

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

The International Brotherhood of  
Teamsters, Local 246,

Intervenor,

and

The District of Columbia Depart-  
ment of Corrections,

Respondent.

PERB Case No. 85-R-07  
Opinion No. 152

DECISION AND ORDER

On May 22, 1985, the American Federation of Government Employees, Local 1550, AFL-CIO (hereinafter, AFGE) filed a petition with the Public Employee Relations Board (Board) seeking to establish a separate Department of Corrections Compensation Bargaining Unit. There are 2,300 employees in the proposed unit. These employees are currently a part of District-wide Unit 1 or Unit 2 for the purpose of compensation bargaining. The District negotiates a Master Contract with the combined Units 1 and 2. There are approximately 14,000 employees in Units 1 and 2. Most of the Corrections employees are in Unit 1, which totals approximately 10,000 employees. On May 31, 1985, Board notices were forwarded to the employer for posting.

On June 6, 1985, the International Brotherhood of Teamsters, Local 245 (hereinafter, Teamsters) filed as an intervenor in this proceeding based upon its showing in the March 19, 1985 election. The results of this election proceeding were overturned by the Board in April, 1985, and a second election ordered. The Teamsters, in their petition to intervene, state that they took the position early in their representation campaign that the Corrections employees "were entitled to a separate compensation unit".

On June 9, 1985, the D.C. Office of Labor Relations and Collective Bargaining (OLRCB) requested that the Board hold in abeyance any action on this case until after the outcome of the representation proceeding, and the Board granted that request. An election was subsequently scheduled

for August 27, 1985. The Teamsters won the election and was certified by the Board on September 13, 1985 as the exclusive representative for Corrections' employees for terms-and-conditions bargaining.

On September 18, 1985, OLRCB filed comments in their Opposition to the Petition contending that the Petition should be dismissed because the Petitioner, AFGE, no longer represented the Corrections' employees. OLRCB further contended that the Petition seeks to establish a department-wide compensation or wall-to-wall unit that would include clinical and maintenance employees, whose duties are similar to those of others in the District and do not warrant their being in a separate compensation unit, as this could result in different pay for the same work performed within the District Government.

The issue before the Board is whether a separate bargaining unit for employees of the D.C. Department of Corrections is appropriate for purposes of collective bargaining on compensation.

On October 22, 1985, the Board referred the matter to a Hearing Examiner for a Report and Recommendation. A hearing was held on November 20 and 21, 1985. On January 6, 1986, the Teamsters and OLRCB filed post-hearing briefs. <sup>1/</sup> The Hearing Examiner filed her Report and Recommendation with the Board on January 24, 1986. Exceptions to the Report and Recommendations were timely filed by the Teamsters on February 19, 1986.

The Hearing Examiner concluded that the establishment of a separate Compensation Unit for Corrections' employees would violate the statutory and administrative scheme of the District's labor relations program, and therefore recommended that the Petition be dismissed. More specifically, the Hearing Examiner found that the CMPA provides for separate and distinct types of bargaining, which require the application of different criteria to the determination of non-compensation and compensation units. Non-compensation units are established upon the bases of common interests such as "skills, working conditions...organizational structure, distinctiveness of functions performed," whereas compensation units are based on "broad occupational groups", in order to minimize the number of pay systems.

Moreover, the Hearing Examiner found the potential for the disruption of the current classification system if the Petition were granted, in that the establishment of a single compensation unit could result in pay disparities between jobs which are similar in nature, thus violating the equal pay provision of the Statute.

Finally, the Hearing Examiner concluded that the special concerns of the Corrections' employees could be and have been addressed under the present collective bargaining unit structure.

---

1. There is no indication from the record in this matter that AFGE, Local 1550 filed a post-hearing brief.

In their Exceptions to the Hearing Examiner's Report, the Teamsters contend that the Hearing Examiner reached conclusions which were both factually and legally erroneous. With respect to the Hearing Examiner's finding that the Petition does not state that non-compensation and compensation bargaining should proceed at the same time, the Teamsters direct attention to the language in the Petition which specifically sets forth this request. Exception is also taken to the finding by the Hearing Examiner that the union did not show a sufficient variation in working conditions to warrant the establishment of a separate bargaining unit. Contrary to this conclusion the Teamsters contend in their Exceptions, that the record supports a finding that the majority of the department's employees have contact with the inmate population, a factor which the union claims distinguishes these employees from their counterparts in other departments.

Although the Hearing Examiner notes that the granting of the Petition would establish a precedent in creating the only separate compensation unit in the District, the Teamsters assert that there is nothing in the Statute which precludes this result. Moreover, they further assert that the Board's 1981 Decision and Order, wherein compensation bargaining units were determined (PERB Case No. 80-R-08, Opinion No. 5) was issued without the benefit of any record evidence addressing the singular concerns of Corrections' employees.

With respect to the Hearing Examiner's finding that certain guidelines and procedures require the dismissal of the Petition, the union contends that the Hearing Examiner failed to identify the guidelines to which she refers. Similarly, the union alleges that the Hearing Examiner did not decide the issue of whether or not the compensation and non-compensatory items should be joined for purposes of collective bargaining. The union seeks a remand so that these omissions may be remedied or alternatively, that the Board reject the Hearing Examiners' recommendations in their entirety and grant the Petition. In support of the latter alternative, the union cites the Board's decision in PERB Case No. 85-R-01 (Opinion No. 119), wherein the Board found appropriate a compensation unit consisting of maintenance employees at the D.C. Armory Board.

The Board has reviewed the entire record in this matter including the issues raised by the Teamsters in their Exceptions and to the extent consistent herewith, concurs with the Hearing Examiner's Report and Recommendations.

Although the union contends that the record evidence demonstrates that the working conditions of the Corrections' employees differ from other departments, the Board concludes that these are matters more appropriately addressed during non-compensation bargaining and do not provide a sufficient basis for a separate compensation unit. Moreover, the Board has consistently held that compensation units are to be

Page Four

established on the basis of "broad occupational groups", in accordance with Section 1-618.16 (b) of the D.C. Code. The Board's decision in PERB Case No. 85-R-01 is clearly distinguishable from the instant case; there, the Board's order establishing a separate compensation unit for the maintenance employees was premised upon the parties's bargaining history. Moreover, because the Hearing Examiner here relied upon the clear language of the Statute and the Board's prior determination in 80-R-08 regarding the establishment of the appropriate compensation units, there is no necessity for a remand in order to determine the identity of the guidelines referred to by the Hearing Examiner in her report.

O R D E R

IT IS ORDERED THAT:

The Petition is dismissed.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD  
February 20, 1987