

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:	)	
	)	
Teamsters Local Union No. 730,	)	PERB Case No. 06-RC-03
a/w International Brotherhood	)	
of Teamsters,	)	Opinion No. 836
	)	
Petitioner,	)	
	)	
and	)	
	)	
District of Columbia Public Schools,	)	
	)	
Agency.	)	
	)	

**DECISION AND ORDER**

**I. Statement of the Case:**

On June 13, 2006, the Teamsters Local Union No. 730, a/w International Brotherhood of Teamsters, ("Teamsters Local 730 ", "Union" or "Petitioner"), filed a Recognition Petition ("Petition") in the above-captioned proceeding. Teamsters Local 730 seeks to represent, for purposes of collective bargaining, all full time and regular part-time facilities management workers employed by the District of Columbia Public Schools, Office of Facilities Management-Penn Center. The Petition was accompanied by a showing of interest and a copy of the Petitioner's Constitution. (See Board Rules 502.1(d) and 502.2)

After conducting an investigation, the Board's Executive Director determined that Teamsters Local 730 satisfied the showing of interest requirement of Board Rule 502.2. As a result, on August 25, 2006, Notices concerning the Petition were issued for conspicuous posting where notices to employees are normally located at the District of Columbia Public Schools, Office of Facilities Management-Penn Center ("DCPS"). The Notices indicated that requests to intervene and/or comments should be filed in the Board's Office no later than September 26, 2006. On September 11, 2006, DCPS confirmed that the Notices were posted and submitted a comment regarding the Petition. In its submission DCPS does not oppose the Petition. However, DCPS claims that a search of their payroll system did not reveal any employees or positions in the Office of Facilities Management identified as: administrative assistants, inspectors, building service specialist, assistant managers or deputy managers. No other comments were received.

**II. Discussion:**

In its June 13, 2006 submission, Teamsters Local 730 indicated that it seeks to represent the following proposed unit:

All full-time and regular part-time facilities management workers, employed by the District of Columbia Public Schools, Office of Facilities Management-Penn Center, including but not limited to electronics technicians, staff assistants, construction representatives, code inspectors, administrative assistants, service center representatives, inspectors, building service specialists, building service managers, assistant managers, and deputy managers, 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.

DCPS does not oppose the Petition. However, DCPS claims that a search of the DCPS payroll system did not reveal any employees or positions in the Office of Facilities Management identified as: administrative assistants, inspectors, building service specialist, assistant managers or deputy managers. As a result, DCPS requested that if the Union believes that such positions exist, then the Union should provide DCPS with clarification on which employees the Union asserts occupy these positions. There were no other comments.

On November 30, 2006, Teamster Local 730 submitted a revised proposed unit. In their November 30<sup>th</sup> submission, Teamsters Local 730 indicated that “[i]n the interest of moving towards the soonest possible resolution of this matter, either by voluntary recognition or PERB administered election, [they were amending] . . . the proposed unit.”

In their November 30<sup>th</sup> submission, Teamsters, Local 730 indicated that they are seeking to represent the following amended proposed unit:

All full-time and regular part-time facilities management workers, employed by the District of Columbia Public Schools, Office of Facilities Management-Penn Center, including but not limited to electronics technicians, staff assistants, statisticians, construction representatives, construction maintenance supervisors, code inspectors, code compliance officers, asbestos code inspectors, asbestos contract specialists, administrative assistants, service center representatives, inspectors, building service specialists, building service managers, assistant managers, and deputy managers, 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.

The parties were not able to settle the issue raised by DCPS' in its August 2006 submission. Teamsters Local 730's Petition and DCPS' comment are before the Board for disposition.

D.C. Code § 1-617.09(a) (2001 ed.), requires that a community of interest must exist among employees in order for a unit to be found appropriate by the Board for collective bargaining over terms and conditions of employment. An appropriate unit must also promote effective labor relations and efficiency of agency operations.

Our review of the Petition, DCPS' comment and attached exhibits reveal that there exists a dispute between the parties concerning the positions that should be included in the proposed unit. As a result, the Board cannot determine on the pleadings whether the employees in either the original proposed unit or the amended proposed unit share a common organizational structure and mission within the District of Columbia Public Schools, Office Facilities Management-Penn Center.

Also, D.C. Code § 1-617.09(b)(1) (2001 ed.), provides in pertinent part as follows:

*A unit shall not be established if it includes the following: (1) Any management official or supervisor . . . Provided, further, that supervisors employed by the District of Columbia Board of Education, may form a unit which does not include nonsupervisors; . . . (emphasis added)*

In their November 30<sup>th</sup> submission, Teamsters Local 730 lists several positions which have the phrase "manager" or "supervisor" noted in the position description. Based on the information submitted by the parties the Board cannot determine on the pleadings if any of the positions listed by Teamsters Local 730 are statutorily excluded from the proposed unit.

In view of the above, we find that we cannot determine on the pleadings whether sufficient factors exist for the Board to find that these employees share a community of interest and whether the proposed unit promotes effective labor relations and efficiency of agency operations and thereby constitute an appropriate unit under the Comprehensive Merit Personnel Act. In addition, we cannot determine if some of the positions noted in the proposed unit are supervisory or managerial. Therefore, pursuant to Board Rule 502.10(d), we are referring this matter to a Hearing Examiner.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. Pursuant to Board Rule 502.10 (d) this matter is referred to a Hearing Examiner.
2. 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.

December 20, 2006

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision on Order in PERB Case No. 06-RC-03 was transmitted via Fax and U.S. Mail to the following parties on this the 20<sup>th</sup> day of December 2006.

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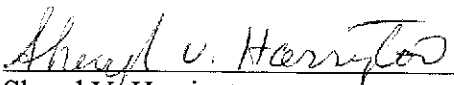
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Sheryl V. Harrington  
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