

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 Health and ) PERB Case Nos. 97-UM-05  
Hospitals Public Benefit Corporation,) and 97-CU-02  
) Opinion No. 582  
)  
Agency, )  
)  
and )  
)  
All Unions Representing Bargaining )  
Units in Compensation Units 12, 20, )  
21, 22, 23 and 24 and employees )  
employed by the Health and Hospitals )  
Public Benefit Corporation, )  
)  
Labor Organizations. )  
)  
)

---

**DECISION AND ORDER**

On January 30, 1997, the Board initiated the above-referenced Petition for Modification of Compensation and Non-Compensation Units and Determination of New Compensation Unit (PERB Case No. 97-UM-05) pursuant to the statutory mandate of the Health and Hospitals Public Benefit Corporation Act of 1996, D.C. Law 11-212 (Act), as codified under D.C. Code Sec. 32-262.8(j). D.C. Code Sec. 32-262.8(j) provides that "[w]ithin 120 days of the first meeting of the [PBC] Board, in accordance with Sec. 32-262.4(h), the District of Columbia Public Employee Relations Board shall investigate and render determinations regarding the establishment of the appropriate unit for working conditions and compensation within the Corporation and, pursuant to applicable statutory and regulatory provisions, certify labor organizations as the exclusive bargaining agents for these units." (Emphasis added.)

The Board issued its Decision and Order and Direction of Election on June 25, 1998 (Opinion No. 559). In that Decision, the Board directed that an election be conducted to determine the

**Decision and Order**  
**PERB Case No. 97-UM-05**  
**Page 2**

certified representative for two of the units it found appropriate, i.e., the medical officers unit and the allied health care unit. The affected parties were unable to reach consensus on the terms of the directed election. Therefore, the Board issued Opinion No. 564 wherein the Board directed the election procedures for the two elections.

With respect to the allied health care unit, the Board had adopted the Hearing Examiner's finding that a unit of all allied health care employees is appropriate. However, the Board concluded in Opinion No. 564 that since the allied health care unit consisted of both professional and non-professional employees, the Comprehensive Merit Personnel Act (CMPA) required that the professional employees in the unit be polled to determine if they wish to be included in a single unit with non-professional employees. See, D.C. Code § 1-618.9(b)(5). Also confronting the Board in Opinion No. 564 was a Motion filed by two of the existing representatives of allied health care employees, i.e., Service Employees International Union (SEIU), 1199E-D.C. and the American Federation of State, County and Municipal Employees (AFSCME), Local 1033. SEIU and AFSCME sought approval to appear jointly in any Board-directed election. However, since the polling of the professional allied health care employees had to occur before the election to determine the certified representative, the Board dismissed the Motion without prejudice to re-file once the result of the poll was known.

The professional employees have since voted against inclusion in a consolidated unit. AFSCME and SEIU have re-filed their Request for joint certification of the unit of professional allied health care employees.<sup>1/</sup> The Health and Hospitals Public Benefit Corporation (PBC) has not filed a response to the Request.<sup>2/</sup> The Joint Request by SEIU and AFSCME is now before us for our consideration and disposition.

---

<sup>1/</sup> SEIU is ineligible to be on the ballot for non-professional allied health care employees unit since they do not represent any of the non-professional employees in that unit.

<sup>2/</sup> Although the PBC did not respond to this re-filed request by AFSCME/SEIU; it had opposed AFSCME/SEIU's previous request for joint representation of the entire unit of professional and non-professional allied health care unit. However, rejection of representation is not an option for these employees. The choice under the Board directed election for employees here was representation as between two different labor organization. Therefore, the assent or opposition of the PBC to this Request is not critical to our analysis in determining whether or not SEIU and AFSCME may be properly certified as the joint representative of this bargaining unit.

**Decision and Order**  
**PERB Case No. 97-UM-05**  
**Page 3**

The PBC Act authorizes the Board to act on SEIU/AFSCME's request consistent with our authority under the CMPA and Board Rules. We have previously certified, under remarkably similar circumstances, two distinct labor organizations that jointly sought certification as the representatives of a collective bargaining unit previously found appropriate. See, Washington Area Metal Trade Council, AFL-CIO and Federal Employees and Transportation Workers, Local Union 960, LIUNA, AFL-CIO and D.C. Dep't of Human Services, Commission on Mental Health Services, PERB Case No. 87-R-16, Certification No. 46 (1987) and American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2095 and AFL-CIO and D.C. Dep't of Human Services, Commission on Mental Health Services and the American Federation of Government Employees, Local 383, PERB Case No. 87-R-15, Certification No. 45 (1987).

In those cases the Board certified without an election the existing representatives of units transferred, pursuant to Public Law 98-621, from St. Elizabeth Hospital to the D.C. Department of Human Services (DHS), Commission on Mental Health Services (CMHS). In both instances the Board had previously found the transferred units, represented by two different unions, appropriate as a single consolidated unit under DHS/CMHS. Since the affected unions had previously been certified as the representative of their respective units, we found no question concerning representation requiring an election to certify the union jointly as the representative of the new consolidated unit found appropriate.<sup>3/</sup>

Under our prior Decisions only AFSCME and SEIU could appear on the ballot. We see no reason why they may not appear jointly, if they so request, so long as joint certification does not create confusion as to who is the employees' exclusive representative. We have received such assurances.

---

<sup>3/</sup> In deciding there was no obstacle to certifying these unions as joint representatives, the Board also observed that the collective bargaining agreements between DHS and the individual unions involved had expired. Although the PBC Act maintained existing terms and conditions of employment that existed at the time of the transfer of these employees to the PBC, the PBC Act provides that new collective bargaining agreements are to be "[n]egotiat[ed] between the Corporation and the labor organizations that have been certified to represent its employees ... not later than 180 days after the first meeting of the Corporation's Board of Directors." D.C. Code Sec. 32-262.8(j). Thus, we find similarly that the respective former agreements of SEIU and AFSCME do not present an impediment to their certification as a joint representative of a unit consisting of the consolidation of former bargaining units they represent.

**Decision and Order**  
**PERB Case No. 97-UM-05**  
**Page 4**

Based on the above, we grant the Joint Request of AFSCME and SEIU that they be certified, jointly, as the certified representative of the unit we found appropriate consisting of all professional allied health care employees. As such, our Order in Opinion No. 564 directing an election among the employees in this unit is hereby rescinded.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The Joint Request of the American Federation of State, County and Municipal Employees, Local 1033 (AFSCME) and the Service Employees International Union, District 1199E (SEIU), to be certified as a joint representative of the collective bargaining unit consisting of all professional allied health care employees, previously found appropriate in Opinion No. 564 in this case, is granted.
2. AFSCME, Local 1033 and SEIU, District 1199E, are certified jointly as the exclusive bargaining representative of the non-compensation bargaining unit consisting of all professional allied health care employees as set forth in the attached Certification of Representative, Certification No. 105.

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

February 10, 1999

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD**

---

In the Matter of:	)	
	)	
	)	
District of Columbia Health and Hospitals Public Benefit Corporation,	)	PERB Case Nos. 97-UM-05 and 97-CU-02
	)	
Agency,	)	Certification No. 105
	)	
and	)	
	)	
All Unions Representing Bargaining Unit Employees employed by the Health and Hospitals Public Benefit Corporation and Bargaining Units in Compensation Units 12, 20, 21, 22, 23 and 24,	)	
	)	
Labor Organizations.	)	
	)	

---

**CERTIFICATION OF REPRESENTATIVE** <sup>1/</sup>

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 Merit Personnel Act of 1978, the Health and Hospitals Public Benefit Corporation Act of 1996, D.C. Law 11-212 (Act), as codified under D.C. Code Sec. 32-262.8(j), 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

---

<sup>1/</sup> This Certification supersedes the Certification of the American Federation of State County and Municipal Employees, Local 1033 (AFSCME) and the Service Employees International Union, District 1199E (SEIU) as the exclusive representatives of the units set forth in , Certification No. 71, PERB Case Nos. 93-R-03 and 0R007 (1993) and Certification No. 67, PERB Case No. 91-R-01 (1992), respectively.

**Certification of Representative**

**PERB Case No. 97-UM-05**

**Page 2**

§§ 1-605.2(1) and (2), 1-618.9(c); Board Rule 504.1(d) and 504.5(e);

**IT IS HEREBY CERTIFIED THAT:**

The American Federation of State, County and Municipal Employees, Local 1033 (AFSCME) and the Service Employees International Union, District 1199E (SEIU), jointly, has been designated by a majority of the employees of the above-named public employer in the consolidated 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.

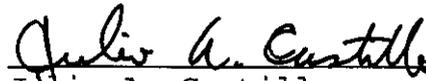
Unit Description:

All professional allied health care employees (excluding medical officers and registered nurses) employed by the Health and Hospitals Public Benefit Corporation (PBC); but excluding all management officials, confidential employees, supervisors, employees engaged in personnel and labor management relations 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.

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

Washington, D.C.

February 10, 1999

  
\_\_\_\_\_  
Julio A. Castillo  
Executive Director

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order and Certification of Representative in PERB Case No. 97-UM-05 was sent via mail (U.S. Mail) to the following parties on the 10<sup>th</sup> day of **February**, 1999:

Gloria P. Clement, Esq. U.S. MAIL  
Associate General Counsel  
AFSCME, District Counsel 20  
1101 17<sup>th</sup> Street, N.W. Suite 210  
Washington, D.C. 20036

Emily Perry U.S. MAIL  
Area Vice President  
SEIU Eastern District 1199E  
611 N. Eutaw Street  
Baltimore, MD 21202

Michael L. Stevens, Esq. U.S. MAIL  
Arent, Fox, Kintner,  
Plotkin & Kahn  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Courtesy Copies

Michelle D. Thompson, Esq. U.S. MAIL  
District 1199E-D.C.  
611 N. Eutaw Street  
Baltimore, Maryland 21201

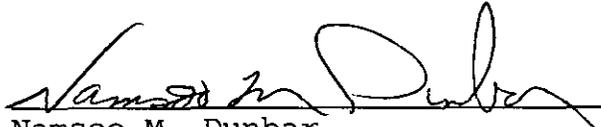
Robert Moore, President U.S. MAIL  
Service Employees  
International Union 1199E-D.C.  
1637 Columbia Road, N.W.  
Suite 101  
Washington, D.C. 20009

Lorreta Owens, President U.S. MAIL  
AFSCME, Local 1033  
D.C. Public Benefit Corporation  
1900 Massachusetts Avenue, S.E.  
4<sup>th</sup> Floor  
Washington, D.C. 20003-2569

**Decision and Order**  
**PERB Case No. 97-UM-05**  
**Page 8**

Roscoe Ridley  
Steve Cook  
General Counsel Office  
D.C. Public Benefit Corporation  
1900 Massachusetts Avenue, S.E.  
Washington, D.C. 20003-2569

U.S. MAIL

A handwritten signature in black ink, appearing to read "Nansoo M. Dunbar", written over a horizontal line.

Nansoo M. Dunbar  
Deputy Executive Director