

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:)	
)	
District of Columbia Public Schools,)	
)	
Agency,)	
)	
and)	
)	
Drivers, Chauffeurs and Helpers)	
Washington, D.C. and Metropolitan Area)	
Teamsters, Local Union No. 639)	PERB Case No. 08-UM-03
Affiliated with the International Brotherhood of)	
Teamsters, Chauffeurs, Warehousemen and Helpers)	Opinion No. 952
of America, AFL-CIO,)	
)	
)	
)	
Labor Organization.)	
)	

DECISION AND ORDER ON UNIT MODIFICATION

I. Statement of the Case:

On June 11, 2008, the District of Columbia Public Schools ("DCPS") and the Drivers, Chauffeurs and Helpers Washington, D.C. and Metropolitan Area Teamsters, Local 639, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, ("Teamsters, Local 639"), pursuant to Board Rule 504(1)(b) filed a document titled "Joint Petition for Unit Modification" ("Petition"). In their Petition, DCPS and Teamsters, Local 639 request that the Board modify Certification Number 60. Specifically, DCPS and Teamsters, Local 639 request that the Board modify Certification Number 60 by adding to an existing unit an unrepresented employee position created since the certification of the exclusive bargaining representative. (See Petition at p. 2).

In accordance with Board Rule 504.3, Notices concerning the Petition were posted. No objections or comments to the Petition were received by the Board. The Petition is before the Board for disposition.

II. Discussion:

On March 28, 1990, the Board certified Teamsters, Local 639 as the exclusive representative for the following unit at the District of Columbia Public Schools;

All RW classification employees¹ in the Supply Management Branch, Equipment Maintenance Unit of the District of Columbia Board of Education including typewriter repairer, general equipment repairer, radio repairer, general equipment repairer,² radio and television repairer, digital computer and television repairer, digital computer mechanic, warehouse worker, air condition equipment repairer, window shade helper, general appliance repairer, general equipment foreman, general woodwork repairer, digital computer foreman, locksmith, piano tuner repairer, general mechanic shop foreman, general woodwork helper and window shade mechanic; 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. (Certification Number 60, PERB Case No. 89-R-05, March 28, 1990).

In their petition, the parties claim that subsequent to Teamsters, Local 639's certification, DCPS created a new employee position titled "Musical Instrument Repairer." (See Petition at p. 2). The parties assert that the employee position of "Musical Instrument Repairer" is not yet part of any existing unit. As a result, the parties suggest that: (1) no other labor organization represents the Musical Instrument Repairer; (2) there is no collective bargaining agreement currently in effect covering this new position; and (3) no labor organization other than the parties would be affected by the change sought by this Petition. Also, the parties note that the existing unit contains approximately twenty (20) incumbents, and the proposed modification would add two (2) more employees to the unit. (See

¹The Petition in PERB Case No. 89-R-05 was "amended to exclude 'SW' classification employees, by stipulation of the parties in an election agreement." Certification No. 60 at p. 2, n 1.

²The position of "general equipment repairer" is listed twice in Certification No. 60. We believe this may be a typographical error.

Petition at p. 2). In support of their Petition, the parties assert the following:

- a. The new position shares a community of interest with the employee positions in the existing unit. Specifically, the employees in the position title "Musical Instrument Repairer" share interests, including skills, common supervision, physical location, organization, distinctiveness of functions performed, and the existence of integrated work process with employees in the bargaining unit represented by Local 639;
- b. Employees in the position title "Musical Instrument Repairer" perform the same functions and have the same responsibilities as employees with the bargaining unit represented by the Local 639; and
- c. There is no question concerning representation that would prevent the modification of the bargaining unit certification based on the functions and responsibilities of the employees in the "Musical Instrument Repairer" position title. (See Petition at p. 2).

Consistent with Board Rule 504.3, the Board's Executive Director prepared Notices concerning the Petition. These Notices were forwarded to the agency and were posted at the job sites. No objections or comments to the Petition were received by the Board. The issue before the Board is whether to grant the parties' Petition.

Board Rule 504.1 provides as follows:

A petition for unit modification of either a compensation or non-compensation unit may be filed by a labor organization, by an employing agency or jointly. A unit modification may be sought for any of the following purposes:

- (a) To reflect a change in the identity or statutory authority of the employing agency;
- (b) To add to an existing unit unrepresented classifications or employee positions created since the recognition or certification of the exclusive representative;
- (c) To delete classifications no longer in existence or which, by virtue of changed circumstances, are no longer appropriate to the established unit; or

- (d) To consolidate two or more bargaining units within an agency that are represented by the same labor organization.

An appropriate unit under the Comprehensive Merit Personnel Act is a unit that: (1) possesses a "community of interest" among the employees and (2) promotes effective labor relations and efficiency of agency operations. The Board has held that under D.C. Code § 1-617.09(a), "petitioning parties need only propose an appropriate unit, not necessarily the most appropriate unit, in order to meet the Comprehensive Merit Personnel Act's requirement for appropriate unit." *Health and Hospital Public Benefit Corporation and All Unions Representing Units in Compensation Units 12, 20, 21, 22, 23 and 24 and employees employed by the Health and Hospital Public Benefit Corporation*, 45 DCR 6743, Slip Op. No. 559 at p. 7, PERB Case Nos. 97-UM-05 and 97-CU-02 (1998). See also, *AFSCME, D.C. Council 20, AFL-CIO, and DHS, CMHS*, 38 DCR 5039, Slip Op. No. 278, PERB Case No. 90-R-01 (1991). In the present case, the new employee position titled "Musical Instrument Repairer" and those positions in the existing unit, share common working conditions, organizational structure, pay schedule and supervision. The Board has held that common overall supervision is probative of community of interest and some dissimilarity among positions need not preclude a finding of appropriateness where under the total circumstances, a general community of interest prevails. See, *District Council 20, American Federation of State, County and Municipal Employees Local and District of Columbia School of Law*, 36 DCR 8203, Slip Op. No. 235, PERB Case No. 89-RC-03 (1989). After reviewing the parties' pleading, we conclude that sufficient factors exist for the Board to find that the new employee position shares a community of interest with the positions that are currently in the existing unit. Also, there is no collective bargaining agreement in effect covering the new position. In view of the above, we find that the proposed modified unit would promote effective labor relations and the efficiency of agency operations.

ORDER

IT IS HEREBY ORDERED THAT:

1. The non-compensation unit for which the Drivers, Chauffeurs and Helpers Washington, D.C. and Metropolitan Area Teamsters, Local Union 639 affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, was certified as the exclusive representative in Certification No. 60, PERB Case No. 89-R-05 (March 29, 1990), is modified and will be described as set forth below. Nothing in this Order is to be construed as altering the scope of the bargaining unit except in the manner discussed in this Decision.
2. Certification Number 60 is modified by adding the position of "Musical Instrument Repairer."

The modified certification has been assigned Certification Number 150³. The modified unit is as follows:

All RW classification employees in the Supply Management Branch, Equipment Maintenance Unit of the District of Columbia Board of Education including typewriter repairer, general equipment repairer,⁴ radio repairer, radio and television repairer, digital computer and television repairer, digital computer mechanic, warehouse worker, air condition equipment repairer, window shade helper, general appliance repairer, general equipment foreman, general woodwork repairer, digital computer foreman, locksmith, piano tuner repairer, general mechanic shop foreman, general woodwork helper, window shade mechanic and musical instrument repairer; 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.

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.

August 3, 2009

³ The modified unit has been assigned Certification Number 150 and is attached to this Decision and Order.

⁴As previously noted, the position of "general equipment repairer" is listed twice in Certification Number 60. We believe that this may be a typographical error. As a result, the modified certification only lists the position once. See footnote 2, *supra*.