

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 State,)	PERB Case No. 05-RC-05
County and Municipal Employees,)	
D.C. Council 20, Local 2401,)	Opinion No. 833
)	
Petitioner,)	
)	
and)	
)	
District of Columbia Office of)	
Human Rights,)	
)	
Agency.)	
_____)	

**DECISION ON UNIT DETERMINATION AND
DIRECTION OF ELECTION**

The American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2401 ("AFSCME" or "Petitioner"), filed a Recognition Petition ("Petition") in the above-captioned proceeding. AFSCME seeks to represent, for purposes of collective bargaining, a consolidated unit of unrepresented professional and non-professional employees employed by the District of Columbia Office of Human Rights. The Petition was accompanied by a showing of interest and a copy of the Petitioner's Constitution. (See Board Rules 502.1(d) and 502.2).

After conducting an investigation, the Board's Executive Director determined that AFSCME satisfied the showing of interest requirement of Board Rule 502.2. As a result, on February 17, 2006, Notices concerning the Petition were issued for conspicuous posting where Notices to employees are normally located at the District of Columbia Office of Human Rights. The Notices indicated that requests to intervene and/or comments should be filed in the Board's Office no later than March 6, 2006. On February 22, 2006, the Office of Labor Relations and Collective Bargaining ("OLRCB") on behalf of the District of Columbia Office of Human Rights confirmed that the Notices were posted. In addition, OLRCB submitted a comment. In their comment, OLRCB indicated that the agency does not oppose the Petition. No other comments were received. AFSCME's Petition is before the Board for disposition.

AFSCME seeks to represent the following proposed unit:

All professional and non-professional employees employed by the District of Columbia Office of Human Rights, excluding 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.

D.C. Code § 1-617.09(a) (2001 ed.), requires that a community of interest exist among employees in order for a unit to be found appropriate by the Board for collective bargaining over terms and conditions of employment. An appropriate unit must also promote effective labor relations and efficiency of agency operations.

Our review of the Petition, the agency's comments and attached exhibits reveal that the proposed unit consists of the following employee positions: EEO specialists-investigators, program support assistant, compliance officer and hearing examiner. All of these employees share a common mission within the District of Columbia Office of Human Rights. No other labor organization represents these employees. Also, there is no collective bargaining agreement in effect covering any of these employees.

In view of the above, we believe that sufficient factors exist for the Board to find that these employees share a community of interest. Such a unit of professional and non-professional employees employed by the District of Columbia Office of Human Rights that share a common purpose and mission would promote effective labor relations and efficiency of agency operations and thereby constitute an appropriate unit under the Comprehensive Merit Personnel Act.

Regarding the question of representation, we order that an election be held to determine the will of the eligible employees (in the unit described above), regarding their desire to be represented by AFSCME, Local 2401 for purposes of collective bargaining with the District of Columbia Office of Human Rights. Also, in order to conform with the requirements of D.C. Code § 1-617.09(b) (2001 ed.) and Board Rule 510.5 (concerning the inclusion of professional and non-professional employees in the same unit), we order that all eligible professional employees indicate their choice on separate ballots as to: (1) whether they desire to be represented for bargaining on terms and conditions of employment by AFSCME, Local 2401, and (2) whether they wish to be included in a consolidated unit with non-professional employees. Eligible non-professional employees, in the same election, shall indicate their choice only as to the former question. Finally, 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 professional and non-professional employees employed by the District of Columbia Office of Human Rights, excluding 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.

2. A mail ballot election shall be held in accordance with the provisions of D.C. Code §§ 1-617.09 (b) and 1-617.10. (2001 ed.) and Board Rules 510-515, in order to determine whether or not: (1) all eligible employees desire to be represented for propose of collective bargaining on compensation and terms and conditions of employment, by either the American Federation of State, County and Municipal Employees, DC Council 20, Local 2401 or No Union; and (2) all eligible professional employees wish to be included in a consolidated unit with non-professional employees. Eligible non-professional employees, in the same election, shall indicate their choice only as to the former question.

3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

March 28, 2006

CERTIFICATE OF SERVICE

This is to certify that the attached Decision on Unit Determination and Direction of Election in PERB Case No. 05-RC-05 was transmitted via Fax and U.S. Mail to the following parties on this the 28th day of March 2006.

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