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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, DC Council 20, Local 2401,)	
)	
Petitioner,)	PERB Case No. 07-CU-02
)	
v.)	Opinion No. 1309
)	
District of Columbia Office of Human Rights,)	
)	
Respondent.)	

DECISION

I. Statement of the Case

On August 7, 2006, the Public Employee Relations Board (“Board”), in Certification No. 138, certified the American Federation of State, County, and Municipal Employees, D.C. Council 20, Local 2401 (“Local 2401”), as the exclusive bargaining representative for all professional employees employed by the District of Columbia Office of Human Rights (“DCOHR”). (PERB Case No. 05-RC-05, Certification No. 138).

On April 23, 2007, Local 2401 and DCOHR filed a Joint Petition for Compensation Unit Determination (“Petition”). Notices concerning the Petition were issued on May 24, 2007, for conspicuous posting at DCOHR. The Notice solicited comments concerning the appropriate compensation unit placement for this unit of employees.¹ The Notice required that comments be filed in the Board’s office no later than June 8, 2007. No comments were received.

¹Labor 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 purposes of non-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, unit placement for purposes of authorizing collective bargaining over compensation is governed by D.C. Code § 1-617.16(b).

On October 17, 2007, the Board issued an Order granting the Petition, with a footnote stating "The Board has decided to issue its Order now. A decision will follow." Slip Op. No. 918 at p. 1, FN 1.

II. Discussion

Local 2401 and DCOHR seek a determination concerning the appropriate unit for the purposes of negotiations for compensation for the following group of employees:

All professional employees employed by the District of Columbia Office of Human Rights, 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 the Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

(Petition at 2). In the Petition, the parties indicate that the appropriate compensation unit placement for these employees is Compensation Unit 1.²

The Board authorizes and establishes compensation units pursuant to the standard set forth by D.C. Code § 1-617.16(b):

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 authorities." *Government of the District of Columbia, et al., v. Unions in Compensation Units 1, 2, 13, and 19*, 45 D.C. Reg. 6725, Slip Op. No. 557 at p. 4, PERB Case

² Compensation Unit 1 consists of:

All career service professional, technical, administrative and clerical employees who currently have their compensation set in accordance with the District Service 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.

AFSCME, et al., v. Barry, et al., 28 D.C. Reg. 1764, Slip Op. No. 5, PERB Case No. 80-R-08 (1981), modified in PERB Case No. 95-RC-12, Certification No. 84 (1995).

Nos. 97-UM-02 and 98-CU-04 (1988); *see also WASA v. AFGE, Local 631, et al.*, 46 D.C. Reg. 122, Slip Op. No. 510, PERB Case Nos. 96-UM-07, 07-UM-01, 97-UM-03, and 97-CU-01 (1997). Exceptions are also made “where the pay scheme of the occupational group is so unique as to warrant a separate compensation unit determination.” *Id.*

The Board 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.

AFSCME Local 2401 v. DCPS, Office of Contracts and Acquisitions, __ D.C. Reg. __, Slip Op. No. 962, PERB Case No. 08-CU-01 (2009).

In the instant Petition, the first prong of the test is met. Specifically, Local 2401 and DCOHR request that the bargaining unit 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 Schedule.

Additionally, the Petition fulfills the second prong of the test. Incorporating the proposed unit into Compensation Unit 1 will result in fewer pay systems.

Having considered the Petition, the Board hereby determines that the appropriate compensation unit for all professional employees employed by the DCOHR is Compensation Unit 1.

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

August 17, 2012

CERTIFICATE OF SERVICE

This is to certify that the attached Decision in PERB Case No. 07-CU-02 was transmitted via U.S. Mail to the following parties on this the 17th day of August, 2012.

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