

Notice:
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**

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In the Matter of:)	
)	
)	
The Government of the)	PERB Case No. 97-UM-02
District of Columbia, et al.)	and PERB Case 98-CU-04
)	Opinion No. 557
)	
Petitioner,)	
)	
and)	
)	
All Unions Representing Bargaining)	
Units in Compensation Units 1, 2, 13)	
and 19 Employed by the D.C.)	
Department of Human Services,)	
Commission on Public Health; the D.C.))	
Water and Sewer Authority; the D.C.))	
Housing Authority; and the Office of))	
Financial Management,)	
)	
Respondents.)	
)	
)	

**DECISION AND ORDER ON UNIT MODIFICATION
AND COMPENSATION UNIT DETERMINATION ^{1/}**

On February 18, 1998, the Board issued an Order, Opinion No. 540, in this proceeding which provided, in pertinent part, as follows:

^{1/}DCHA and the labor organization representing its bargaining unit employees are also seeking a new compensation unit determination by the Board pursuant to Board Rule 503. As such, we have assigned an additional case number to this case, i.e., 98-CU-04, which appropriately and fully reflect the parties' intent. A unit modification does not encompass the creation of a new compensation unit.

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and Compensation Unit Determination**

PERB Case Nos. 97-UM-02 and 98-CU-04

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2. [The Office of Labor Relations and Collective Bargaining] (OLRCB) and D.C. Housing Authority (DCHA) are directed to submit a stipulation and/or agreement in conjunction with the Respondent labor organizations representing employees under DCHA's personnel authority for consideration and disposition by the Board with respect to appropriate compensation unit placement. The stipulation or agreement shall be accompanied by supporting arguments, documentation and/or affidavits. Alternatively, if OLRCB, DCHA and affected Respondent labor organizations mutually agree: (1) OLRCB may withdraw its Petition with respect to DCHA and (2) DCHA may file its own Petition for Unit Modification addressing the issues of compensation unit removal and appropriate placement raised in the instant Petition. The respective parties shall submit said stipulation or Petition within 14 days of issuance of our Decision and Order.

3. The Respondent Unions present at the September 11, 1997 hearing shall submit to the PERB, within fourteen (14) days from the date of this Order, a statement of actual costs incurred during the 5-day period prior to the September 11, 1997 hearing that is sought from OLRCB. The statement of costs shall be filed together with supporting documentation; OLRCB may file a response to the statement within fourteen (14) days from service of the statement upon it.

4. OLRCB shall pay to each Respondent referenced in paragraph 3, its reasonable costs incurred in this proceeding within ten (10) days from the determination by the Board or its designee as to the amount of those reasonable costs.

5. The Petition, with respect to bargaining unit employees employed by the Office of Financial Management under the personnel authority of the Chief Financial Officer (CFO), is held in abeyance pending (1) the judicial disposition of PERB Case No. 96-UC-01 or, (2) the CFO elects to intervene in this proceeding or initiate its own Petition for Unit Modification for further processing and disposition of this issue.

Pursuant to paragraph 2 of the Order, the DCHA, OLRCB and AFGE, Local 2725 filed, for the Board's approval and adoption their "Stipulation and Joint Request for Modification of

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and Compensation Unit Determination**

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Compensation and Non-compensation Units".

In accordance with paragraph 3 of the Order, statements of cost were filed by the following Respondents: (1) D.C. Nurses Association; (2) the Doctors Council of the District of Columbia General Hospital; and (3) the American Federation of State, County and Municipal Employees, D.C. Council 20. No response was received from OLRCB or the agencies on whose behalf the Petition was initially filed.

The statements of costs submitted by AFSCME and the Doctors Council appear ordinary on their face and, in the absence of objections, we find them reasonable. However, the statement submitted by the D.C. Nurses Association seeks reimbursement for the prorated costs (salary and benefit) it incurred for the time the DCNA staff representative spent on the case. DCNA's request is for the 5-day period prior to the hearing authorized under the Order. Unlike expenses that are incurred that are peculiar to a Board proceeding, the prorated salary and benefits of a party's existing staff would have been fully realized notwithstanding our processing of the Petition. The fact that DCNA staff representative spent time on this case rather than on another matter does not affect DCNA's costs obligations with respect to that staff person's salary or benefits. DCNA requests reimbursement for no other costs. Consequently, we do not find DCNA's statement of cost to be either reasonable or reimbursable.

We turn now to the proposed request to modify both compensation and non-compensation units. DCHA employees are currently in Compensation Units 1 and 2. Compensation Unit 1 consists of all District Service career service professional, technical, administrative and clerical employees. Compensation Unit 2 consists of all career service trade and craft employees who have their compensation set in accordance with the Wage Grade, Printing Wage Schedule and the Task Force Service Schedule. DCHA, OLRCB and AFGE, Local 2725 submitted a joint stipulation that would remove all DCHA employees (except security guards) from Compensation Units 1 and 2 and place them in a new compensation unit limited to DCHA. The stipulated compensation and non-compensation unit description is as follows:

All employees of the District of Columbia Housing Authority represented by the AFGE, Local 2725, excluding public safety personnel, the security force, management officials, confidential employees, supervisors (including housing managers), and any employee engaged in personnel and labor management relations work and in other than a purely clerical

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and Compensation Unit Determination
PERB Case Nos. 97-UM-02 and 98-CU-04
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capacity.

Traditionally, the Board has authorized and established compensation units pursuant to the criteria noted in D.C. Code Sec. 1-618.16(b) which provides in pertinent part as follows: "In determining appropriate bargaining units 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 has departed from strict adherence to this criteria where the employing agency has independent personnel and compensation bargaining authority, e.g. D.C. General Hospital, D.C. Public Schools, the D.C. Water and Sewer Authority, notwithstanding the existence of occupational groups that the agency may have in common with other agencies and personnel authority. See, e.g., WASA and AFGE, Local 631, et al., Slip Op. 510, PERB Cases Nos. 96-UM-07, 97-UM-01, 97-OM-03 and 97-CU-01 (1997). The Board has also made one other exception where the pay scheme of the occupational group is so unique as to warrant a separate compensation unit determination. SEIU, Local 722 and DHS/HSB, Slip Op. 383, PERB Case No. 93-R-01 (1994) (Compensation Unit 30 was established for personal care aides employed by Department of Human Services whose pay schemes resembled independent contractors). In both instances, the Board has determined as appropriated compensation units that consist of a single agency or occupational group.

DCHA was created under the District of Columbia Housing Act of 1994, as codified under D.C. Code Sec. 5-121, et seq. D.C. Code Sec. 5-122(a) and (c); 5-124(j)(4) and (8); and 5-125(a) and (d)(2) expressly accorded DCHA independent personnel authority from the Mayor. D.C. Code Sec. 5-125(a) authorizes the DCHA Board Members to fix the compensation of the executive director who, in turn, has authority to make final personnel decision under Section 5-125(d)(2). In view of the DCHA Board's authority to fix the compensation of its chief operating officer, i.e., the executive director, the DCHA Board implicitly has been accorded the authority to fix the compensation of all DCHA employees.

In view of this authority, the Board adopts the parties' Stipulation and Joint Request for Modification of Compensation Unit with two amendments. The defining scope of a compensation unit must be in terms of types of employees or occupational groups, not the extent to which employees are represented by any particular labor organization. See, D.C. Code Sec. 1-618.16(b)

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and Board Rule 503.3.^{2/} Therefore, we amend the description by deleting reference to "American Federation of Government Employees, Local 2725" from the compensation unit description.

Furthermore, Compensation Units 1 and 2 encompassed all the occupational groups of DCHA under its former personnel authority, i.e., the Mayor. D.C. Code Sec. 1-618.16(b) provides that "[i]n determining appropriate bargaining units 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 parties' stipulation excludes security guards from the compensation unit. We find that excluding the occupational group of DCHA security guards from a compensation unit of all other eligible DCHA occupational groups would arbitrarily exclude an occupational group that shares a pay system with other employees in the compensation unit.

Therefore, consistent with our mandate under D.C. Code Sec. 1-618.16(b), we place all eligible DCHA occupational groups that comprised Compensation Units 1 and 2 in the newly established compensation unit limited to employees under the personnel authority of DCHA. This determination is consistent with prior establishments of compensation units, previously noted, that are limited to one personnel authority. In so establishing the new compensation unit, i.e., Compensation Unit 32, we concomitantly modify Compensation Units 1 and 2 by removing DCHA employees from those compensation units.

The parties' also request that the Board adopt their stipulated compensation unit description as an appropriate non-compensation unit modification. AFGE, Local 2725 was certified as the representative of such a unit when DCHA's predecessor, the Department of Public and Assisted Housing, was under the Department of Housing and Community Development. See, BLR Case No. 8R013 (1980). The parties, in effect, are requesting a unit modification of an existing certification reflecting a change in the identity of the employing agency which is permitted under Board Rule 504.1(a). Therefore, we grant the parties' non-compensation unit modification request.

^{2/} Unlike non-compensation units, where the extent to which the labor organization has organized agency employees is a factor in determining the scope of the unit, compensation units are not determined along organizational lines but rather under broad occupational and pay-system groups as determined appropriate by the Board. D.C. Code Sec. 1-618.16(b).

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ORDER

IT IS HEREBY ORDERED THAT:

1. The non-compensation unit for which the American Federation of Government Employees, Local 2725, AFL-CIO (AFGE) was certified as the exclusive representative in: AFGE, Local 2725, AFL-CIO and D.C. Dept. of Housing and Community Development, BLR Case No. 8R013 (1980), is modified to reflect a change in the identity and statutory authority of the employing agency from the Department of Housing and Community Development (subsequently the Department of Public and Assisted Housing) to the D.C. Housing Authority.

Unit Description:

All **employees of the District of Columbia Housing Authority**; but excluding all public safety personnel, security force, management officials, confidential employees, supervisors (including housing managers), employees engaged in personnel and labor management relations work in other than 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. Compensation Units Nos. 1 and 2 are modified by removing those bargaining unit employees employed by the D.C. Housing Authority.

3. Nothing in this Order is to be construed as altering the scope of the affected compensation and non-compensation bargaining units except in the manner discussed in this Decision and Order.

4. A unit of all employees of D.C. Housing Authority is authorized as a separate unit for the purpose of negotiations concerning compensation as follows:

Compensation Unit 32

All **employees of the District of Columbia Housing Authority**; but excluding all management officials, confidential employees, supervisors (including housing managers), employees engaged in personnel and labor management relations work in other than a purely clerical capacity and employees engaged in

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and Compensation Unit Determination
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administering the provisions of Title XVII of the
District of Columbia Comprehensive Merit Personnel Act
of 1978, D.C. Law 2-139.

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

June 12, 1998

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:)
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The Government of the) PERB Case No. 97-UM-02
District of Columbia, et al.) and PERB Case 98-CU-04
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Department of Human Services,)
Commission on Public Health; the D.C.)
Water and Sewer Authority; the D.C.)
Housing Authority; and the Office of)
Financial Management,)
)
Respondents.)
)
)

AUTHORIZATION

Pursuant to the District of the Columbia Merit Personnel Act of 1978, as codified (D.C. Code §§ 1-605.2 and 1-618.16(b)), the Public Employee Relations Board (Board) has determined that the unit described below which the Board has determined appropriate in Opinion No. 557 on June 12, 1998, shall constitute a unit for the purposes of compensation bargaining:

Compensation Unit No. 32

All employees of the District of Columbia Housing Authority; but excluding all management officials, confidential employees, supervisors (including housing managers), employees engaged in personnel and labor management relations work in other than a purely

Authorization

PERB Case Nos. 97-UM-02

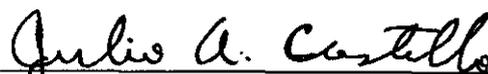
and 98-CU-04

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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.

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

June 12, 1998



Julio A. Castillo
Executive Director

Modified Certification of Representative

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and 98-CU-04

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§§ 1-605.2(1) and (2) and 1-618.9(c) and Board Rule 504.1(d) and 504.5(e);

IT IS HEREBY CERTIFIED THAT:

The American Federation of Government Employees, Local 2725, AFL-CIO (AFGE) has been designated by a majority of the employees of the above-named public employer in the consolidated unit described below, as their preference for its exclusive representative for the purpose of collective bargaining concerning both compensation and terms-and-conditions matters with the employer.

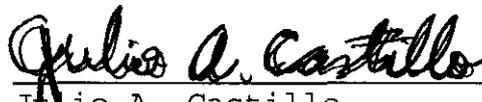
Unit Description:

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BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

June 12, 1998



Julio A. Castillo
Executive Director

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case Nos. 97-UM-02 and 97-CU-04 was mailed (U.S. mail) to the following parties on this the 12th day of June 1998.

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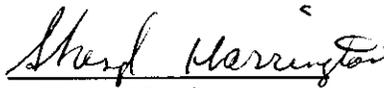
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