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

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In the Matter of:	) )
American Federation of	)
Government Employees, Local 1000,	ĺ
Petitioner,	) PERB Case No. 10-UM-02
	) Opinion No. 1337
	) Motion for Reconsideration
District of Columbia, Department of Employment Services,	)
Employment bol vices,	) }
Respondent.	)
	j .

## **DECISION AND ORDER**

#### I. Statement of the Case

This matter involves a Motion for Reconsideration filed by the American Federation of Government Employees, Local 1000 ("Movant" or "Union") requesting the Public Employee Relations Board ("Board") to reconsider its dismissal of this case.

Through its president, Richard Campbell, the Union filed a "Petition for Unit Certification Modifications" ("Petition"). The agency affected by the proposed certification modification is the Department of Employment Services ("Respondent" or "Department"). The Respondent filed "Agency Comments Concerning Unit Modification Petition" in which it asserted an absence of community of interest in the proposed unit and requested a denial of the Petition.

The Executive Director sent Mr. Campbell a letter dated April 26, 2012 notifying him that the petition failed to include a "statement setting forth the specific reasons for the proposed modification" as required by Rule 504.2(e). In accordance with Rule 501.13, the Director allowed the Union ten (10) days to cure the deficiency. The letter was sent via e-mail and U.S. Mail to the e-mail address and the street address provided in the Petition. No amendment or response having been received, the Board dismissed the Petition on June 12, 2012. Am. Fed'n of

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Gov't Employees, Local 1000 v. D.C. Dep't of Employment Servs., Slip Op. No. 1277, PERB Case No. 10-UM-02 (June 12, 2012).

Thereafter Mr. Campbell sent the Director an e-mail alleging that the Union did not receive the deficiency letter of April 26, 2012 by either U.S. Mail or e-mail. He wrote that the Director's e-mail may have gone into a junk e-mail folder and that the letter was not received because the Union had moved when the Department moved to a new address. In addition, Mr. Campbell asked for an extension of time within which to file a motion for reconsideration. The Union subsequently filed a motion for extension of time, which was granted, and the instant Motion for Reconsideration. The Respondent did not submit a response to the Motion for Reconsideration.

#### II. Discussion

The Union's Motion for Reconsideration asserts that the Union "did not receive the notice allegedly sent by PERB" (Motion for Reconsideration at p. 2) and incorporates by reference the e-mail sent to the Director. (Id. at p. 1 & Exhibit 1). The remainder of the motion explains that the Movant filed the Petition as well as a recognition petition with regard to the inclusion of administrative law judges in the bargaining unit. The Movant contends that the administrative law judges fall within the collective bargaining agreement, or in the alternative that the unit should be modified on the ground that administrative law judge positions were created after the recognition or certification of exclusive representation. Thus, the motion implies that the Movant could, if given the opportunity, set forth in an amended petition specific reasons for the proposed modification.

Under the circumstances of this case, we find it appropriate for the Board to exercise its discretion in this matter, and we grant the Union's motion. Notwithstanding, the previously-noted deficiency in the Petition remains. Therefore, the Board reinstates the Petition, and the Board allows the Movant an additional ten (10) days from the service of this Decision and Order within which to file an amended petition complying with Rule 504.2.

#### **ORDER**

#### IT IS HEREBY ORDERED THAT:

- 1. The Union's motion for reconsideration is granted. The Petition is reinstated.
- 2. The Union is granted leave to file an amended petition complying with Rule 504.2 within ten (10) days of the service of this Decision and Order. Failure to file such an amended petition timely shall result in dismissal without further notice.

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3. Pursuant to Board Rule 559.2, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

October 18, 2012

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# **CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 10-UM-02 is being transmitted to the following parties on this 19th day of October 2012.

Richard M. Campbell, President AFGE Local 1000 4058 Minnesota Ave. NE Washington, DC 20019

VIA U.S. MAIL AND E-MAIL

richard2.campbell@dc.gov

Johnnie Walker National Representative AFGE District 14 444 N. Capitol St. NW, suite 841 Washington, DC 20001

<u>VIA LEXIS-NEXIS FILE AND SERVE</u>

Jonathan K. O'Neill Supervisory Attorney Advisor D.C. Office of Labor Relations & Collective Bargaining 441 Fourth St. NW, suite 820 North Washington, D.C. 20001

VIA U.S. MAIL AND E-MAIL

jonathan.o'neill@dc.gov

Adessa Barker

Administrative Assistant