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GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

American Federation of State,
County and Municipal Employees,
District of Columbia Council 20,
AFL-CIO,

Petitioner,

and

D.C. Department of Human
Services, Commission on Mental
Health Services,

Agency.

PERB Case No. 92-R-08
Opinion No. 366

DECISION ON UNIT DETERMINATION
AND DIRECTION OF ELECTION

On September 21, 1992, the American Federation of State, County and Municipal Employees, District Council 20, AFL-CIO (AFSCME) filed a Representation Petition with the Public Employee Relations Board (Board) seeking to represent exclusively a proposed unit of clinical psychology interns and residents at the D.C. Department of Human Services, Commission on Mental Health Services (DHS). According to the Petition and the alphabetical list of employees submitted by DHS, there are 24 employees in this unit. The Petition was properly accompanied by a showing of interest meeting the requirements of Board Rule 502.2, a Roster of Petitioner's Officers and a copy of Petitioner's Constitution and Bylaws, as required by Rule 501.1(d).

Notices concerning the Petition were timely posted by November 2, 1992. There were no requests to intervene or objections filed in response to the Petition. In its comments responding to the Petition, the Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of DHS, initially opposed the Petition. OLRCB

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requested that the parties be given an opportunity to resolve certain issues concerning AFSCME's representation of the proposed unit.^{1/} The parties were able to resolve these issues and advised the Board of their agreement on August 2, 1993.

^{1/} OLRCB had contended, in its response to the Petition, that AFSCME's representation of the proposed unit of clinical psychology interns and residents would conflict with its current representation of an existing unit of clinical psychologists at CMHS. OLRCB asserted that three members of the existing psychology unit are part of a reviewing team, i.e., Core Clinical Psychology Training Faculty (CCPTF). These three psychologists, as well as an additional unspecified number of other psychologists in the existing unit, supervise, evaluate and can recommend disciplinary and remedial actions with respect to the interns and residents in the proposed unit. (Resp. at 2 and 3.) OLRCB contends that AFSCME's representation of both units would create a potential conflict whenever these interns and residents appeal recommendations of disciplinary or remedial action by the CCPTF.

In a Memorandum of Understanding dated June 21, 1992, the parties set forth their settlement of the above issue and all other issues between the parties. The parties agreed that in the event the Board finds the proposed unit appropriate, in accordance with D.C. Code Sec. 1-618.9(a), and AFSCME is certified as the exclusive bargaining representative, the proposed unit of clinical psychology interns and residents will be represented jointly with the existing unit of clinical psychologists. The parties further agreed to exclude from the collective bargaining process subject matters which they agreed presented a potential conflict in AFSCME's representation of both units. The parties deferred the resolution of any future conflict not covered by the agreement to the collective bargaining process.

The existing unit of clinical psychologists, to which AFSCME refers, was found appropriate and AFSCME was certified as their representative in American Federation of State, County and Municipal Employees, D.C. Council 20, AFL-CIO and Commission on Mental Health Services, Department of Human Services, 38 DCR 5039, Slip Op. No. 278, PERB Case No. 90-R-03 (1991) and Certification No. 66, respectively. Should AFSCME be certified as the exclusive representative of the proposed unit in the instant proceeding, AFSCME must file a petition for unit modification, in accordance with Board Rule 504, requesting the consolidation of the proposed and existing units to effect AFSCME's joint representation of the two units. We express no view now, however, on our ruling with respect to such a petition.

The Executive Director issued a questionnaire to the parties on August 10, 1993, requesting that the parties address remaining issues concerning the appropriateness of the proposed unit. OLRCB filed a response to the questionnaire on September 22, 1993. ^{2/}

Having concluded its investigation and review of the record in this matter, the Board finds that the unit set forth below meets the statutory requirements of an appropriate unit for collective bargaining over the terms and conditions of employment:

All clinical psychology interns and residents who are being paid by the District of Columbia Commission on Mental Health Services, excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, as amended.

D.C. Code Section 1-618.9(a) requires that a community of interest exist for a unit to be found appropriate by the Board for collective bargaining over terms and conditions of employment. Under this provision, the Board determines on a case-by-case basis whether the employees in the proposed unit share certain interests, including skills, common supervision, physical location, organization structure, distinctiveness of functions performed, and the existence of integrated work processes. Viewing these factors in their entirety, the Board finds that employees in this proposed unit meet the criteria set forth above, share a community of interest and the unit is one that will promote effective labor relations and efficiency of agency operations. ^{3/}

^{2/} Although AFSCME did not respond to the questionnaire, it is our understanding that Petitioner's counsel advised the Executive Director that she would review the Agency's response prior to its submission. No objections to any of the agency's answers were presented by AFSCME.

^{3/} In its response to the Board's questionnaire, OLRCB stated that clinical psychology interns and residents are subject to common supervision and report to a central training office. Although these interns and residents are assigned to various clinical areas throughout the Commission on Mental Health Services, those assigned to the same areas collaborate on cases and they all
(continued...)

We conclude, therefore, that the proposed unit is an appropriate unit for collective bargaining pursuant to D.C. Code Section 1-618.9(a).

Having found that the above-described unit is an appropriate unit for collective bargaining over terms and conditions of employment, the Board directs that an election be held to determine whether the eligible employees wish to be represented by AFSCME in collective bargaining with DHS.

ORDER

IT IS HEREBY ORDERED THAT:

1. The following unit is an appropriate unit for collective bargaining over terms and conditions of employment:

All clinical psychology interns and residents who are being paid by the District of Columbia Commission on Mental Health Services, excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Government Comprehensive Merit Personnel Action of 1978, as amended.

2. An election shall be held in accordance with the provisions of D.C. Code Section 1-618.10 and Sections 510-515 of the Rules of the Board to determine whether or not the employees in the above-described unit wish to be represented by the American Federation of State, County and Municipal Employees, District Council 20, AFL-CIO for the purposes of collective bargaining for compensation and other terms and conditions of employment.

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

October 15, 1993

³(...continued)

have common group activities such as classes, discussion groups and administrative meetings. Finally, the recruiting, training, supervising, and certifying of all interns and residents is the responsibility of the Core Training Faculty and the Director of Training.