

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:	)	
	)	
Local 1199, Service Employees	)	
International Union	)	
	)	PERB Case No. 19-UM-01
Petitioner	)	
	)	Opinion No. 1703
and	)	
	)	
District of Columbia	)	
Department of Behavioral Health	)	
	)	
Respondent	)	

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**DECISION AND ORDER**

**I. Introduction**

On December 21, 2018, the Service Employees International Union, Local 1199 (“Union”) and the District of Columbia Department of Behavioral Health (“Agency”) filed a joint petition for unit modification. The parties request that the Board amend Certification No. 68 to reflect a change in the identity of the employing agency. A notice was posted at the Agency. No objections or requests to intervene were received from any employees or labor organizations.

**II. Background**

In 1992, the Union was certified as the sole and exclusive bargaining representative of the following bargaining unit:

All Licensed Social Workers employed by the Department of Human Services, Commission on Mental Health services excluding all other classifications of workers, all other classifications of Social Workers, all management officials or supervisors, confidential employees or employees engaged in personnel or in administering the labor relations of the Department of Human Services, Commission on Mental Health Services.

The Commission on Mental Health Services went on to become the Department of Mental Health which later became the Department of Behavioral Health.<sup>1</sup> The Union and the Agency both agree that the certification should be updated to reflect the current name of the employer.<sup>2</sup>

The parties agreed to the description of the bargaining unit as follows:

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 or supervisors, confidential employees or employees engaged in personnel or in administering the labor relations of the Department of Behavioral Health.

### **III. Discussion**

PERB Rule 504.1(a) provides that a unit modification may be sought “[t]o reflect a change in the identity or statutory authority of the employing agency.” The Board has held that “when the functional role and employees of a public employer/agency are transferred to a new entity established to perform in the same capacity . . . the new agency is not a new employer for the purposes of collective bargaining.”<sup>3</sup> The parties have requested a modification as a result of a change in identify of the employing agency. The parties do not state any changes regarding the community of interest shared by the employees in the bargaining unit. The Union and Agency continue to operate under the collective bargaining agreement that covered the affected employees when they were employed by the Department of Human Services, Commission on Mental Health Services.

The requested modification does not give rise to a question concerning the representation of the unit that would necessitate an election. The Board finds that the proposed modifications to Certification No. 68 would continue to promote effective labor relations and the efficiency of agency operations. Therefore, the Board grants the parties’ joint petition and modifies the bargaining unit as described in the Order.

### **ORDER**

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

1. The unit for which the Service Employees International Union, Local 1199 is certified as the exclusive bargaining representative is modified as will be described as set forth below:

Unit Description:

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

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

<sup>3</sup> *Am. Fed’n of State, Cty. and Mun. Emp., Dist. Council 20 & Local 2921 v. D.C. Pub. Sch. & Office of the State Superintendent of Educ.*, 60 D.C. Reg. 16499, Slip Op. No. 1440 at 5, PERB Case No. 13-U-09 (2013).

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.

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

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

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

Washington, D.C.

March 21, 2019

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 19-UM-01, Op. No. 1703 was sent by File and ServeXpress to the following parties on this the 22<sup>nd</sup> day of March 2019.

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