

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)	
)	
District 1199E, National Union of)	
Hospital and Health Care)	
Employees, RWDSU, AFL-CIO,)	
)	
Petitioner,)	PERB Case No. 82-R-05 A
and)	
District of Columbia)	Opinion No. 37
Department of Human Services,)	
)	
Agency,)	
and)	
District of Columbia)	
Nurses Association,)	
)	
Intervenor.)	
)	
)	

DECISION AND ORDER

On February 9, 1982 and as amended February 23, 1982, District 1199E, National Union of Hospital and Health Care Employees, RWDSU, AFL-CIO, (hereafter 1199E) filed a Recognition Petition with the District of Columbia Public Employee Relations Board (Board) seeking exclusive representation of the following unit.

"All non-supervisory, non-managerial personnel employed by the D.C. Department of Human Services in positions classified to the GS-610 and 615 Occupational Series except those working at the Rehabilitation Center for Alcoholics excluding management executives, confidential employees, supervisors or any employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of D.C. Law 2-139."

The Petition was properly accompanied by a showing of interest exceeding the percentage required by Board Rule 101.7. The incumbent representative, District of Columbia Nurses Association (hereafter DCNA) filed its Request to Intervene and a Motion to Dismiss with the Board on March 1, 1982.

After concluding its investigation and reviewing the entire record, the Board makes the following determination:

1. The Petition filed on February 23, 1982 amends the February 9, 1982 Petition. Accordingly the February 23, 1982 document does not operate as operate as a new petition.
2. There is no certification year bar to the Petition based on the principles announced in the Board's Opinion No 17.1 Application of these principles to the facts in this matter leads to a similar conclusion. DCNA was certified to represent the registered nurses at the Department of Human Services (DHS) in May of 1972. The February 6, 1981, compensation unit determinations did not constitute a certification bar to a challenge by 1199E.
3. Based on the principles announced in Opinion No. 17², there is no contract bar to the Petition. The agreement between DHS and DCNA expired on October 16, 1979. While DHS and DCNA reached a tentative agreement on new contract terms on February 8, 1982, the ratification and execution of these tentative agreements remain incomplete. Further, it appears that this is a tentative compensation agreement only and that working conditions negotiations have not been completed. It is evident that fully executed agreements do not currently exist between DHS and DCNA which could serve as a contract bar to the challenge of 1199E within the meaning Board Rule 101.8.

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1. In Opinion No. 17, the Board stated at page 2 that: "Nothing in the Comprehensive Merit Personnel Act of 1978 (CMPA) or the PERB Interim Rules indicate an intent to extend the certification year periods during this transition period. Therefore the argument that the certification year did not begin until February 6, 1981 is without merit."
 2. In Opinion No. 17, the Board stated at page 2 that: "The fact that the ...(Intervenor) and the ...(Agency) entered into a new three year contract one day prior to the...Petition does not alter [Petitioner's] right to file a Petition during the open period...The provision of 101.8(b) stands on its own and is not affected by the signing of a new contract...during the open period."

ORDER

It is ordered that:

An election be held for employees of the unit described herein to choose among 1199E, DCNA, and no union representation.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
April 28, 1982.