

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)	
)	
American Federation of State,)	
County and Municipal Employees,)	
D.C. Council 20, Local 1200)	
)	
Petitioner,)	
)	
and)	
)	
District of Columbia)	
Office of the Controller,)	PERB Case No. 96-UC-01
Division of Financial Management)	Opinion No. 533
)	
Agency,)	
)	
)	
and)	FOR PUBLICATION
)	
D.C. Office of the Chief)	
Financial Officer.)	
)	
)	

DECISION AND ORDER

On May 16, 1996, the American Federation of State, County and Municipal Employees, D.C. Council 20, Local 1200, AFL-CIO (AFGE), in accordance with Section 506 of the Rules of the Public Employee Relations Board (Board), filed a Petition for Clarification of Unit (Petition). The Petitioner is the certified exclusive representative of a unit consisting of "[a]ll nonprofessional employees in the District of Columbia Office of Financial Management..." (OFM).^{1/} The Petitioner seeks to clarify the scope of the unit with respect to DS-334 Computer Specialist. The Office of Labor Relations and Collective Bargaining (OLRCB), and the Office of the Chief Financial Officer

^{1/} See, AFSCME, D.C. Council 20, AFL-CIO and D.C. Office of Financial Management, Certification No.4, PERB Case No. 80-R-02 (1981) for the complete unit description.

(CFO) on behalf of OFM, filed Responses to the Petition.² The parties disagree over whether or not the position DS-334 Computer Specialist: (1) is professional or nonprofessional, and (2) should be included in the unit.

Pursuant to Board Rule 506.2, the Petition was referred to a Hearing Examiner. A hearing was held on September 29, 1997, and a Report and Recommendation (R&R) was issued on October 17, 1997, containing her findings, conclusions and recommendations.^{3/}

Based upon the evidence presented, the Hearing Examiner found that the heretofore excluded DS-334 Computer Specialist were nonprofessional employees and should therefore be included in the unit.^{4/} No exceptions were filed by either party to the findings, conclusions and recommendation made by the Hearing Examiner.

Pursuant to D.C. Code Sec. 1-605.2(1) and Board Rule 506.2, the Board has reviewed the findings and conclusions of the Hearing Examiner and find them to be reasonable and supported by the record. Therefore, we adopt the Hearing Examiner's findings, conclusions and recommendations. As a result, we find that the position of DS-334 Computer Specialist is a nonprofessional position and therefore should be included in the unit found appropriate in PERB Case No. 80-R-02.

ORDER

^{2/} The CFO also had previously filed a Motion to Dismiss, challenging the jurisdiction of the Board over OFM employees since they were placed under the administrative control of the CFO pursuant to the Financial Responsibility and Management Assistance Act (FRMAA) and the Omnibus Consolidated Rescissions and Appropriations Act of 1996 and 1997 (OCRAA). The Motion was dismissed and a Motion for Reconsideration was also denied in Slip Op. Nos. 503 and 508, respectively.

^{3/} The Hearing Examiner's Report and Recommendation is attached as an appendix to this Opinion.

^{4/} Counsel for the CFO, who represented the OFM at the hearing, withdrew its opposition concerning the unit placement of these employees. AFSCME proceeded, however, to make an offer of proof and submitted supporting documented evidence for the purpose of obtaining a determination of this issue by the Board in the event that the status of these employee is disputed again.

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IT IS HEREBY ORDERED THAT:

The bargaining unit as described in PERB Case No. 80-R-02, Certification No. 4, is clarified to include the employee position of Computer Specialist (DS-334).

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

January 26, 1998