

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)	
)	
International Brotherhood of)	
Teamsters, Chauffeurs, Warehousemen)	
and Helpers of America, Local 2000,)	
)	PERB Case No. 88-R-02
Petitioner,)	Opinion No. 192
)	
and)	
)	
District of Columbia)	
Public Schools,)	
)	
Agency,)	
)	
and)	
)	
Washington Teachers' Union,)	
)	
Intervenor.)	
)	

DECISION AND ORDER

On July 1, 1988 the Washington Teachers' Union (WTU) filed with the Public Employee Relations Board (Board) a "Motion For Reconsideration To Reopen the Record, And For Hearing" (Motion) in the above-captioned case. WTU seeks to have the Board reconsider its decision in Opinion No. 186, which was issued on June 20, 1986.

In Opinion No. 186, the Board found the bargaining unit sought by the Petitioner to be appropriate, and ordered that an election be conducted to determine whether the employees in that unit desired representation by the Petitioner, or no representation for purposes of collective bargaining.

In that decision, the Board also denied the Washington Teachers' Union's request for intervenor status on the basis of WTU's failure to comply with Board Rule 101.7, which accords intervenor status if the request is accompanied by a ten per cent (10%) showing of interest by employees in the proposed unit,

unless the organization is the incumbent labor organization, in which case a showing of interest is not required. 1/ WTU presented neither the required showing of interest, nor proof that it is the incumbent exclusive representative of the employees in the unit sought by Local 2000. Instead, WTU relied on a stipulation reached among itself, Teamsters Local 2000 and DCPS that WTU should appear on the ballot in a representation election, a result the Board rejected as contrary to the Board's Rules.

The gravamen of WTU's Motion is that the Board's rejection of the election agreement denies it due process because WTU waived its right to present evidence of its status, receiving as quid pro quo the placement of its name on the ballot. According to WTU, since the stipulation was rejected by the Board it should be restored to its original position and be allowed to present evidence regarding its status as the alleged incumbent representative. 2/

Both DCPS and Teamsters, Local 2000 filed responses to the Motion. DCPS, citing the free will of the employees to decide on the question of representation, joins in the Motion seeking the Board's reconsideration of its decision not to place WTU on the ballot. Teamsters, Local 2000, in the interest of avoiding prolonged litigation, also joins in the Motion.

1/ Board Rule 101.7 states:

"The request to intervene in a representation proceeding must be supported by ten per cent (10%) of the employees in order to get on the ballot in the unit which is proposed to be appropriate or thirty per cent (30%) support if a different unit is proposed by the intervenor. An incumbent exclusive representative shall be permitted to intervene upon request for any petition covering, in part, a bargaining unit which it represents, without submitting proof of support. Proof of employee support shall accompany the written request to the Board."

2/ WTU also asserts that DCPS now intends to convert the job classification contained in the unit from EG-9 to ET-15, which will have the effect of rendering the unit appropriate since WTU currently represents the ET-15 classification. WTU offers no proof in support of this contention. An allegation unsupported by any evidentiary showing is an insufficient basis to grant a motion for reconsideration. Hence, there are no grounds for the Board's reconsideration of its determination of the appropriate unit as set forth in Opinion No. 186.

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The Board considers the agreement of the parties to be of critical importance in deciding whether to grant this Motion for Reconsideration. By agreeing that WTU should be placed on the ballot, DCPS and the Teamsters have knowingly and expressly waived the requirements of Board Rule 101.7. In this circumstance the Board accepts this express relinquishment of known rights, grants the Motion for Reconsideration, and grants WTU intervenor status, in order to promote the maximum employee choice.

ORDER

IT IS ORDERED THAT:

An election be conducted promptly, pursuant to Section 102 of the Interim Rules of the Board, to determine whether the eligible employees in the unit described in Opinion No. 186 wish to be represented by the Teamsters, WTU or no union at all for purposes of collective bargaining.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.
September 2, 1988