

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:	)	
	)	
Fraternal Order of Police/ METROPOLITAN POLICE DEPARTMENT LABOR COMMITTEE,	)	
	)	
Petitioner,	)	PERB Case No. 11-AC-01
	)	
v.	)	Opinion No. 1225
	)	
	)	Petition to Amend Certification
	)	
	)	<b>Staff Recommendation</b>
METROPOLITAN POLICE DEPARTMENT,	)	
	)	
Respondent.	)	
	)	

**DECISION AND ORDER**

**I. Statement of the Case**

On August 22, 2011, the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("FOP" or "Petitioner") filed a Petition to Amend Certification. The Petitioner seeks to amend its certification (PERB Certification No. 10)<sup>1</sup>, to add the name "District of Columbia Union or D.C. Police Union." Respondent filed an opposition to the petition.

Respondent has not replied.

<sup>1</sup> Of which members represented are: "[a]ll police privates, including investigators and desk sergeants, detectives, detective sergeants and police sergeants employed in the Metropolitan Police Department, unless assigned to the internal Affairs Division, excluding management executives, confidential employees, supervisors, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of D.C. Law 2-138." PERB Case No. 81-R-05, Certification No. 10, February 18, 1982.

The issue before the Board is whether the Petitioner's request to amend its certification should be granted.

## II. Discussion

In the Petition to Amend Certification, Petitioner states the following:

### “(d) Description of the Proposed Amendment

The petitioner requests that its certification be amended to add the name “District of Columbia Union or D.C. Police Union.” This change is necessary to clarify that the petitioner is a labor organization that represents officers in the Metropolitan Police Department. Accordingly, the certification should be amended to state that the name of the labor organization is: “Fraternal Order of Police / Metropolitan Police Department Labor Committee, or the District of Columbia Police Union or D.C. Police Union.”

The FOP respectfully requests that the Board grant its petition pursuant to PERB Rules Section 516.”

(Petition at p. 2).

Respondent raises the following in opposition:

“PERB Rule 516.1 authorizes amendment petitioners “whenever there is a change in the identity of the exclusive representative that does not raise a question concerning representation.” The Petition in this case claims no such change in identity. The justification provided in the Petition cites a desire to clarify that the labor organization represents officers in the Metropolitan Police Department. However the existing certification has already designated the name of the labor organization as the “Fraternal Order of Police/**Metropolitan Police Department** Labor Committee.”

...

“Moreover, the proposed amendment does not, on its face, appear to achieve the intent articulated in the justification. Whereas the justification cites representation of officers in the Metropolitan Police Department, the proposed amendment contains different and in fact much broader language. The petition seeks to add the terms “District of Columbia Police Union” and “D.C. Police Union” to the certification. Neither of the new terms makes any reference to

the Metropolitan Police Department, By offering broader terms that do not include the words "Metropolitan Police Department," the proposed amendment seems contrary to, if not in direct conflict with, the assertion that the amendment is necessary to clarify that the labor organization represents officers in the Metropolitan Police Department."

(Opposition at pgs. 2, 3).

Pursuant to Board Rule 516.1, the request may be granted unless the change raises a "question of representation". In determining whether the change raises a "question of representation" we have adopted the National Labor Relations Board's ("NLRB") interpretation of the analogous issue under the National Labor Relations Act.

Whether a union's identity has remained essentially the same or whether it has changed so substantially as to require a new representation election depends on a factual determination. "When making this determination, the NLRB generally considers a number of factors, including 'structure, administration, officers, assets, membership, autonomy, by-laws, size'... In addition, the NLRB looks for changes 'in the rights and obligations of the union's leadership and membership'." American Federation of State, County and Municipal Employees, AFL-CIO, et al. and District of Columbia Health and Public Benefit Corporation 47 DCR 6991, Slip Op. No. 620 at p. 6, PERB Case No. 99-AC-01 (2000).

In the present case, Petitioners meet the "change of identity" requirement set forth in PERB Rule 516, the basis of which Petitioners file their Petition to Amend Certification. Specifically, PERB Rule 516 states the following:

A change in the identity of the representative that does not raise a question concerning representation may include a change in the name of the labor organization.

In the instant case, recognition was accorded to MPD/FOPLC. The Board finds that adding the phrase "District of Columbia Police Union or D.C. Police Union" to the name of the exclusive representative who is certified to represent employees at the District of Columbia Metropolitan Police Department does not: (1) alter the Union's identity; (2) result in a change in the Union's current officers; and (3) affect the rights and obligations of the Union's leadership and membership. In light of the above, the Board finds that the continuity of representation has been preserved. Therefore, we conclude that a "sufficiently dramatic change" has not occurred in this case and the requested amendment to certification has not given rise to a question concerning representation. As a result, we grant the Petition to Amend Certification as set forth in our Order below.<sup>2</sup> For the aforementioned reasons, the petition is granted.

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<sup>2</sup>FOP's subsequent rationale of clarification is irrelevant, and is unnecessary for a change in name.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Petition by Fraternal Order of Police/Metropolitan Police Department Labor Committee is granted without prejudice.
2. Certification No. ###, PERB Case No. 00-XX-00, is amended by adding the phrase "District of Columbia Police Union or D.C. Police Union" to the name of the exclusive representative who is certified to represent employees at the District of Columbia Metropolitan Police Department. The change shall be reflected in a new Certification No. ### which is attached to this Decision and Order.
2. 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.

November 21, 2011

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 11-AC-01 was transmitted via Fax and U.S. Mail to the following parties on this the 21<sup>st</sup> day of November 2011.

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