

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEES

In the Matter of: )  
)  
)  
Drivers, Chauffeurs and Helpers, )  
Washington, D.C. and Metropolitan )  
Area Teamsters, Local Union No. 639 )  
affiliated with the International )  
Brotherhood of Teamsters, )  
Chauffeurs, Warehousemen and )  
Helpers of America, AFL-CIO, )  
)  
Petitioner, )  
)  
and )  
)  
District of Columbia )  
Public Schools, )  
)  
Agency. )

PERB Case No. 89-R-05  
Opinion No. 243

DECISION AND ORDER ON CHALLENGED BALLOTS

Pursuant to an Order of the D.C. Public Employee Relations Board (Board) issued on August 15, 1989 <sup>1/</sup> a secret ballot election was held in the above-captioned matter with the tally taking place at the Board's offices on October 13, 1989. The results of the election, which per the parties' agreement was conducted by the Board's staff in a mail ballot proceeding, were reported to the parties in a "Report on Election Results" issued on October 25, 1989.

The results of the tally of votes were reported as follows:

"Teamsters Local 639	<u>8</u>
No Union	<u>6</u>
Challenged Ballots	<u>4</u> "

<sup>1/</sup> 36 D.C. Register 6509, Slip Op. No. 234, PERB Case No. 89-R-05 (1989).

No objections were filed by the parties; however, since the challenged ballots were sufficient in number to affect the outcome of the election the Board, in accordance with Board Rule 102.12, ordered that a hearing be conducted for the purpose of making findings and recommendations concerning the unresolved challenges.

A duly noticed hearing was conducted before a hearing examiner designated by the Board on December 6, 1989.

In a Report and Recommendations dated December 29, 1989, the Hearing Examiner concluded on the basis of the evidence presented that three (3) of the four (4) ballots challenged should remain impounded. For the reasons stated in his Report, the Hearing Examiner recommended that the remaining challenged ballot should be opened and counted.

The Board has carefully reviewed the record and finds the Hearing Examiner's analysis and conclusions to be rational and persuasive as to three of the ballots. The Board adopts the Hearing Examiner's findings and recommendations regarding the challenged ballots of Messrs. Harps, Chase and McConnell. Accordingly, these ballots shall remain impounded. The Board does not, however, find it necessary to count the challenged ballot of Mr. McKenzie. Since the Union has received a majority of the votes cast, irrespective of the nature of Mr. McKenzie's vote (9:6 or 8:7), and the Board challenges are valid and the ballots are to remain impounded, the inclusion of one (1) additional ballot would not affect the outcome of this election.

ORDER

IT IS THEREFORE ORDERED THAT:

1. Based on the foregoing discussion, the four challenged ballots shall remain impounded;
2. The Board shall issue simultaneously a certification of election results; and
3. The Board shall issue simultaneously a Certification of Representative.

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

March 28, 1990