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

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In the Matter of:)	
)	
American Federation of State, County and Municipal Employees, District Council 20, Local 2095, AFL-CIO,)	PERB Case No. 01-AC-01
)	Opinion No. 658
and)	
)	Motion for Reconsideration
American Federation of State, County and Municipal Employees, National Union of Hospitals and Health Care Employees, AFL-CIO,)	
)	
Petitioners,)	
)	
and)	
)	
District of Columbia Commission on Mental Health Services,)	
)	
Agency.)	
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DECISION AND ORDER

This matter involves a Motion for Reconsideration filed by Mary Horne on behalf of the American Federation of State, County and Municipal Employees, Local 2095.¹ Ms. Horne is requesting that the Board reverse its Decision and Order in Slip Opinion No. 651. In Slip Opinion No. 651, the Board granted a Petition to Amend Certification filed by the American Federation of State, County and Municipal Employees, D.C. Council 20, Local 2095, AFL-CIO (AFSCME or

¹Ms. Horne is President of AFSCME, Local 2095.

Council 20). In its Petition AFSCME was seeking to Amend Certification No. 45.² AFSCME asserted that the proposed amendment reflected the administrative change in the affiliation of Local 2095 from D.C. Council 20 to the National Union of Hospitals and Health Care Employees (NUHHCE).

Objections to AFSCME's Petition in PERB Case No. 01-AC-01, were filed by Mary Horne, President of AFSCME, Local 2095.³ Ms. Horne's objections were considered and rejected by the Board.⁴ As a result, the Board determined that the change in the identity of the exclusive representative did not raise a question concerning representation.⁵ Therefore, the Board granted

²PERB Certification No. 45 certified the American Federation of State, County and Municipal Employees, Council 20, Local 2095 and the American Federation of Government Employees, Local 383 as the joint representative for the following bargaining unit:

All non-professional, non-supervisory employees
in the Commission on Mental Health Services,
Department of Human Services, excluding management
executives, confidential employees, supervisors,
non-professional employees of the Construction,
electrical Mechanical Preventive Maintenance,
Garage and Fabric Care Sections, and any
employees engaged in personnel work in other
than a purely clerical capacity or employees
engaged in administering the provisions of D.C.
Law 2-139.

³Mary Horne filed similar objections in PERB Case No. 99-AC-01. In addition, Local 2095 filed a consolidated Unfair Labor Practice and Standards of Conduct Complaint (PERB Case Nos. 98-U-19 and 98-S-07) concerning Local 2095's change in affiliation from D.C. Council 20 to NUHHCE.

⁴AFSCME responded to the objections by arguing that the issues raised by Ms. Horne were identical to the objections she raised previously in PERB Case Nos. 99-AC-01, 98-S-07 and 98-U-19. Also, AFSCME claimed that the same objections had been considered and rejected by the Board.

⁵A change in the identity of the representative that does not raise a question concerning representation may include a change in the name of the labor organization.

AFCSME's Petition to amend Certification No. 45.⁶

In her Motion for Reconsideration, Ms. Horne contends that when the Board granted AFCSME's Petition, it "gave less consideration to the rights of the employees represented by Local 2095 than they did the Petitioner." In addition, Ms. Horne asserts that "the Hearing Examiners's Report and Recommendation, in PERB Case No. 99-AC-01 [which involved Locals 1033 and 2097], to which no exception was filed, are being applied and imposed on Local [2095] without benefit of an investigation to determine the merit and differences not applicable to Locals 1033 and 2097." In light of the above, Ms. Horne is requesting that the Board reverse Slip Opinion No. 651. The issue before the Board is whether to grant Ms. Horne's Motion for Reconsideration.

Prior to considering AFSCME's Petition in PERB Case No. 01-AC-01, the Board considered a similar Petition in PERB Case No. 99-AC-01. In that case (PERB Case 99-AC-01), AFSCME filed a Petition to Amend Certification Nos. 71 and 103. In its Petition, AFSCME asserted that the reason for the proposed amendment was to reflect the administrative change in the affiliation of several locals from District Council 20 to NUHHCE.

In PERB Case No. 99-AC-01, representatives from AFSCME, Locals 1033 and 2097 (Intervenors) filed objections. The objections were twofold. First, they argued that NUHHCE was not a subordinate body of AFSCME, but rather a separate entity. Second, they raised due process issues concerning how AFSCME effected the change from D.C. Council 20 to NUHHCE. The Board determined that the continuity of representation had been preserved and that members' due process rights had not been violated. Furthermore, the Board concluded that AFSCME's constitution authorized the President of the International to merge local affiliates with other unions. As a result, the Board granted AFSCME's Petition to Amend Certification Nos. 71 and 103.⁷

Similarly, in a another related matter, representatives from AFSCME, Local 2095 filed a consolidated Unfair Labor Practice and Standards of Conduct Complaint (PERB Case Nos. 98-U-19 and 98-S-07). The consolidated complaint alleged that AFSCME violated the Comprehensive Merit Personnel Act (CMPA) by changing the locals affiliation from D.C. Council 20 to NUHHCE. Specifically, the Complainant claimed that the merger took place without an affirmative vote by the membership of Local 2095.

The Board concluded that the arguments raised by the Complainant in PERB Case Nos. 98-U-19 and 98-S-07, were the same as those made by the Intervenors in PERB Case No. 99-AC-01.

⁶ See Slip Op. No. 651.

⁷ See Slip Op. No. 620.

Therefore, the Board rejected the Complainant's claims and dismissed the consolidated complaint.^{8/}

After reviewing the pleadings in PERB Case No. 01-AC-01, the Board concluded that the objections submitted by Ms. Horne, had been previously considered and rejected by the Board in PERB Case Nos. 99-AC-01, 98-S-07 and 98-U-19.^{9/} Furthermore, the Board determined that the objections did not raise any new issues. Therefore, the Board granted AFSCME's Petition to Amend Certification No. 45. Ms. Horne is requesting that the Board reconsider this decision.

In her Motion, Ms. Horne acknowledges that there are similarities in the objections she raised in PERB Case Nos. 99-AC-01 and 01-AC-01. However, Ms. Horne claims that "there are distinct differences in the actions taken by Local 2095 to prevent and to discontinue the affiliation/merger with NUHHCE." For example, Ms. Horne asserts that in PERB Case No. 99-AC-01, Locals 1033 and 2097 did not object to the affiliation/merger in a timely manner. Also, she claims that "unlike the other affected locals, Local 2095 voiced objections to the affiliation at an AFSCME International Executive Board meeting prior to the merger." In light of the above, Ms. Horne contends that the Board's findings in PERB Case No. 99-AC-01 should not have been applied to PERB Case No. 01-AC-01. Therefore, Ms. Horne believes that the Board should reverse its findings in Slip Opinion No. 651.

We believe that the arguments asserted in the Motion for Reconsideration, do not raise questions concerning representation. Instead, Ms. Horne's arguments amount to a mere disagreement with the Board's findings in PERB Case No. 01-AC-01. Furthermore, Ms. Horne claims that there are factual differences between PERB Case No. 99-AC-01 and PERB Case No. 01-AC-01, which raise issues concerning Local 2095's affiliation with NUHHCE. The Board notes that Local 2095 was previously given an opportunity to address this same issue; however, they chose not to submit comments. Specifically, in the consolidated complaint (PERB Case Nos. 98-S-07 and 98-U-19), the Hearing Examiner opined that the Board's decision in PERB Case No. 99-AC-01 resolved all the issues concerning the change in affiliation from D.C. Council 20 to NUHHCE. As a result, the Hearing Examiner issued an Order directing the parties to show cause why the consolidated complaint should not be dismissed based on the Board's findings in PERB Case No. 99-AC-01. However, Local 2095 did not submit a response. Instead, they chose to do nothing. We believe that if Local 2095 had a legitimate argument, they should have responded to the Hearing Examiner's Order.

⁸ The consolidated complaint was dismissed on February 1, 2001. See Slip Op. No. 645.

⁹ Although Certification No. 45 involves a joint representative, the Petition only concerned a change in the affiliation of AFSCME, Local 2095 from D.C. Council 20 to NUHHCE. Therefore, the Board determined that its holding in PERB Case No. 99-AC-01 was applicable to the facts in PERB Case No. 01-AC-01.

In light of the above, we find that Ms. Horne has failed to present a valid argument concerning why the Board should not have applied its findings in PERB Case No. 99-AC-01 to the facts in PERB Case No. 01-AC-01. In addition, we believe that Ms. Horne's arguments are similar to the "due process arguments" which have been previously considered and rejected by the Board. In short, Ms. Horne has failed to raise any new issues. Therefore, we believe that no basis exist for disturbing our earlier ruling. As a result, we deny Ms. Horne's Motion for Reconsideration.

ORDER

IT IS HEREBY ORDERED THAT:

The Motion for Reconsideration is denied.

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

August 27, 2001

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 01-AC-01 was transmitted via Fax and/ or U.S. Mail to the following parties on this 27th day of August 2001.

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Certificate of Service
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