

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)	
)	
District Council 20,)	
American Federation of State,)	
County and Municipal Employees,)	
AFL-CIO,)	
)	PERB Case No. 89-R-03
Petitioner,)	Opinion No. 235
)	
and)	
)	
District of Columbia)	
School of Law,)	
)	
Agency.)	

DECISION AND ORDER OF ELECTION

On June 14, 1989 District Council 20, American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) filed "Petition For Recognition Without An Election" with the Public Employee Relations Board (Board) seeking the exclusive right to represent non-professional, non-supervisory employees of the District of Columbia School of Law (DCSL). The Petition was properly accompanied by a showing of interest meeting the requirements of Section 101.2 of the Interim Rules of the Board.

Notices concerning the Petition were posted on June 20, 1989. No comments concerning the Petition were filed by DCSL and there were no requests to intervene or objections filed in response to the Petition.

The Board issued interrogatories and a request for production of documents to DCSL on August 14, 1989. After an approved extension of time DCSL filed its response to the interrogatories on September 25, 1989.

Having concluded its investigation and review of the record in this matter, the Board finds that the unit set forth below meets the requirements for an appropriate unit for collective bargaining over terms and conditions of employment:

All non-professional, non-supervisory employees of the D.C. School of Law, excluding management officials, supervisors, professional employees, 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. Code Section 1-618.9(a) requires that a community of interest exist for a unit found to be appropriate by the Board for collective bargaining over terms and conditions of employment. Under this provision, the Board determines on a case by case basis whether the employees in the proposed unit share certain interests, including skills, common supervision, physical location, organization structure, distinctiveness of functions performed and the existence of integrated work processes.

DCSL's response to the interrogatories provides information disclosing that all of the employees in the proposed unit have the same benefits, are on the same salary system, are in the same physical location, are governed by the same personnel policies and procedures and that there is a centralized personnel authority. The secretarial, administrative assistant and office manager positions, which comprise half of the proposed unit, require similar clerical skills with varying degrees of experience. Other positions in the proposed unit are also non-professional in nature, including library stackman/front desk receptionist, mail clerk/copies technician, and library assistant.

The job description for the computer technician slot indicates that the functions performed are not necessarily clerical in nature, since this position involves software and hardware installation. However, the job description indicates integrated work processes with other employees in the proposed unit. Furthermore, some dissimilarity in positions within the proposed unit is not fatal to a finding of appropriateness for an agency-wide or department-wide unit. See Teamsters Local Union

* The Petition sets forth a proposed unit that specifically includes Security Guards. Subsequent to the filing of the Petition the position of Security Guard/Front Desk was retitled Receptionist Front Desk. The unit description above encompasses this position.

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No. 246 and D.C. Department of Corrections, PERB Case No. 84-R-09, Certification No. 33 (1985); AFGE, AFL-CIO and D.C. Board of Parole, PERB Case No. 87-R-10, Certification No. 49 (1988); AFSCME, District Council 20 and D.C. Department of Finance and Revenue, PERB Case No. 83-R-07, Certification No. 20 (1983); AFGE Local 1975 and D.C. Department of Public Works, PERB Case No. 88-R-03, Certification No. 24 (as Amended March 22, 1989).

DCSL's response to the Board's interrogatories also indicates varying degrees of contact between employees in the proposed unit. General working conditions among employees in the proposed unit are similar. There is no assertion that the unit sought will not promote effective labor relations or the efficiency of agency operations.

Viewing the above factors in their entirety, the Board finds that the proposed unit meets the community of interest requirements and therefore concludes that the unit is appropriate for collective bargaining for terms and conditions of employment under D.C. Code Section 1-618.9(a). The Board must deny AFSCME's request for recognition without an election. D.C. Code Section 1-618.10 provides for certification of an exclusive representative only if that union is "selected by a majority of employees in an appropriate unit who participate in an election," subsection (a), with an exception in subsection (b) which allows the employer to recognize an exclusive representative without an election where majority status has been shown by alternative methods determined by the Board. Therefore, there is no statutory basis for the Board to certify an exclusive representative in the absence of either an election within the appropriate unit or an employer request for voluntary recognition on the basis of an approved alternate method for verifying majority status, such as a card check.

Having found that the above-described unit is an appropriate unit for collective bargaining over terms and conditions of employment, the Board directs that an election be held to determine the will of the eligible employees concerning representation in collective bargaining with DCSL.

ORDER

IT IS ORDERED THAT:

An election be held pursuant to Section 102 of the Interim Rules of the Board to determine whether the unit employees wish

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to be represented by District Council 20, AFSCME, or not, for purposes of collective bargaining over terms and conditions of employment.

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

October 31, 1989