

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**

District of Columbia Housing Authority/ Fraternal Order of Police Labor Committee)	
)	
)	
)	
)	PERB Case No. 25-S-02
Complainant)	
)	Opinion No. 1952
v.)	
)	
Wilette Williams, et al.)	
)	
Respondents)	

DECISION AND ORDER

I. Statement of the Case

On May 16, 2025, the District of Columbia Housing Authority/Fraternal Order of Police Labor Committee (FOP) filed an amended¹ standard of conduct complaint (Complaint) against various members of FOP’s Election Committee (Respondents). FOP alleges that the Respondents violated D.C. Official Code §§ 1-617.03(a)(1) and (4) of the Comprehensive Merit Personnel Act (CMPA) and Articles 5 and 9 of the FOP Bylaws, by refusing to count ballots that were submitted electronically online during an internal union election, thereby affecting the election results.² On May 28, 2025, the Respondents filed an answer (Answer) to the Complaint.

PERB held a hearing on the matter, and the Hearing Examiner issued a Report and Recommendations (Report), finding that FOP violated the CMPA and the FOP bylaws.³ The Report recommended that the Board order FOP to count the electronic votes and appoint the resulting winners to their rightful positions.⁴ Neither party filed exceptions.

¹ The amended complaint cured deficiencies identified in the initial complaint, filed May 2, 2025.

² Complaint at 2-5.

³ Report at 16.

⁴ Report at 16.

For the reasons stated herein, the Board adopts the Hearing Examiner's finding that FOP violated D.C. Official Code §§ 1-617.03(a)(1) and (4)⁵ and orders the recommended relief.

II. Hearing Examiner's Report and Recommendations

A. Hearing Examiner's Factual Findings

The Hearing Examiner made the following factual findings. At its March 27, 2025 general membership meeting, the membership agreed to schedule an election for April 30, 2025. The election would fill various positions of union leadership including Chairperson, Vice-Chairperson, Treasurer, Secretary, and Chief Shop Steward.⁶ The membership appointed an election committee (Committee). The members of the Committee are the Respondents here.⁷

An additional election-related meeting was held on April 10, 2025.⁸ During this meeting a union official introduced a motion to allow online electronic voting in the election.⁹ The motion passed with 15 Yeas, 4 Nays, and 2 abstentions.¹⁰ FOP's Acting Chairperson then sent an email to the union membership stating, "[t]he members have voted to allow electronic voting for the election on April 30, 2025. Polls will be open from 6 AM to 6 PM, and ballots can also be cast at the FOP office. Electronic voting will enable all members [who] cannot attend the polls in person to participate in the election."¹¹ The FOP members did not object to the planned hybrid election.¹²

None of the Committee members participated in the administration of the election.¹³ Rather, the FOP's Acting Chairperson instructed FOP's Business Agent to draft the online ballot and contract with a vote-tabulation company.¹⁴ The Business Agent contracted with Simply Voting, a company which FOP had previously used as the electronic voting vendor in its 2023 and 2024 elections.¹⁵

It was the FOP Business Agent's understanding that on the day of the election tally, there would be a laptop available to view the online ballot total.¹⁶ In actuality, due to limited resources, no laptop was available.¹⁷

⁵ The Board declines to adopt the Hearing Examiner's finding that the Respondent violated the Collective Bargaining Agreement, as that is a purely contractual matter. *See AFSCME, District Council 20 v. D.C. Gov't*, Slip Op. No. 1377 at 6, PERB Case No. 08-U-36 (2013) (stating that PERB lacks jurisdiction over disputes requiring interpretation or application of collective bargaining agreement terms; resolution of those matters should be sought through applicable grievance procedures rather than through an unfair labor practice complaint). Additionally, the Board notes that it does not adjudicate allegations of Board rule violations.

⁶ Report at 5-6.

⁷ Report at 5.

⁸ Report at 6.

⁹ Report at 6. In FOP's prior internal elections, voting was conducted electronically.

¹⁰ Report at 6.

¹¹ Report at 6.

¹² Report at 6.

¹³ Report at 6.

¹⁴ Report at 6.

¹⁵ Report at 6. FOP's Business Agent identified eligible voters for online voting by comparing a list from Human Resources to the active database of dues-paying members, as well as FOP's list of bargaining unit members.

¹⁶ Report at 7.

¹⁷ Report at 7.

The election was conducted on April 30, 2025. Thirty-six members voted electronically online and thirty-six members voted in-person.¹⁸ When the polls closed, Simply Voting emailed a tally of the online votes to FOP's Business Agent, who forwarded them to the Respondents at 6:15 p.m. In doing so, the Business Agent used the same email address used by FOP in its regular course of business and in its communications with all third-party vendors.¹⁹ The Respondents, however, did not accept or count the online votes. Instead, the Respondents counted only the in-person votes.²⁰ The Respondents then declared the election winners based solely on the ballots cast in person.²¹ Had the electronic votes been included in the tally, the positions of Chairperson, Vice-Chairperson, Chief Shop Steward, Secretary, and Treasurer--all of the positions at issue--would have been awarded to different candidates.

B. Hearing Examiner's Recommendation

The issue before the Hearing Examiner was whether the Respondents' decision to exclude the electronic ballots from the internal election tally violated the duty to conduct fair elections, as established under D.C. Official Code § 1-617.03(a)(4).

At the hearing, FOP asserted that bargaining unit members have a fundamental right to have their votes counted, and that the online electronic votes must be considered in determining the winners of the election.²² FOP argued that every eligible FOP member was notified of the option to vote electronically or in person, and that the refusal to count the online votes was not democratic and fair, thereby violating §§ 1-617.03(a)(1) and (4).²³

Before the Hearing Examiner, the Respondents contended that electronic voting was a mechanism used during COVID-19, which was never voted on by the membership.²⁴ The Respondents further stated that they had security concerns regarding the electronic online voting process, but were assured, incorrectly, by the Acting Chairperson that a laptop would be available on the election day for the purpose of viewing votes.²⁵ The Respondents conceded that they received three periodic updates on the voting tally by email from FOP's Business Agent, but argued they were concerned that the electronic voting system was not able to verify the identities of the members who voted electronically in the election.²⁶ The Respondents further argued they were unable to verify the identities of the thirty-six people who voted online.²⁷ Lastly, the Respondents objected to the Business Agent's participation in the election, noting he was not a part of the FOP's Board or Election Committee.²⁸

The Hearing Examiner found that, in advance of the election, the bargaining unit had voted to conduct a hybrid election and that FOP so informed eligible voters. The Hearing Officer further

¹⁸ Report at 7-8.

¹⁹ Report at 7, 9.

²⁰ Report at 8.

²¹ Report at 8.

²² Report at 10.

²³ Report at 10.

²⁴ Report at 12.

²⁵ Report at 12.

²⁶ Report at 12.

²⁷ Report at 12.

²⁸ Report at 12.

found that the Respondents' security concerns were unfounded, as the evidence showed the Simply Voting online system was secure and that eligible voters were identified based on information provided by FOP's Business Agent.²⁹ The Hearing Examiner, noting that Simply Voting provided periodic updates regarding the electronic voting, also rejected the Respondents' argument that the lack of a vote monitoring laptop affected the integrity of the process.³⁰ Additionally, the Hearing Examiner found that the Respondents' objection to the Business Agent's involvement in the election lacked merit, as the record showed he worked for FOP, that he had administered past online elections for the Union,³¹ and that the Business Agent was given the assignment by FOP leadership because of the Respondents' utter failure to do anything about the election until the actual election date.³² The Hearing Examiner concluded that by refusing to count the online votes, the Respondents had disenfranchised thirty-six voting members without legal basis, in violation of D.C. Official Code § 1-617.03(a)(1) and (4).³³

The Hearing Examiner recommended that the Board order the Respondents to (1) conduct a recount, including electronic ballots, and (2) where the outcome differed from the previous count, replace the erroneously elected officials with the true winners of the election, effective April 30, 2025.³⁴

III. Discussion

The Board will adopt a Hearing Examiner's Report and Recommendation if it is reasonable, supported by the record, and consistent with Board precedent.³⁵ The parties did not file exceptions to the Hearing Examiner's Report and Recommendation. PERB reviews a Hearing Examiner's Report and Recommendation even if no exceptions are filed.³⁶ Upon review of the record, the Board finds that the Report is reasonable, supported by the record, and consistent with Board precedent.³⁷ Therefore, the Board adopts the Hearing Examiner's Report and Recommendation.

IV. Conclusion

In this case, the Board finds that a recount of the ballots is an appropriate remedy, as neither party has filed exceptions. The Board finds that by declining to count the electronic ballots, after the membership had voted to approve this method of voting, the Respondents failed to conduct a fair election, thereby violating D.C. Official Code §§ 1-617.03(a)(1) and (4) of the CMPA.

²⁹ Report at 14.

³⁰ Report at 14.

³¹ Report at 14.

³² Report at 14.

³³ Report at 15.

³⁴ Report at 15.

³⁵ *WTU, Local 6 v. DCPS*, 65 D.C. Reg. 7474, Slip Op. 1668 at 6-7, PERB Case No. 15-U-28 (2018). *See AFGE, Local 1403 v. D.C. Office of the Attorney General*, 59 D.C. Reg. 3511, Slip Op. No. 873, PERB Case Nos. 05-U-32 and 05-UC-01 (2012).

³⁶ *AFGE, Local 631 v. WASA*, Slip Op. No. 1648 at 5, PERB Case No. 16-UM-01 (2018).

³⁷ *WTU, Local 6*, Slip Op. No. 1668 at 6; *see also AFGE, Local 1403*, Slip Op. No. 873.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondents recount the ballots submitted during the April 30, 2025 election, including those which were cast virtually; and
2. Where the outcome differs from the previous count, replace the erroneously appointed individuals with the true winners of the election, effective April 30, 2025.
3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By vote of Board Chairperson Peter Winkler and Members Mary Anne Gibbons, Renee Bowser, and Douglas Warshof.

March 19, 2026

Washington, D.C.

APPEAL RIGHTS

Pursuant to Board Rule 559.2, a party may file a motion for reconsideration within fourteen (14) days, requesting the Board to reconsider its decision. Additionally, a final decision by the Board may be appealed to the District of Columbia Superior Court pursuant to D.C. Official Code §§ 1-605.2(12) and 1-617.13(c), which provide thirty (30) days after a Board decision is issued to file an appeal.