

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:)	
)	
American Federation of Government)	
Employees, Local 2978, AFL-CIO,)	
)	
Labor Organization,)	PERB Case No. 03-RC-01
)	
and)	
)	Opinion No. 735
District of Columbia Department)	
of Health, HIV/AIDS)	
Administration,)	
)	
Agency.)	

**DECISION ON UNIT DETERMINATION AND
DIRECTION OF ELECTION**

The American Federation of Government Employees, Local 2978, ("AFGE" or "Petitioner") filed a Recognition Petition in the above-captioned proceeding. AFGE seeks to represent for purposes of collective bargaining, a consolidated unit of unrepresented professional and non-professional employees of the District of Columbia Department of Health, HIV/AIDS Administration. The Petition was accompanied by a showing of interest meeting the requirement of Board Rule 502.2, a roster of Petitioner's officers and a copy of the Petitioner's constitution as required by the Board Rule 502.1(d).

Notices concerning the Petition were issued on May 5, 2003, for conspicuous posting where Notices to employees are normally located at the District of Columbia Department of Health, HIV/AIDS Administration ("Department of Health"). The Notices indicated that requests to intervene and/or comments should be filed in the Board's Office no later than May 20, 2003. The Department of Health confirmed in writing that the Notices were posted. In addition, the Office of Labor Relations and Collective Bargaining (OLRCB) submitted comments on behalf of the Department of Health. In their comments OLRCB indicated that the agency did not oppose the Petition. However, they claimed that the professional employees may already be represented by District 1199E-DC National Union of Hospital and Health Care Employees ("NUHHCE"), Service Employee International Union. As a result, this matter was referred to a Hearing Examiner in order to determine if the professional employees were represented by NUHHCE. There were no other comments received.

Prior to the hearing, the Hearing Examiner was notified by the parties that NUHHCE was not challenging the Petition.¹ As a result, the parties entered into a stipulated agreement which settled the issue. In view of the above, the Hearing Examiner recommended that the Board: (1) accept the parties' stipulated agreement and (2) find that the proposed unit is an appropriate unit. There were no exceptions filed concerning the Hearing Examiner's Report.

AFGE seeks to represent the following proposed unit:

All professional and non-professional employees of the District of Columbia Department of Health, HIV/AIDS Administration; except 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 Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

D.C. Code § 1-617.09(a) (2001ed.), requires that a community of interest exist among employees in order for a unit to be found appropriate by the Board for collective bargaining over terms and conditions of employment. An appropriate unit must also promote effective labor relations and efficiency of agency operations.

Our review of the Petition, the Hearing Examiner's Report and attached exhibits reveal the following concerning the proposed consolidated unit. The proposed unit consists of the following employee positions: public health analyst, program assistant, staff assistant, public health advisor, program analyst, medical technician, trainer coordinator, public health service specialist, supply technician and clerical assistant. All of these employees share a common organizational structure and mission within the District of Columbia Department of Health, HIV/AIDS Administration. No other labor organization represents these employees. Also, there is no collective bargaining agreement in effect covering any of these employees.

In view of the above, we adopt the Hearing Examiner's recommendation. Furthermore, we believe that sufficient factors exist for the Board to find that these employees share a community of interest. Such a unit of all professional and non-professional employees at the District of Columbia Department of Health, HIV/AIDS Administration that share a common purpose and mission, would in our view, promote effective labor relations and efficiency of agency operations and thereby constitute an appropriate unit under the Comprehensive Merit Personnel Act.

¹As noted above, OLRCB indicated that the agency did not oppose the Petition. However, OLRCB asserted that the professional employees were already represented by District 1199E-DC, National Union of Hospital and Health Care Employees, Service Employee International Union. District 1199E-DC was notified of the hearing and provided with an opportunity to demonstrate that the professional employees were represented by them. However, District 1199E-DC did not attend the hearing and their representative indicated that they would not challenge AFGE's Petition.

Regarding the question of representation, the Board orders that an election be held to determine the will of the eligible employees (in the unit described above), regarding their desire to be represented by AFGE, Local 2978 for purposes of collective bargaining with the District of Columbia Department of Health, HIV/AIDS Administration. Also, in order to conform with the requirements of D.C. Code § 1-617.09(b) (2001 ed.) and Board Rule 510.5 (concerning the inclusion of professional employees and non-professional employees in the same unit), eligible professional employees shall indicate their choice on separate ballots as to: (1) whether they desire to be represented for bargaining on terms and conditions of employment by AFGE, Local 2978; and (2) whether they wish to be included in a consolidated unit with non-professional employees. Eligible non-professional employees, in the same election, shall indicate their choice only as to the former question. Finally, we believe that a mail ballot election is appropriate in this case.

ORDER

IT IS HEREBY ORDERED THAT:

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

All Professional and non-professional employees of the District of Columbia Department of Health, HIV/AIDS Administration; except 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 Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.
2. A mail ballot election shall be held in accordance with the provisions of D.C. Code § 1-617.10 (2001 ed.) and Board Rules 510-515 in order to determine whether or not: (1) all eligible employees desire to be represented for bargaining on terms and conditions of employment by either the American Federation of Government Employees, Local 2978 or No Union; and (2) all eligible professional employees wish to be included in a consolidated unit with non-professional employees. Eligible non-professional employees, in the same election, shall indicate their choice only as to the former question.
3. 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.

February 5, 2004

CERTIFICATE OF SERVICE

This is to certify that the attached Decision on Unit Determination and Direction of Election in PERB Case No. 03-RC-01 was served via Fax and U.S. Mail to the following parties on this the 5th day of February, 2004.

Kofi Asinor Boakye
National Representative
AFGE, 14th District
80 F Street, N.W.
11th Floor
Washington, D.C. 20001

FAX & U.S. MAIL

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Labor Relations Specialist
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JoAnn McCarthy, President
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Washington, D.C. 20005

FAX & U.S. MAIL

Courtesy Copies:

Mary Leary, Esq.
Director
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Suite 820 North
Washington, DC 20001

U.S. MAIL

Certificate of Service
PERB Case No. 03-RC-01

Walter Wojcik, Esq.
Supervisory Labor Relations Specialist
D.C. Office of Labor Relations & Collective
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U.S. MAIL

for 

Sheryl V. Harrington
Secretary

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD**

In the Matter of:

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
LOCAL 2978,

Complainant,

v.

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
ADMINISTRATION FOR HIV/AIDS.

Respondent.

PERB Case No. 03-RC-01

HEARING EXAMINER'S REPORT AND RECOMMENDATION

I. STATEMENT OF THE CASE

On Tuesday, July 15, 2003, a hearing was held in the matter of Complainant's January 17, 2003, recognition petition. At hearing, the parties entered into certain stipulations, as set forth below, that taken together fully resolve this matter to the parties' mutual satisfaction.

II. STIPULATIONS/RECOMMENDED ORDER

A) The parties stipulate, subject to a proviso to follow, that there is an appropriate unit of employees of Respondent, Department of Health Administration for HIV/AIDS, for representation by Complainant, AFGE Local 2978, defined as, "All professional and nonprofessional employees of the HIV/AIDS Administration except management officials, supervisors, confidential employees, any employee engaged in personnel work in other than a purely clerical capacity and any employee engaged in administering the provisions of D.C. Code § 1-617 (2001 ed.). See Joint Exhibit 1, attached hereto and incorporated herein by reference.

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B) The following employees, as set forth at Joint Exhibit 2 (attached hereto and incorporated herein by reference), shall be excluded from the above-described unit:

Dr. Maurice Knuckles
Regina Geter
Shirley Harris
Clarence Menefee
Cleveland Weeden
John Heath
Jennifer Johnson
Anice McCarthy
Dr. Gisele Sidbury
Charles Hicks
Carolyn Rachel
Vera Jackson
Deidre Sparrow
Michael Peden
Terrell Powell

C) The unit, as described and defined in the foregoing paragraphs (A) and (B), is acceptable to both parties. The parties stipulate that an election is appropriate at this time.

D) The parties further stipulate that it would be appropriate for the unit to be included within Compensation Unit 1 for purposes of compensation bargaining.

Upon the foregoing findings and the entire record, the Hearing Examiner hereby issues the following recommended:

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ORDER

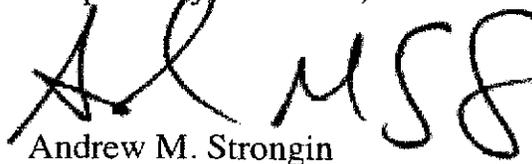
IT IS HEREBY ORDERED THAT:

a. The parties' foregoing stipulations are accepted by the Board and have full force and effect.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A M Strongin". The signature is written in a cursive, somewhat stylized font. The first letter "A" is large and loops around. The "M" and "S" are also prominent.

Andrew M. Strongin

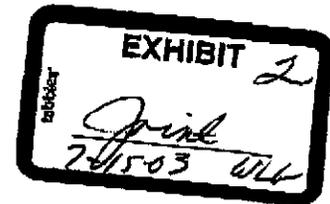
September 17, 2003

JX2

HIV/AIDS Administration (HAA)
Documentation - Page 1 -District of Columbia, Department of Health Lab
300 Indiana Avenue, NW
Washington, DC 20001

Director: Dr. Maurice Knuckles

<u>Employee Name</u>	<u>Position</u>
Regina Geter	Medical Technician
Shirley Harris	Medical Technician
Clarence Menefee	Medical Technician
Cleveland Weeden	Medical Technician

STD
717 14th Street, NW
Washington, DC 20005

Director: John Heath

<u>Employee Name</u>	<u>Position</u>
Jennifer Johnson	Clerical Assistant
Anice McCarthy	Clerical Assistant

District of Columbia Department of Health Warehouse
4 DC Village Lane, SW
Washington, DC 20032

Director: Dr. Gisele Sidbury

<u>Employee Name</u>	<u>Position</u>
Charles Hicks	Supply Technician
Carolyn Rachel	Public Health Analyst

District of Columbia Department of Health
Division of Communications
825 N. Capitol Street
Washington, DC

Director: Vera Jackson

<u>Employee Name</u>	<u>Position</u>
Deidre Sparrow	Public Health Advisor

District of Columbia Department of Health, HIV/AIDS Administration
717 14th Street, NW
Washington, DC 20005

Employees responsible for contracts and procurements/ maintaining security.

<u>Name</u>	<u>Position</u>
Michael Peden	Public Health Analyst
Terell Powell	Staff Assistant

