

**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 1403,	)	
	)	
Petitioner,	)	PERB Case No. 04-RC-01
and	)	Opinion No. 777
	)	
District of Columbia Government,	)	
	)	
Respondent.	)	
	)	
	)	

**DECISION ON DIRECTION OF ELECTION**

In PERB Case No. 02-RC-06, the American Federation of Government Employees, Local 2725 ("AFGE, Local 2725"), filed a Recognition Petition. AFGE, Local 2725 was seeking to represent for purposes of collective bargaining, a proposed unit of seven attorneys employed by the District of Columbia Department of Consumer and Regulatory Affairs, Office of Compliance ("DCRA").

The Office of Labor Relations and Collective Bargaining ("OLRCB"), on behalf of DCRA, objected to the proposed unit on the ground that DCRA is a subordinate Agency under the District of Columbia Legal Services Act ("LSA").<sup>1</sup> Specifically, OLRCB asserted that a city-wide unit of all subordinate agency attorneys was the only appropriate unit for collective bargaining over terms and conditions of employment.

---

<sup>1</sup> The District of Columbia Legal Services Act is codified at D.C. Code §1-608.51-62, Subchapter VIII-B. (2001 ed.). This Act establishes "within the District government a Legal Service for independent and subordinate agencies to ensure that the law business of the District government is responsive to the needs, policies and goals of the District and is of the highest quality."

After considering AFGE, Local 2725's Recognition Petition and OLRCB's objection, the Board determined that a city-wide unit of all subordinate agency attorneys was the appropriate unit because a community of interest existed among all of the employees in the proposed city-wide multi agency unit. Also, the Board found that the proposed city-wide unit would promote effective labor relations and efficiency of agency operations. As a result, in Slip Op. No. 743, the Board found that the following unit was an appropriate unit for collective bargaining over terms and conditions of employment:

All attorneys within the Legal Service who come within the personnel authority of the Mayor of the District of Columbia, excluding attorneys employed exclusively by the (Office of the Attorney General for the District of Columbia (formerly the Office of the Corporation Counsel), 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.<sup>2</sup>

Board Rule 502.2, provides in pertinent part that, a "petition for exclusive recognition shall be accompanied by proof, not more than one (1) year old, that at least thirty percent (30%) of the employees in the proposed unit desire representation by the petitioner." The original "Recognition Petition" submitted by AFGE, Local 2725 was supported by a showing that a least 30% of the attorneys at DCRA, desired to be represented by AFGE, Local 2725. However, the "Recognition Petition" submitted by AFGE, Local 2725 was not accompanied by any additional showing of interest, which would constitute a 30% showing of interest for the larger proposed multi agency unit. As a result, the Board indicated that it could not order an election in PERB Case No. 02-RC-06 (Slip Op. No. 743). Instead, the Board ordered that the American Federation of Government Employees,

---

<sup>2</sup> In Slip Op. No. 743 (PERB Case No. 02-RC-06) the Board noted that the proposed multi agency unit consists of "all attorneys within the Legal Service who come within the personnel authority of the Mayor... excluding attorneys employed exclusively by [either] the Office of the Corporation Counsel. [or by the Public Service Commission]... [However, the city-wide multi agency unit would include attorneys at the following subordinate agencies:],... DCRA, the Office of Cable Television and Telecommunications; Department of Corrections; Department of Health; Department of Employment Services; Department of Public Works; Department of Insurance and Securities Regulation; Department of Human Services; Office of Contracts and Procurement; Office of Banking and Financial Institutions; Office of the Chief Medical Examiner; Alcoholic Beverage Regulation Administration, and the Department of Parks and Recreation." All of the attorneys in this proposed unit are assigned to the General Counsel's offices of the various subordinate agencies; however, they still report to the Office of the Attorney General (formally the Office of the Corporation Counsel).

Local 2725 and any other interested labor organization who desired to represent the proposed multi agency unit, should file a recognition petition supported by the appropriate showing of interest. The Board noted that only after those submissions are received can the Board make a showing of interest determination and order that an election 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 all eligible employees desire to be represented by AFGE, Local 2725 or another labor organization for purposes of collective bargaining.

AFGE, Local 2725 did not submit a recognition petition supported by a showing of interest for the larger multi agency unit. The only labor organization which filed a recognition petition for the multi agency unit was AFGE, Local 1403. AFGE, Local 1403 also submitted evidence of showing of interest as required by Board Rule 502.2. AFGE, Local 1403's "Recognition Petition" was assigned PERB Case No. 04-RC-01. The Board's staff conducted an investigation and determined that the recognition petition submitted by AFGE, Local 1403 satisfied the thirty (30%) showing of interest requirement of Board Rule 502.2. As a result, the Board's Executive Director issued a Notice concerning AFGE, Local 1403's Petition. The Office of Labor Relations and Collective Bargaining acknowledged that Notices were posted on bulletin boards at all subordinate agencies. No other labor organization sought to intervene and no comments were received concerning AFGE, Local 1403's Recognition Petition.

In Slip Op. No. 743 we found that a city-wide multi agency unit of attorneys was an appropriate unit. Therefore, the only issue to be determined in the present case (PERB Case No. 04-RC-01), concerns the question of representation. Regarding the question of representation, the Board orders that an election be held in accordance with the provisions of D.C. Code § 1-617.10 (2001 ed.) and Board Rules 510-515, to determine the will of all eligible employees (in the city-wide multi agency unit described above), regarding their desire to be represented by AFGE, Local 1403 for purposes of collective bargaining with the District of Columbia Government. Since employees in the proposed city-wide multi agency unit are at various locations, 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 attorneys within the Legal Service who come within the personnel authority of the Mayor of the District of Columbia, excluding attorneys employed exclusively by the Office of the Attorney General for the District of

Columbia (formerly the office of the Corporation Counsel), management officials, supervisors, confidential 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 all eligible employees desire to be represented for bargaining on terms and conditions of employment by either the American Federation of Government Employees, Local 1403 or no Union.
- (3) Pursuant to Board 559.1, this Decision and Order is final upon issuance.

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

January 13, 2005

**CERTIFICATE OF SERVICE**

This is to certify that the attached "Certification of Representative" in PERB Case No. 04-RC-01 was served by U.S. Mail to the following parties on this the 13<sup>th</sup> day of January 2005.

Robert Spagnoletti, Esq.  
Attorney General  
1350 Pennsylvania Avenue, N.W.  
Suite 409  
Wilson Building  
Washington, D.C. 20001

**FAX & U.S. MAIL**

Mary Leary, Director  
Office of Labor Relations and  
Collective Bargaining  
441 4<sup>th</sup> Street, N.W., Rm. 820 North  
Washington, D.C. 20001

**FAX & U.S. MAIL**

Steven Anderson, President  
AFGE, Local 1403  
441 4<sup>th</sup> Street, N.W.  
Rm. 6S108  
Washington, D.C. 20001

**FAX & U.S. MAIL**

**Courtesy Copy:**

Jonathan O'Neill, Esq.  
Office of Labor Relations and  
Collective Bargaining  
441 4<sup>th</sup> Street, N.W., Rm. 820 North  
Washington, D.C. 20001

**U.S. MAIL**

Gail Davis, Esq.  
Corporation Counsel  
441 4<sup>th</sup> Street, N.W.  
Suite 1060 North  
Washington, D.C. 20001

**U.S. MAIL**

Certification of Election Results  
PERB Case No. 02-RC-01  
Page 2

Michael Jacobs, Esq.  
Office of Labor Relations and  
Collective Bargaining  
441 4<sup>th</sup> Street, N.W., Rm. 820 North  
Washington, D.C. 20001

U.S. MAIL

  
Sheryl V. Harrington  
Secretary