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**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
Teamsters Locals Union Nos. 639 and 730)	
a/w International Brotherhood of Teamsters,)	
)	
Petitioners,)	PERB Case No. 16-CU-01
)	
and)	Opinion No. 1560
)	
Department of General Services)	
)	
Respondent.)	
_____)	

DECISION AND ORDER ON COMPENSATION UNIT DETERMINATION

I. Statement of the Case

On November 6, 2015, Teamsters Local Union Nos. 639 and 730 (jointly “Teamsters”) filed a Petition for Compensation Unit Determination (“Petition”) with the Board, pursuant to Board Rule 503. The Teamsters are seeking a determination from the Board that all trade and craft labor employees that the Teamsters represent at the Department of General Services (“DGS”) be placed in Compensation Unit 2, and any professional, technical, or clerical employees that the Teamsters represent at DGS be placed in Compensation Unit 1.¹

¹ Labor organizations are initially certified by the Board under the Comprehensive Merit Personnel Act (“CMPA”) to represent units of employees that have been determined to be appropriate for the purpose of noncompensation terms-and-conditions bargaining. Once this determination is made, the Board then determines the compensation unit in which these employees should be placed. Unlike the determination of a terms-and-conditions unit, which is governed by criteria set forth under D.C. Official Code § 1-617.09, unit placement for purpose of authorizing collective bargaining over compensation is governed by D.C. Official Code § 1-617.16(b).

Pursuant to Board Rule 503.4, DGS posted the required notice for fourteen (14) consecutive days. No comments or requests for intervention were received by the Board.

II. Background

The Department of General Services was created by the D.C. City Council in the fall of 2011. Employees from other agencies were transferred to the Facilities Management Division (“FMD”) of DGS.² Employees represented by the Teamsters and who were employed by the District of Columbia Public Schools’ (“DCPS”) Office of Public Education Facilities Modernization (“OPEFM”) were among the employees transferred to DGS.³ While employed at DCPS, these employees were covered by a separate collective bargaining agreement, and were not placed in a D.C. compensation unit.

III. Discussion

A. Appropriateness of the compensation units

The Petition concerns the following group of employees covered under PERB Certification No.65 and who were transferred to the Department of General Services from D.C. Public Schools:

All employees in the Custodian Unit in the D.C. Public Schools System in the following job classifications: custodian foreman, custodian, assistant custodian, carpenter, carpenter helper, carpenter worker, plumber, plumber helper, plumber worker, locksmith, night custodian, gardener, gardener worker, school maintenance worker, janitor; and including,

All general maintenance repair workers, general maintenance repair leaders, cement finishers, maintenance worker helpers, masons, painters, painter helpers and leaders, plasterer leaders and plasterers, plumber leaders, pipefitters, sheet metal mechanics, welders, welder workers and leaders, electronic workers and leaders, locksmith leaders, window shade mechanics, pest controllers and leaders, gardener leaders, general equipment repair workers; and include,

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, radio and television repairer, digital computer and television repairer, digital computer mechanic, warehouse window shade helper, general appliance repairer, general equipment foreman, general woodwork repairer, digital computer foreman, locksmith, piano tuner repairer, general mechanic shop

² Petition at 2.

³ *Id.* at 3.

foreman, general woodwork helper and window shade mechanic; excluding from all of the above classifications the following: 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 1978.⁴

The Teamsters assert that these employees “work side by side and share the same overall supervision” and have the same or similar job titles as employees in FMD who are already included in Compensation Units 1 and 2 and who are represented by other unions. The employees represented by the Teamsters are currently on a different wage scale than the other employees. The Teamsters request that the Board determine that Compensation Unit 2 is appropriate for trade and craft employees they represent, and that Compensation Unit 1 is appropriate for any professional, technical, administrative, or clerical employees they represent.

The Board authorizes compensation units pursuant to D.C. Official Code § 1-617.16(b), which provides:

In determining an appropriate bargaining unit for negotiations concerning compensation, the Board shall authorize broad units of occupational groups so as to minimize the number of different pay systems or schemes. The Board may authorize bargaining by multiple employers or employee groups as may be appropriate.

The Board recognizes a two-part test from this provision to determine an appropriate compensation unit: (1) the employees of the proposed unit comprise broad occupational groups; and (2) the proposed unit minimizes the number of different pay systems or schemes.⁵

The list of job titles and classifications presented by the Teamsters includes a broad range of occupational groups. The Teamsters assert inclusion of the employees in Compensation Units 1 and 2 would minimize the number of different pay schemes within the District. DGS does not oppose the placement of the employees into Compensation Units 1 and 2.

The Board finds that both parts of its test have been satisfied. First, the affected employees occupy a broad range of occupational groups. Second, placement of the employees from their own wage scale into Compensation Units 1 and 2 would minimize the number of different pay schemes within the District. Therefore, the Board determines that Compensation Units 1 and 2 are appropriate bargaining units for negotiations concerning compensation for the above-specified employees.

⁴ *DCPS and Teamsters Local Unions Nos. 639 and 730, a/w with Inter'l Brotherhood of Teamsters*, 38 D.C. Reg. 4145, Slip Op. No. 252, PERB Case No. 90-R-08 (1990).

⁵ *AFSCME, D.C. Council 20, Local 2401 v. D.C. Pub. Schs.*, 59 D.C. Reg. 4954, Slip Op. No. 962 at 3, PERB Case No. 08-CU-01 (2009).

B. Coverage of the existing compensation agreements

DGS has requested that the compensation agreements for the affected employees be prospectively applied at a date to be negotiated by the parties.⁶ This is a matter of first impression. The CMPA does not speak specifically to this scenario, but the Board considers D.C. Official Code §§1-617.17(f) and (m) instructive.

D.C. Official Code § 1-617.17(m) states, in relevant part,

When the Public Employee Relations Board makes a determination as to the appropriate bargaining unit for the purpose of compensation negotiations pursuant to § 1-617.16, negotiations for compensation between management and the exclusive representative of the appropriate bargaining unit shall commence as provided for in subsection (f) of this section.

Subsection (f)(1)(a)(iii) states,

Where the compensation agreement to be negotiated is for a newly certified collective bargaining unit assigned to an existing compensation unit, the parties shall proceed promptly to negotiate concurrently any working conditions, other non-compensation matters, and coverage of the compensation agreement.

Subsection (f)(1)(a)(iii) is the closest situation to the present case, although it literally applies only to a newly-certified bargaining unit. In the present case, the Teamsters have been the certified representative for the affected employees under Certification No. 65 since 1991.⁷ The intent of the D.C. Council to allow the parties to bargain over the compensation set forth in 1-617.17 (m) leaves application of the compensation agreement open to negotiation as well. Therefore, the Board declines to determine that the application of the compensation agreement to these employees be prospective, as there is no indication that the parties have agreed to prospective application of the compensation agreement.

The Board denies DGS's request that the Board order Compensation Units 1 and 2 compensation agreements be prospectively applied.

⁶ DGS Comments at 1-2.

⁷ The unit was consolidated from Certification Nos. 35 (PERB Case No. 85-R-09) and 60 (PERB Case No. 89-R-05).

ORDER

IT IS HEREBY ORDERED THAT:

1. The Teamsters Petition for Compensation Unit Determination is granted.
2. Trade and craft employees represented by Teamsters under Certification No. 65, who were transferred from DCPS to DGS, are placed in Compensation Unit 2.
3. Professional, technical, administrative, or clerical employees represented by Teamsters under Certification No. 65, who were transferred from DCPS to DGS, are placed in Compensation Unit 1.
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Charles Murphy, Member Yvonne Dixon, and Member Ann Hoffman. Member Keith Washington was not present.

Washington, D.C.

January 21, 2016

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 16-CU-01 was served to the following parties via File & ServeXpress on this the 21st day of January 2016:

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