

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 State, County and Municipal Employees, D.C. Council 20, Local 2401,)	PERB Case No. 08-CU-01
)	
Labor Organization,)	Opinion No. 962
)	
v.)	
)	
District of Columbia Public Schools, Office of Contracts and Acquisitions,)	
)	
Agency.)	

DECISION AND ORDER

I. Statement of the Case:

On November 18, 2004, the Public Employee Relations Board (“Board”), in Certification No. 132, certified the American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2401 (“AFSCME, Local 2401”), as the exclusive representative for “[a]ll professional employees employed by the District of Columbia Public Schools, Office of Contracts and Acquisitions”. (See PERB Case No. 02-RC-02, Certification No. 132).

On June 24, 2008, AFSCME, Local 2401 and the Office of Labor Relations and Collective Bargaining (on behalf of the District of Columbia Public Schools, Office of Contracts and Acquisitions) filed a document styled “Joint Petition for Compensation Unit Determination.” Notices concerning the Petition were issued on August 7, 2008, for conspicuous posting at the District of Columbia Public Schools. The Notice solicited comments concerning the appropriate compensation unit placement for this unit of employees.¹ The Notice required that comments be

¹ Labor organizations are initially certified by the Board under the Comprehensive Merit Personnel Act (“CMPA”) to represent units of employees that have been determined to be appropriate for purpose of non-

filed in the Board's office no later than September 8, 2008. The District of Columbia Office of Labor Relations and Collective Bargaining ("OLRCB") confirmed that the Notices had been posted.

The parties' petition is before the Board for disposition.

II. Discussion:

AFSCME, Local 2401 and OLRCB (on behalf of the District of Columbia Public Schools, Office of Contracts and Acquisitions) are seeking a determination concerning the appropriate unit for the purpose of negotiations for compensation, for the following group of employees:

All professional employees employed by the District of Columbia Public Schools, Office of Contracts and Acquisitions: excluding all 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 the Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

In their submission, AFSCME, Local 2401 and OLRCB indicate that the appropriate compensation unit placement for these employees is Compensation Unit 1.² No other comments were received.

Traditionally, the Board has authorized and established compensation units pursuant to the standard noted under D.C. Code § 1-617.16(b) (2001 ed.). Specifically, D.C. Code § 1-617.16 (b)

compensation terms-and-conditions bargaining. Once this determination is made, the Board then determines the compensation unit in which these employees should be placed. Unlike the determination of a terms-and-conditions unit, which is governed by criteria set forth under D.C. Code § 1-617.09 (2001 ed.), unit placement for purpose of authorizing collective bargaining over compensation is governed by D.C. Code § 1-617.16(b) (2001 ed.).

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Compensation Unit 1 consist of all District Service career service professional, technical, administrative and clerical employees. Specifically, Compensation Unit 1 consists of the following employees:

. . . all career service professional, technical, administrative and clerical employees who currently have their compensation set in accordance with the District Service (D.S.) Schedule and who come within the personnel authority of the Mayor of the District of Columbia, the Board of Trustees of the University of the District of Columbia, and the District of Columbia Board of Library Trustees, except physicians employed by the Department of Human Services and the Department of Corrections and Registered Nurses employed by the Department of Human Services.

(2001 ed.) provides as follows:

In determining an appropriate bargaining unit 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 may authorize bargaining by multiple employers or employee groups as may be appropriate.

“The Board has departed from strict adherence to [the above-noted] 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.” *Government of the District of Columbia et. al. and Unions in Compensation Units 1, 2, 13 and 19*, 45 DCR 6725, Slip Op. No. 557 at p. 4, PERB Case Nos. 97-UM-02 and 98-CU-04 (1998). See also, *WASA and AFGE, Local 631, et. al.*, 46 DCR 122, Slip Op. 510, PERB Case Nos. 96-UM-07, 97-UM-01, 97-UM-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.” *Id.* Also see, *SEIU, Local 722 and DHS/HSB*, 48 DCR 8493, Slip Op. No. 383, PERB Case No. 93-R-01 (1994) (Compensation Unit 30 was established for personal care aides employed by the Department of Human Services whose pay schemes resemble independent contractors). In both instances, the Board authorized compensation units that consisted of a single agency or occupational group.

Furthermore, the Board has observed that D.C. Code § 1-617.16(b) (2001 ed.) has established a two part test to determine an appropriate compensation unit:

- (1) The employees of the proposed unit comprise broad occupational groups; and
- (2) The proposed unit minimizes the number of different pay systems or schemes.

We believe that the first prong of the test has been met. Specifically, AFSCME, Local 2401 and OLRCB are requesting that these employees be placed in a compensation unit comprised of a broad group of employees who possess certain general skills and who currently have their compensation set in accordance with the District Service (DS) Schedule.

The second prong of the test is also fulfilled. Simply put, a smaller number of compensation bargaining units would ultimately result in a smaller number of pay systems.

In the present case, the District of Columbia Public Schools is an agency under the Mayor's personnel authority. In addition, all professional employees are paid in accordance with the District Service (DS) schedule. Furthermore, these employees share a pay system with other employees who are currently in Compensation Unit 1. Therefore, consistent with the Board's mandate under D.C. Code § 1-617.16(b) (2001 ed.), we believe that the employees involved in this case should be placed in Compensation Unit 1. Also, placing these professional employees in Compensation Unit 1 effectuates the policies of the Comprehensive Merit Personnel Act of 1978. Therefore, the Board concludes that the unit set forth below is appropriate for placement in Compensation Unit 1:

All professional employees employed by the District of Columbia Public Schools, Office of Contracts and Acquisitions: excluding all 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 the Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

The Board, having considered the "Joint Petition for Compensation Unit Determination" filed by AFSCME, Local 2401 and OLRCB (on behalf of the District of Columbia Public Schools, Office of Contracts and Acquisitions), hereby determines that the appropriate compensation unit for all professional employees employed by the District of Columbia Public Schools, Office of Contracts and Acquisitions is Compensation Unit 1.

ORDER

IT IS HEREBY ORDERED THAT:

1. The "Joint Petition for Compensation Unit Determination" filed by the American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2401 and the Office of Labor Relations and Collective Bargaining (on behalf of the District of Columbia Public Schools, Office of Contracts and Acquisitions), is granted.
2. All professional employees employed by the District of Columbia Public Schools, Office of Contracts and Acquisitions are placed in Compensation Unit 1.

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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.

August 25, 2009

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 08-CU-01 was transmitted via Fax and U.S. Mail to the following parties on this the 25th day of August 2009.

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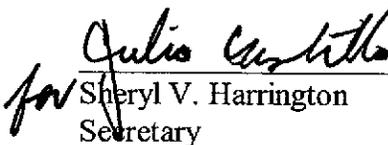
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