

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify the 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:)
)
Fraternal Order of Police/)
Department of Human Services)
Labor Committee,)
)
 Petitioner,)
)
 and)
)
District of Columbia)
Department of Human Services,) PERB Case No. 96-RC-02
) Opinion No. 494
 Agency,)
)

DECISION AND DIRECTION OF ELECTION

On July 2, 1996, Fraternal Order of Police/Department of Human Services Labor Committee (FOP) filed a Recognition Petition with the Public Employee Relations Board (Board). FOP seeks to represent, for purposes of collective bargaining, D.C. Department of Human Services (DHS) employees, who are currently represented by the American Federation of Government Employees, Local 383, AFL-CIO (AFGE) in a unit described as follows:

All District Schedule employees of the Department of Human Resources at Laurel, Maryland in the Institutional Care Services Division and Forest Haven; excluding guards, teachers and instructors, nurses, management executives, confidential employees, supervisors, 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.^{1/}

The Petition was accompanied by a showing of interest meeting the requirements of Board Rule 502.2 and a copy of the

^{1/} AFGE, Local 383, AFL-CIO and DHS, BLR Case No. 8R011 (Amendment of Certification, June 5, 1978).

Petitioner's Constitution and Bylaws and Roster of Officers, as required by Rule 502.1(d).

The Board issued Notices concerning the Petition on August 23, 1996, for conspicuous posting at DHS for 15 consecutive days. The Notices required that requests to intervene and/or comments be filed in the Board's office not later than September 23, 1996. The Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of DHS, filed a Response to Recognition Petition on August 5, 1996, wherein it had no opposition to the Petition. On September 30, 1996, OLRCB confirmed in writing that the Notices had been posted accordingly.

By letter dated September 25, 1996, AFGE was informed of its right to intervene as the incumbent labor organization pursuant to Board Rule 502.8(b). AFGE did not file a request to intervene during the time provided by the Board's Notice, as provided under Board Rule 501.14 and 502.7, or by October 7, 1996, the additional time AFGE requested in response to the Board's September 25 letter.^{2/} AFGE subsequently filed a letter requesting to intervene on October 9, 1996, to which Petitioner FOP objected as untimely. In the absence of good cause for AFGE's untimely request to intervene, the lack of a request for an extension of time in accordance with Board Rules 501.1 and 501.2, and Petitioner's objections, AFGE's request to intervene is denied as untimely.^{3/} No other comments or requests to

^{2/} The Board maintains a policy of issuing a courtesy letter notifying an incumbent labor organization when a recognition petition has been filed seeking any part of a collective bargaining unit it still represents. As noted in the text, that letter, though merely a courtesy, was not issued until September 25, 1996, after the period for intervening set forth in the Board's Notice had expired. Since this letter did not issue consistent with this policy, i.e., shortly after FOP's Petition was filed, the deadline for AFGE to request to intervene was extended from September 23 to October 7, 1996.

^{3/} We note that Board Rule 505.6 provides incumbent unions 10 days from the filing of a decertification petition to respond and indicate a desire to continue representing the collective bargaining unit. Failure to timely respond, results in an order decertifying the incumbent union. We find AFGE's failure to timely intervene to be a comparable failure on its part. Our denial of AFGE's request to intervene is especially appropriate, where AFGE has been extended additional time to preserve any continuing interest it maintained in the unit. Our Order directing an election for this unit of employees, with the Petitioner as the only labor organization on the ballot,

intervene have been filed.

After concluding our investigation and reviewing the entire record in this matter, the Board orders that an election be held to determine the will of the employees eligible to vote in the unit described above and previously found appropriate regarding representation in collective bargaining with DHS.^{4/}

ORDER

IT IS HEREBY ORDERED THAT:

1. The American Federation of Government Employees, Local 383, AFL-CIO's (AFGE) request to intervene is denied.
2. An election shall be held in accordance with the provisions of D.C. Code §1-618.10 and § 510-515 of the Rules of the Board to determine whether or not all eligible employees desire to be represented for purposes of collective bargaining on compensation and terms and conditions of employment by the Fraternal Order of Police/Department of Human Services Labor Committee.

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

October 31, 1996

effectively decertifies AFGE as the certified labor organization.

^{4/} The Petition was filed during the open period of the noncompensation collective bargaining agreement between AFGE and DHS, which is effective by its terms through September 30, 1996. Therefore, we find that, in accordance with Board Rule 502.9(b)(i), the noncompensation agreement does not bar the filing of this Petition.