2095 filed a consolidated Unfair Labor Practice and Standards of Conduct Complaint (PERB Case Nos. 98-U-19 and 98-S-07). The consolidated complaint alleged that AFSCME violated the Comprehensive Merit Personnel Act (CMPA) by changing the local’s affiliation from District Council 20 to NUHHCE. Specifically, the Complainant claimed that the merger took place without an affirmative vote by the membership of Local 2095.

The Board concluded that the arguments raised by the Complainant in PERB Case Nos. 98-U-19 and 98-S-07, were the same as those made by the Intervenors in PERB Case No. 99-AC-01. Therefore, the Board rejected the Complainant’s claims and dismissed the consolidated complaint.⁶

After reviewing the pleadings in the present case, we conclude that the objections raised by

⁵A 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.

⁶See, American Federation of State, County and Municipal Employees, Local 2095 v. American Federation of State and Municipal Employees, AFL-CIO, 48 DCR 3219, Slip Op. No.645, PERB Case Nos. 98-S-07 and 98-U-19 (2001).

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Mary Horne, President of AFSCME, Local 2095, mirror those made in PERB Case Nos. 99-AC-01, 98-S-07 and 98-U-19.⁷ Specifically, Ms. Horne objects to AFSCME's petition, arguing that AFSCME had no authority to affiliate Local 2095 with another organization without an affirmative vote by the membership.

As discussed above, Ms. Horne's objections, have been previously considered and rejected by the Board. Also, the objections do not raise any new issues. As a result, we find that the change in affiliation from Council 20 to NUHHCE does not raise a question concerning representation. Therefore, pursuant to Board Rule 516.1, we grant the Petition to Amend Certification as set forth in our Order below.

Ms. Horne is also requesting that the Board hold the Petition in abeyance pending the Board's decision in PERB Case Nos. 98-U-19 and 98-S-07. As noted above, the consolidated complaint in PERB Case Nos. 98-U-19 and 98-S-07, has been dismissed.⁸ Therefore, Ms. Horne's request is inappropriate.

Also, CMHS requests that the Board Amend Certification No. 45 to correctly reflect the agency's name.⁹ However, pursuant to Board Rule 516, only a labor organization can file a "Petition to Amend Certification." Moreover, a "Petition to Amend Certification" is used to reflect a change in the identity of the exclusive representative. As a result, we believe that CMHS' request is not appropriate in this proceeding. Instead, CMHS' request should be processed through a "Petition for Unit Modification." Specifically, Board Rule 504.1(a) allows an employing agency or a labor organization to request a unit modification to reflect a change in the "identity or statutory authority of the employing agency."

In light of the above, we deny CMHS' request. We believe that CMHS should pursue their

⁷Although Certification No. 45 involves a joint representative, the present Petition only involves a change in the affiliation of AFSCME, Local 2095, from D.C. Council 20 to NUHHCE. Therefore, the Board's holding in PERB Case No. 99-AC-01 is applicable to the present case.

⁸See footnote 6, supra.

⁹PERB Certification No. 45, currently notes the employer as the Commission on Mental Health Services, Department of Human Services. CMHS claims that it is seeking to Amend Certification No. 45 "to correctly reflect the name of the Agency as the Commission on Mental Health Services, as it is independent and no longer a subdivision of the Department of Human Services."

request through a "Petition for Unit Modification."¹⁰

ORDER

IT IS HEREBY ORDERED THAT:

1. Certification No. 45 , (PERB Case No. 87-R-15), is amended to reflect a change in the affiliation of one of the exclusive representative set forth therein from Council 20 to 1199DC Metropolitan District, DC, National Union of Hospital and Healthcare Employees (NUHHCE).
2. CMHS' request to amend Certification No. 45 to correctly reflect the agency name, is denied.

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

May 11, 2001

¹⁰It should also be noted that the procedures for a "Petition for Unit Modification" are different than those for a "Petition to Amend Certification." For example, a "Petition for Unit Modification" requires that a "Notice" be posted concerning the proposed modification. However, there is no such requirement for a "Petition to Amend Certification."

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

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AFSCME, District Council 20, Local 2095, AFL-CIO,)	
)	
and)	
)	
AFSCME, National Union of Hospital and Health Care Employees, AFL-CIO,)	PERB Case No. 01-AC-01
)	
Petitioners,)	Certification No. 119
)	
and)	
)	
District of Columbia Commission on Mental Health Services,)	
)	
Agency.)	
)	
)	
)	

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 2095, AFL-CIO and the American Federation of Government Employees, (AFGE), Local 383 have 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

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concerning both the terms and conditions of employment and compensation.

Unit Description:

All non-professional, non supervisory employees in the Commission on Mental Health Services, Department of Human Services, excluding management executives, confidential employees, supervisors, non-professional employees of the Construction, Electrical, Mechanical Preventive Maintenance, Garage and Fabric Care Sections, and any employees engaged in personnel work in other than a purely clerical capacity or employees engaged in administering the provisions of 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 No. 01-AC-01 was transmitted via U.S. Mail to the following parties on this 16th day of May 2001.

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