

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 formal 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:)	
)	
District of Columbia Government)	
Department of Human Services and)	
Child and Family Services Agency,)	
)	
Petitioner,)	
)	
and)	PERB Case Nos. 99-UM-10
)	and 99-UCN-08
)	
American Federation of State,)	Opinion No. 617
County and Municipal Employees)	
D.C. Council 20, Local 2401,)	
)	
)	
Respondent.)	
)	

DECISION AND ORDER ON UNIT MODIFICATION

On July 30, 1999, the District of Columbia Office of Labor Relations and Collective Bargaining (OLRCB), pursuant to section 504 of the Rules of the Public Employee Relations Board (Board), filed a Petition for Unit Modification (Petition), on behalf of the District of Columbia Department of Human Services (DHS), and Child and Family Services Agency (CFSA). The Petition concerns two (2) collective bargaining units represented by the American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2401 (AFSCME). These units originally existed under the Department of Human Resources (DHR) when AFSCME was certified to represent them.^{1/} OLRCB seeks to change the identity of the employing agency from Department of Human Resources (DHR) to the Department of Human Services (DHS) and to consolidate the two

^{1/} See, American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2401, AFL-CIO and Department of Human Resources, Board of Labor Relations (BLR) Case No. 5R013, Amendment of certification, December 2, 1974; and American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2401 and Department of Human Resources, BLR Case No. 9R003, Certification of Representative issued January 17, 1979.

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PERB Case Nos. 99-UM-10 and 99-UCN-08
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units. (Petition at 2).

The existing units, previously found appropriate for collective bargaining, are described as follows:

All professionals and non-professional employees of the Bureau of Family Services of the Social Rehabilitation Administration and the Bureau of Eligibility Determination of the Payments Assistance Administration, Department of Human Resources; excluding management executives, confidential employees, supervisors or any employees engaged in personnel work in other than purely clerical capacity.

All non-professional employees of the Bureau of Rehabilitation Services, Social Rehabilitation Administration, Department of Human Resources, excluding management executives, confidential employees, supervisors, or any employees engaged in personnel work in other than a purely clerical capacity.

In accordance with Board Rule 504.3, Notices concerning the Petition were posted. No objections or comments to the Petition were received by the Board.

OLRCB states that the modification is sought as a result of the "Mayor's Reorganization Plan No. 2 of 1979 and Reorganization Plan No. 2 of 1986", which changed the statutory identity of the agency employing these bargaining unit employees from the DHR to the DHS. The Plans also reorganized sub-components of DHS, including sub-components where these bargaining unit employees were originally located. (Pet. at 2.) As a result of the reorganization, sub-components of DHS where some of these bargaining unit employees were originally located were reorganized and renamed the Child and Family Support Division (CFSD).

In 1995, the U.S. Court of Appeals for the District of Columbia placed parts of DHS' operation under a receivership, including the CFSD and the Family Services Administration. (Pet., Attach 1A.) LaShawn A., et al. v. Marion Barry, et al., Civ. No. 89-1754 (TFH) (1995). On October 5, 1998, the General Receiver under this Court Order issued Administrative Order No. CFSA 98-001, which reorganized the CFSD -which is under DHS's Commission on Service Services, Family Services Administration- and established the established the Child and Family Support Agency (CFSA). (Pet., Attach. 1B.) CFSA, however, continued to be an integral part of DHS' operations. (Pet. at 2.)

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Therefore, OLR CB seeks to modify the unit to reflect the change of DHS' CFSD to CFSA. " Board Rule 504.1(a) provides that "[a] unit modification may be sought... [t]o reflect a change in the identity or statutory authority of the employing agency[.]"

In addition, OLR CB seeks to consolidate the DHS and CFSA bargaining units, both of which are represented by AFSCME. Board Rule 504.1(d) permits the "consolidation of two or more bargaining units within an agency that are represented by the same labor organization[.]" Notwithstanding OLR CB's assertion that CFSA "still has a quasi-relationship with DHS" D.C. Code § 1-618.9(c) and Board Rule 504.1(d), requires that the bargaining units to be consolidated be "within an agency."^{2/} Although both units are represented by the same labor organization, i.e., AFSCME, the units are now located at two different agencies.

Accordingly, we deny OLR CB's request to consolidate the subject non-compensation bargaining unit as described in the Order. However, we shall grant OLR CB's request to modify the unit description to reflect the reorganization of DHS and the creation of CFSA as the employing agencies of these bargaining units as described in the Order and in Certification Nos. 114 and 115, issued simultaneously herewith.

ORDER

IT IS HEREBY ORDERED THAT:

The non-compensation units for which the American Federation State County and Municipal Employees, D.C. Council 20, Local 2402, is certified as the exclusive representative in BLR Case Nos. 5R013 and 9R003, is modified and will be described as set forth below. Nothing in this Order is to be construed as altering the scope of the bargaining unit except in the manner discussed in this Decision.

Unit Descriptions:

All professionals and non-professional employees of the Bureau of Family Services of the Social Rehabilitation Administration and the Bureau of Eligibility Determination of the Payments Assistance

^{2/} LaShawn A., et al. v. Marion Barry, et al., Civ. No. 89-1754, the General Receiver was accorded sweeping and autonomous control over the operations of CFSA's operation, including its financial affairs and employees.

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Administration, Department of Human Services and the Child and Family Services Agency (CFSA) (LaShawn); 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 Title XVII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

All non-professional employees of the Bureau of Rehabilitation Services, Social Rehabilitation Administration, Department of Human Services; 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 Title XVII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

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

December 17, 1999

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Department of Human Services and)	
Child and Family Services Agency,)	
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Petitioner,)	
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and)	PERB Case Nos. 99-UM-10
)	and 99-UCN-08
)	
American Federation of State,)	Certification No. 114
County and Municipal Employees,)	
D.C. Council 20, Local 2401,)	
)	
)	
Respondent.)	
_____)	

CERTIFICATION OF REPRESENTATIVE ^{1/}

A representation proceeding having been conducted in the above-captioned matter by the Public Employee Relations Board (Board) in accordance with the District of Columbia Comprehensive Merit Personnel Act of 1978 and the Rules of the Board and it appearing that an exclusive representative has been designated;

Pursuant to the authority vested in the Board by D.C. Code §§ 1-605.2(1) and (2), 1-618.9(c); and Board Rule 504.1(a) and 504.5(e);

IT IS HEREBY CERTIFIED THAT:

^{1/} By virtue of the Board's modification of units in a Decision and Order issued simultaneously herewith (Slip Op. No. 617), this Certification supersedes the Certification of the American Federation of State, County and Municipal Employees (AFSCME), D.C. Council 20, Local 2401, as the exclusive representative of the unit set forth in American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2401, AFL-CIO, and Department of Human Resources, Bureau of Labor Relations (BLR) Case No.5R013, Amendment of Certification issued December 2, 1974.

Certification of Representative
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The American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2401 (AFSCME), has been designated by a majority of the employees of the above-named public employer in the modified unit described below, as their preference for its exclusive representative for the purpose of collective bargaining concerning both compensation and terms-and-conditions matters with the employer.

Unit Description:

All professionals and non-professional employees of the Bureau of Family Services of the Social Rehabilitation Administration and the Bureau of Eligibility Determination of the Payments Assistance Administration, Department of Human Services and the Child and Family Services Agency (CFSA) (LaShawn); 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 Title XVII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
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December 17, 1999


Julio A. Castillo

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American Federation of State,)	Certification No. 115
County and Municipal Employees,)	
D.C. Council 20, Local 2401,)	
)	
)	
Respondent.)	
)	

CERTIFICATION OF REPRESENTATIVE ^{1/}

A representation proceeding having been conducted in the above-captioned matter by the Public Employee Relations Board (Board) in accordance with the District of Columbia Comprehensive Merit Personnel Act of 1978 and the Rules of the Board and it appearing that an exclusive representative has been designated;

Pursuant to the authority vested in the Board by D.C. Code §§ 1-605.2(1) and (2), 1-618.9(c); and Board Rule 504.1(a) and 504.5(e);

^{1/} By virtue of the Board's modification of units in a Decision and Order issued simultaneously herewith (Slip Op. No. 617), this Certification supersedes the Certification of the American Federation of State, County and Municipal Employees (AFSCME), D.C. Council 20, Local 2401, as the exclusive representative of the unit set forth in American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2401, AFL-CIO, and Department of Human Resources, Bureau of Labor Relations (BLR) Case No.9R003, Certification issued January 17, 1979.

**Certification of Representative
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Page 2**

IT IS HEREBY CERTIFIED THAT:


The American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2401 (AFSCME), has been designated by a majority of the employees of the above-named public employer in the modified unit described below, as their preference for its exclusive representative for the purpose of collective bargaining concerning both compensation and terms-and-conditions matters with the employer.

Unit Description:

All non-professional employees of the Bureau of Rehabilitation Services, Social Rehabilitation Administration, Department of Human Services; 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 Title XVII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

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

December 17, 1999



Julio A. Castillo

Certificate of Service

This is to certify that the attached Decision and Order and Certification of Representative in PERB Case Nos. 99-UM-10 and 99-UCN-08 was mailed (U.S. Mail) to the following parties on this the 17th day of December, 1999.

Russell Carpenter
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U.S. MAIL

Courtesy Copies:

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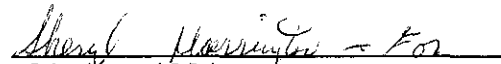
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