

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:)	
)	
National Association of)	PERB Case No. 19-RC-01
Government Employees)	
)	
Petitioner)	
)	Opinion No. 1732
)	
and)	CORRECTED COPY
)	
District of Columbia)	
Department of Forensic Sciences)	
)	
Respondent)	
_____)	

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

On July 24, 2019, the National Association of Government Employees (NAGE) filed a “Petition for Recognition” (Petition), seeking to represent the following proposed bargaining unit for the purpose of collective bargaining:

All employees of the Public Health Laboratory, both professional and nonprofessional, and all other professional employees of the Department of Forensic Sciences, excluding all management officials, supervisors, confidential employees or any employees engaged in personnel work other than in 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 2-139.¹

As required by PERB Rule 502.1(d), the Petition was accompanied by a roster of NAGE’s officers and a copy of NAGE’s constitution and bylaws. In addition, NAGE submitted evidence of the employees’ showing of interest in having NAGE as their exclusive representative for collective bargaining.

¹ Pet. at 1-2.

On August 22, 2019, as required by PERB Rule 502.3, the District of Columbia Department of Forensic Sciences (DFS) submitted a list of employees and comments to the Petition. Pursuant to PERB Rule 502.4, the Executive Director determined that NAGE met its showing of interest based on its Petition. On September 4, 2019, the Executive Director issued to DFS a notice that the recognition petition had been filed, which DFS posted for fourteen (14) consecutive days. The Board received no comments or requests for intervention in response to the notice.

DFS's Comments to the Recognition Petition raised the issue that some of the employees in the proposed bargaining unit may have been represented by other labor organizations.² NAGE stated in its Petition that no other labor organization currently represents any of the employees in the proposed bargaining unit.

On November 8, 2019, a hearing was held to determine which employees belonged in the bargaining unit. DFS and NAGE resolved the issue of which employees would be covered by the proposed unit description. The Hearing Examiner noted that none of the employees in the Petition's proposed bargaining unit are currently covered by an existing collective bargaining agreement and that the employees report to the same five or six supervisors.³ Based on the parties' stipulation and other documents presented at the hearing, the Hearing Examiner concluded that the recognition petition met all the requirements of PERB Rule 502.⁴

D.C. Official Code § 1-617.09(a) requires that a community of interest exist among employees 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 efficient agency operations. After reviewing the record and the Hearing Examiner's report and recommendation, the Board finds that the proposed bargaining unit constitutes an appropriate unit for collective bargaining.⁵

The Board orders an election to determine the will of the eligible employees in the unit described above to be represented by the Petitioner or no representative. In accordance with PERB Rule 510.5, all professional employees must be given two ballots: one for indicating whether they desire a combined professional/nonprofessional unit and a second for indicating the choice of representative, if any. The Board finds that an on-site election is appropriate in this case.

² Comments at 1-2. DFS claims that employees transferred from the Department of Human Services are represented by the American Federation of Government Employees Local 2978 and employees transferred from the Department of Health are represented by the Service Employees International Union District 1199-UHE.

³ R&R at 5.

⁴ R&R at 7.

⁵ R&R at 5.

ORDER

IT IS HEREBY ORDERED THAT:

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

All employees of the Public Health Laboratory, both professional and nonprofessional, and all other professional employees of the Department of Forensic Sciences, excluding all management officials, supervisors, confidential employees or any employees engaged in personnel work other than in 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. An on-site election shall be held in accordance with the provisions of D.C. Official Code § 1-617.10 and PERB Rules 510, 511, 513, 514, and 515 in order to determine whether a majority of eligible employees in the above-described unit desire to be represented for the bargaining on terms and conditions of employment by either the National Association of Government Employees or no union.
3. Pursuant to PERB Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy and Board members Ann Hoffman, Mary Anne Gibbons, Barbara Somson, and Douglas Warshof.

Washington, D.C.
January 16, 2020

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 19-RC-01, Op. No. 1732 was sent by File and ServeXpress to the following parties on this the 7th day of February, 2020.

Lateefah S. Williams
National Association of Government Employees
1020 N. Fairfax Street
Suite 200
Alexandria, VA 22314

Michael Kentoff
D.C. Office of Labor Relations and
Collective Bargaining
441 4th Street NW
Suite 820 North
Washington, D.C. 20001

/s/ Sheryl Harrington
Public Employee Relations Board