

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 01**

**TRANSDEV SERVICES, INC. D/B/A SOUTH COAST
TRANSIT MANAGEMENT**

Employer

and

**FALL RIVER LOCAL UNION NUMBER 174 OF THE
AMALGAMATED TRANSIT UNION**

Case 01-RC-358638

and

AMALGAMATED TRANSIT UNION LOCAL 1037

Petitioner

DECISION AND DIRECTION OF ELECTION

Transdev Services, Inc. d/b/a South Coast Transit Management., (the Employer) provides transportation services in Fall River and New Bedford, Massachusetts. Fall River Local Union Number 174 of the Amalgamated Transit Union and Amalgamated Transit Union Local 1037 (jointly, the Petitioner or the Union) presently represent a bargaining unit of about 160 operators, technicians, helpers, first class general building and structures maintenance and repairmen, janitors, and cleaners employed out of the Employer's facilities located at 601 Brayton Avenue, Fall River, MA; 118 4th Street, Fall River, MA; 65 Potomska Street, New Bedford, MA; and 134 Elm Street New Bedford, MA.

The Petitioner seeks a self-determination election to add approximately 35 ticket agents, call center employees, customer service employees, dispatchers, operations supervisors (including road supervisors, dispatch supervisors, and training supervisors), garage foremen, procurement officers (buyers), and parts managers to the existing unit. The petitioned-for employees include all of the Employer's employees not already represented by the Petitioner, excepting statutorily excluded employees.¹

In its Statement of Position, the Employer contends that the petitioned-for employees do not share a community of interest with the employees in the existing unit sufficient to warrant their inclusion in that unit. The Employer further contends that some of the petitioned-for employees

¹ The petitioned-for unit classifications and the job titles contained in the Employer's Position Statement do not completely mirror one another; however, it appears that they refer to the same individuals, as the Petitioner seeks to represent all of the Employer's employees not statutorily excluded.

are statutory supervisors, managerial employees, professional employees,² and/or confidential employees; and that part of the unit sought should be considered a ‘residual unit.’

Finally, the Employer contends in its Statement of Position that:

- The Rule by which the Board requests that the Employer file and serve its Statement of Position and participate in an election hearing is inappropriate, unenforceable, and unconstitutional. The request that the Employer prepare its Statement of Position within seven days does not allow the Employer sufficient time to review necessary issues and prepare for the hearing. The request that the Employer complete a Statement of Position is contrary to the rights given in Section 9 and 8(c) of the Act; violates Employer’s due process rights; and unconstitutionally compels speech by requiring Employer to post mandatory notices after Employer receives the Notice of Filing of Petition.
- The NLRB itself is unconstitutional, and appearing before and participating in any NLRB proceeding is an irreparable here-and-now injury
- The operation of the entire representation proceeding apparatus of the NLRB is rendered an unlawful *ultra vires* exercise of executive authority and substantial and important executive powers in the absence of an NLRB Member quorum. The Regional Director may not lawfully exercise any of the substantial and important executive powers granted by Congress to the Board’s Members but delegated to the Regional Director by the Board when the Board itself lacks the requisite quorum for the Board itself to exercise the same powers it has delegated to the Regional Director. The NLRB lacks the statutory authority to resolve representation issues considering the defunct status of the two-member Board.

On January 30, 2025, the Employer filed a Motion to Dismiss, or Alternatively Stay, the instant petition until the Board has a quorum of three or more members. There, the Employer restated the arguments it made in its Statement of Position, emphasizing that the Board requires a quorum of three members in order to exercise or delegate its powers and that the authority of a Regional Director to exercise the powers of 29 U.S.C. § 159 is dependent upon lawful delegation of power from a three-member Board.

I directed the Hearing Officer to deny the Employer’s Motion, and I reaffirm that denial here. As explained in more detail below, the National Labor Relations Board (“Board”) has delegated its authority to me under Section 3(b) of the National Labor Relations Act (“Act”). The Supreme Court, various Circuit Courts of Appeal, and the Board have already rejected similar arguments regarding the purported impact the lack of a quorum has on previously delegated authority. I do so here as well and therefore direct an election in this matter.

Section 3(a) of the Act establishes the Board, composed of five members appointed by the President by and with the advice and consent of the Senate. Ordinarily a vacancy in a Board seat “shall not impair the right of the remaining members to exercise all of the powers of the Board.” Section 3(b). This provision, however, is subject to the caveat that “three members of the Board

² To the extent the Employer maintains certain classifications (office manager and one customer service supervisor) should be excluded on the basis of professional and confidential status, it appears the Union was not seeking to include the office manager classification. Additionally, while the record is silent on any indicia of professional status, professional employees are specifically excluded from the unit.

shall, at all times, constitute a quorum.” *Id.* The Supreme Court in *New Process Steel, LP v. NLRB*, 560 US 674 (2010), determined that the statutory language requires the Board to have at least three members in order to act.

Sections 9(b) and (c) of the Act reserve to the Board the statutory authority to make bargaining unit determinations and resolve questions concerning representation. In 1959 Congress passed, and the President signed, the Landrum-Griffin amendments to the Act which, among other things, added Section 3(b) permitting the Board to delegate its authority over representation cases to Regional Directors. The Board subsequently delegated this authority in 1961. See 26 Fed. Reg. 3889 (1961), which was upheld by the Supreme Court in *Magnesium Casting Co., v. NLRB*, 402 US 925 (1971). The delegated authority of Regional Directors to process representation cases has never been withdrawn. In 2017, following the Court’s decision in *New Process Steel*, the Board adopted regulations which, in part, clarify that “representation cases may continue to be processed, and the appropriate certification should be issued by the Regional Director notwithstanding the pendency of a request for review,” during any time when the Board lacks a quorum. 29 CFR 102.182. This regulation did not modify the underlying 60-year-old delegation of authority.

On January 27, 2025, the President removed Board Member Gwynne Wilcox, thus reducing the number of Senate-confirmed Board Members from three to two. Under *New Process Steel*, the Board therefore no longer has a quorum and is unable to issue decisions until a quorum is restored.

The Employer’s argument concerning the Board quorum is unavailing. NLRB Board Rule and Regulation 29 C.F.R. 102.182 states that representation cases should be processed to certification in the absence of a quorum. Moreover, this authority has been upheld by the D. C. Circuit. That court held that Regional Directors have the authority to conduct representation proceedings, despite the absence of a quorum. *UC Health v. NLRB*, 803 F.3d 669 (D.C. Cir. 2015); *SSC Mystic Operating Co., LLC, v. NLRB*, 801 F.3d 302, 308 (D.C. Cir. 2015), *cert. denied*, 580 U.S. 986 (2016). As *SSC Mystic* explained: “we must defer to the Board’s reasonable interpretation that the lack of a quorum at the Board does not prevent Regional Directors from continuing to exercise delegated authority that is not final because it is subject to eventual review by the Board.” 801 F.3d at 308.

Additionally, the Employer’s argument is not new. Indeed, in the wake of *New Process Steel* numerous parties claimed that Regional Directors lack the ability to exercise their delegated authority when the Board loses a quorum. This argument has been explicitly rejected by the Board. See *Brentwood Assisted Living Community*, 355 NLRB No. 149 (2010) *enfd.* 675 F.3d 999 (6th Cir. 2012) (explaining the Regional Director “properly processed the underlying representation proceeding by virtue of the authority delegated to him” notwithstanding the fact that the Board lacked a quorum). The Board’s conclusion that the ability of the Regional Directors, and the General Counsel, to exercise delegated authority does not cease when the Board lacks a quorum has been routinely upheld by the Circuit Courts of Appeal. *UC Health v. NLRB*, 803 F.3d 669 (DC Cir. 2015); *NLRB v. Bluefield Hospital Co., LLC*, 821 F.3d 534 (4th Cir. 2016); *Overstreet v. El Paso Disposal LP*, 625 F.3d 844, 853 (5th Cir. 2010); *Osthus v. Whitesell Corp.*, 639 F.3d 841, 844 (8th Cir. 2011); *Frankl v. HTH Corp.*, 650 F.3d 1334, 1354 (9th Cir. 2011).¹ The Supreme Court’s decision in *New Process Steel* compels a similar result. As the Court explained, “our conclusion that the delegee group ceases to exist once there are no longer three Board members to constitute the group does not cast doubt on the prior delegations of authority to nongroup members, such as

the regional directors or the general counsel. The latter implicates a separate question that our decision does not address.” *New Process Steel* at fn. 4.

To the extent the Employer cites *Loper Bright Enterprises v. Raimondo*, 603 US 369 (2024) as standing for the proposition that Courts’ prior analysis is now suspect, . the Supreme Court in *Loper Bright* made clear that a holding’s “[m]ere reliance on *Chevron* cannot constitute a special justification for overruling such a holding, because to say a precedent relied on *Chevron* is, at best, just an argument that the precedent was wrongly decided.” 603 U.S. 369, 375 (2024). In any event, the D.C. Circuit in *U.C. Health* found the Board’s interpretation persuasive on its own terms:

[A]llowing the Regional Director to continue to operate regardless of the Board’s quorum is fully in line with the policy behind Congress’s decision to allow for the delegation in the first place. Congress explained that the amendment to the NLRA that permitted the Board to delegate authority to the Regional Directors was “designed to expedite final disposition of cases by the Board.” See 105 Cong. Rec. 19,770 (1959) (statement of Sen. Barry Goldwater). Permitting Regional Directors to continue overseeing elections and certifying the results while waiting for new Board members to be confirmed allows representation elections to proceed and tees up potential objections for the Board, which can then exercise the power the NLRA preserves for it to review the Regional Director’s decisions once a quorum is restored. And at least those unions and companies that have no objections to the conduct or result of an election can agree to accept its outcome without any Board intervention at all. The Board’s interpretation thus avoids unnecessarily halting representation elections any time a quorum lapses due to gridlock elsewhere. 803 F.3d at 675–76.

Additionally, *Loper Bright* is inapplicable here because it involves only a standard of review to be applied by the courts. I am bound by existing precedent.

Given this clear precedent, I reject the Employer’s claim that Regional Directors lose the authority to process representation cases when the Board lacks a quorum. Instead, as the Board and the Courts have routinely explained, the authority delegated to them in 1961 by a Board acting with a quorum survives any subsequent loss of a quorum.

Thus, I reiterate that I have the authority to hear and decide these matters on behalf of the Board under Section 3(b) of the Act.

The parties were provided with an opportunity to present evidence on the issues raised by the petition at a hearing held before a hearing officer of the Board on January 30, 2025. After the Hearing Officer denied the Employer’s Motion to Dismiss and overruled the Employer’s continuing objection relying upon the reasons asserted in its Motion, the Employer declined to participate further in the hearing.

I note that the burden of establishing an employee’s supervisory, managerial, or confidential status rests with the party seeking to exclude that employee from the proposed bargaining unit. See, for example, *Dean and DeLuca New York, Inc.*, 338 NLRB 1046 (2003). Here, the Employer chose not to participate in the hearing, left the proceedings without submitting evidence; accordingly, it could not meet that burden.

However, the Board has long held that it has a statutory obligation to determine the appropriate bargaining unit in each case and that “absent a stipulated agreement, presumption, or

rule, the Board must be able to find—based on some record evidence—that the proposed unit is an appropriate one for bargaining before directing an election in that unit.” *Allen Healthcare Services*, 332 NLRB 1308, (2000); *Williams-Sonoma Direct, Inc.*, 365 NLRB No. 13 (2017). Accordingly, the Hearing Officer took record evidence in order to evaluate the appropriateness of the petitioned-for unit.

FACTS

As a threshold matter, the Employer completed and submitted the Questionnaire on Commerce Information.³ The Questionnaire was entered into evidence at the hearing. Accordingly, I find that the Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this matter; and that a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.⁴

The Petitioner’s witnesses testified, and I find that Fall River Local Union Number 174 of the Amalgamated Transit Union and Amalgamated Transit Union Local 1037 are both labor organizations within the meaning of the Act; that the Petitioner claims to represent certain employees of the Employer; and that there is no contract bar or other bar to an election in this matter.

The Employer’s Structure and Business

The Employer is a private company which provides public transportation services. It operates seven days per week and sixteen hours per day.

At issue here are four locations. Vehicles are stored and serviced at the 601 Brayton Avenue, Fall River, MA facility and the 65 Potomska Street, New Bedford, MA facility. Meanwhile, the 118 4th Street, Fall River, MA facility and the 134 Elm Street New Bedford, MA facility are bus stations.

General Manager Mark McClanan is ultimately responsible for all four facilities.⁵ Kelsey Beauregard, who oversees the Employer’s New Bedford operations, and Melissa Parker, who oversees the Employer’s Fall River operations, report to General Manager McClanan. Grievances for the existing bargaining unit are handled by General Manager McClanan. All three managers are involved in decisions to hire, fire, or discipline bargaining unit members. No one else can make these decisions; the authority rests solely with McClanan, Beauregard, and Parker.

³ The Employer refused to execute Board Exhibit 2.

⁴ I note that the Employer has stipulated to jurisdiction in several prior cases before the Region and Agency, including 01-RC-350935, 01-RC-350265, 01-RC-331994, 01-RC-327776, 01-RC-280837, 01-RC-244514, 18-RM-353042, 18-RC-353058, and 12-RC-348016.

⁵ General Manager McClanan does not oversee any other facilities. At the time of the hearing, McClanan was officially the Assistant General Manager but was acting as General Manager.

All employees use computers, phones, and radios to communicate. All employees receive on-the-job first aid training and software training. Most training is provided by the Employer, including any commercial driver's license training needed by operators.⁶

All employees are paid on an hourly basis. Although operators are paid a certain rate per run, all other employees clock in using ADP.⁷ All employees are covered by the same health insurance plan, dental plan, and vision plan. All employees have access to the same life insurance plan. Employees use the same break rooms and restrooms. Most employees wear uniforms, although the operators' uniforms are gray and light blue while other uniforms are dark blue and beige.

The Existing Unit

The Petitioner currently represents operators who drive fixed route buses (traditional bus routes in Fall River and New Bedford) and paratransit vehicles (on-demand rides for disabled individuals). The operators work at all four of the Employer's facilities. Their schedules vary; some work "straight eights" while others work split shifts. Shifts may begin as early as 5:00 a.m. and end as late as 10:00 p.m. Operators are paid between \$30 and \$35 per hour.

Also in the existing bargaining unit are technicians and helpers who maintain the fixed route buses and paratransit vehicles. The technicians and helpers work at the Brayton Avenue facility and the Potomska Street facility.

Finally, the existing unit includes building maintenance employees who maintain the Employer's buildings, bus stops, and shelters; cleaners, who fuel vehicles, clean vehicles, and clean buildings; and janitors, who clean buildings. The employees work at all four of the Employer's facilities. Some work first shift and some work second shift.

Some bargaining unit employees work full-time, while others work part-time.

The Petitioned-for Employees

The Petitioner seeks to represent all of the Employer's employees who are not already included in the bargaining unit, excepting statutorily excluded employees. The petitioned-for employees include ticket agents, call center employees, customer service employees, operations supervisors, road supervisors, garage foremen, procurement officers, parts managers, and training supervisors.

Ticket agents interact with passengers, including by explaining schedules and offering directions, at both the 4th Street and the Elm Street facilities.⁸ Ticket agents work part-time. Their hourly wages are between \$18 and \$25.

Call center employees and customer service employees work at the 4th Street facility, where they schedule paratransit appointments. They work from 8:00 a.m. to 4:00 p.m. Call center

⁶ Operators are not required to have a CDL upon hiring.

⁷ Automatic Data Processing. Because operators are paid by run, they do not clock in.

⁸ They do not currently sell tickets because tickets are presently free.

employees receive between \$18 and \$25 per hour, while customer service employees receive between \$30 and \$35 per hour.⁹

Operations supervisors dispatch vehicles from the Brayton Avenue facility.¹⁰ They communicate with operators regarding detours and accidents.¹¹ They work staggered 8-hour shifts.

At both the Brayton Avenue facility and the Potomska Street facility, garage foremen distribute work for maintenance technicians and cleaners; perform maintenance-related paperwork; and perform maintenance-related quality assurance.¹² Like maintenance technicians, some work first shift and some work second shift. They are paid from \$40 to \$43 per hour.¹³

Also, at the Potomska Street facility, procurement officers¹⁴ purchase needed equipment. Parts managers then inventory and distribute needed equipment to technicians. Both procurement officers and parts managers work between 8:00 a.m. and 4:00 p.m. Training supervisors are responsible for training and work varied hours, although most typically 7:00 a.m. to 3:00 p.m. Finally, road supervisors are responsible for creating new routes for the Employer's vehicles in the event that detours affect the normal routes.¹⁵

Some of the petitioned-for employees formerly held bargaining unit positions. Current operations supervisors, trainers, and ticket agents are all former bus operators. They occasionally perform driving work when the Employer is particularly short-handed.

ANALYSIS

A self-determination election is a proper method by which a union may add unrepresented employees to an existing unit, *Globe Machine & Stamping*, 3 NLRB 294 (1937); *Armour & Co.*, 40 NLRB 1333 (1942). Such an election may be appropriate regardless of whether the employees in question may be found to be a separate appropriate unit, *Great Lakes Pipe Line Co.*, 92 NLRB 583, 584 (1950). The appropriateness of a self-determination election, sometimes referred to as an "Armour-Globe" election, depends on the extent to which the employees to be included share a community of interest with unit employees and on whether the employees to be added constitute

⁹ The record does not contain evidence to explain the discrepancy in pay between the call center employees and customer service employees.

¹⁰ Operators choose their routes by a quarterly bid process. Routes are not assigned by operations supervisors.

¹¹ These employees are also referred to as dispatchers.

¹² The Employer did not assert in its Position Statement that foreman should be excluded on any grounds.

¹³ The maintenance technicians in the existing unit earn approximately \$38 per hour.

¹⁴ Also referred to as buyers.

¹⁵ Training supervisors and road supervisors may also be classified by the Employer as operations supervisors.

an identifiable, distinct segment so as to constitute an appropriate voting group, *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990); *Unisys Corporation*, 354 NLRB 825, 829 (2009).

Whether a voting group is an identifiable, distinct segment is not the same question as whether the voting group constitutes an appropriate unit; the analysis if a petitioner was seeking to represent the employees in a standalone unit, *St. Vincent Charity Medical Center*, 357 NLRB 854, 855 (2011) (citing *Warner-Lambert*, supra). Instead, the identifiable and distinct analysis is merely whether the voting group sought unduly fragments the workforce, *Capitol Cities Broadcasting Corp.*, 194 NLRB 1063 (1972).

Here, the voting group cannot unduly fragment the workforce because the Petitioner seeks to add all presently unrepresented employees to its existing bargaining unit, excepting only statutorily excluded employees.

Because the voting group sought is an identifiable and distinct segment of the workforce, the question becomes whether the employee in that voting group shares a community of interest with the existing unit. This inquiry requires application of the Board's traditional community of interest test, *United Operations, Inc.*, 338 NLRB 123, 123 (2002). Under that test, the Board is required in each case to determine

Whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work; including inquiring into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised.

In evaluating the factors which determine a community of interest, I find as follows:

- *Departmental Organization and Common Supervision*

The Employer's authority rests solely with three managers: McClanan, Beauregard, and Parker. McClanan is ultimately responsible for all employees, regardless of job classification. Beauregard oversees employees at the New Bedford operations regardless of those employees' job classifications, while Parker oversees employees at the Fall River operations regardless of those employees' job classifications.

I find that these factors weigh in favor of a shared community of interest.

- *Distinct Skills, Training, and Job Functions*

The Employer provides training for all employees. Much of this training, such as first aid training, is common to all employees. The most specialized training, commercial driver's license training, has been completed both by the operators who are currently a part of the bargaining unit and some of the petitioned-for employees, such as operations supervisors. While job functions vary, all employees use computers, phones, and radios to communicate. Most employees interact with customers who use the Employer's transportation services.

I find that these factors weigh in favor of a shared community of interest.

- Functional Integration

Functional integration occurs when the work of one group of employees is functionally dependent upon or closely related to that of another group of employees.

Here, the employees in the existing bargaining unit would not be able to perform their work without the petitioned-for employees. The operators who drive paratransit vehicles would have no passengers if the call center and customer service employees did not schedule appointments. The technicians who maintain vehicles could not do so if procurement officers and parts managers did not provide the necessary replacement parts.

I find that functional integration weighs in favor of a shared community of interest.

- Frequency of Contact

Like the members of the existing bargaining unit, the petitioned-for employees work at all four of the Employer's locations. Operations supervisors communicate with operators on a daily basis when they dispatch vehicles and warn operators about detours and accidents. Parts managers likewise distribute equipment to technicians on a daily basis.

I find that frequency of contact weighs in favor of a shared community of interest.

- Interchange

Interchange occurs where a portion of the work force of one department is involved in the work of the other department through temporary transfer or assignment of work. However, a significant portion of the workforce must be involved and the work force must be actually supervised by the second department.

Here, there is some evidence of interchange because former bus operators occasionally perform driving work when the Employer is particularly short-handed. Because this work does not involve a significant portion of the workforce, I find that this factor weighs against a shared community of interest.

- Distinct Terms and Conditions of Employment

All employees share many terms and conditions of employment. They are paid an hourly wage; the wage rates for various classifications overlap; and most employees clock in using ADP. They also receive many of the same benefits, including the same health insurance plan, dental plan, and vision plan. They wear uniforms and work in the same locations.

I find that terms and conditions of employment weigh in favor of a shared community of interest.

Further, I find that the petitioned-for employees share a community of interest with the employees in the existing unit sufficient to warrant their inclusion in that unit.

CONCLUSION

In sum, after carefully weighing the record evidence, I find that departmental organization, common supervision, skills, training, job functions, functional integration, frequency of contact, and terms and conditions of employment support a finding that the petitioned-for voting group

shares a community of interest with the existing unit, while interchange weighs against a shared community of interest. On balance, the relevant factors establish community of interest under *United Operations*, 338 NLRB at 123 and I conclude that it is appropriate to hold a self-determination election among the petitioned for employees.

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹⁶
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute an appropriate unit for a self-determination election for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time ticket agents, call center employees, customer service employees, operations supervisors (including dispatchers, road supervisors, dispatch supervisors, and training supervisors), garage foremen, procurement officers (buyers), and parts managers employed by the Employer out of its 601 Brayton Avenue, Fall River, MA; 118 4th Street, Fall River, MA; 65 Potomska Street, New Bedford, MA; and 134 Elm Street New Bedford, MA, 846 Cumberland Hill Road, Woonsocket, Rhode Island facilities, but excluding all confidential employees, managers, guards, and professional employees and supervisors as defined in the Act.

If a majority of the valid ballots in the election are cast for the Petitioner, the employees will be deemed to have indicated their desire to be included in the existing unit currently represented by the Petitioner, and it may bargain for those employees as part of that unit.

If a majority of the valid ballots are cast against representation, the employees will be deemed to have indicated their desire to remain unrepresented, and I will issue a certification of results of election to that effect.

¹⁶ While the Employer refused to execute Board Exhibit 2, the Employer completed and submitted the Questionnaire on Commerce Information which was introduced into evidence at the hearing. The Employer, Transdev Services Inc., is engaged in the business of providing transportation services. During the past twelve months, the Employer has purchased and received goods and materials valued in excess of \$50,000, shipped directly from points located outside the Commonwealth of Massachusetts.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by FALL RIVER LOCAL UNION NUMBER 174 OF THE AMALGAMATED TRANSIT UNION and AMALGAMATED TRANSIT UNION LOCAL 1037.

A. Election Details

The election will be held on the following dates at the following locations:

Wednesday, June 4, 2025	12:30 p.m. – 2:30 p.m.	Call Center Conference Room 118 4th Street, Fall River, MA
Thursday, June 5, 2025	12:30 p.m. – 2:30 p.m.	Conference Room 65 Potomska Street, New Bedford, MA

If it becomes necessary to postpone or cancel the election, the Regional Director, in her discretion, after consulting with the parties, may reschedule the date, time, and place of the election.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **Sunday, May 4, 2025**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the unit on both the payroll period ending date and on the date, they mail in their ballots to the Board's designated office.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period, and, in a mail ballot election, before they mail in their ballots to the Board's designated office; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names (that employees use at work), work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Tuesday, May 20, 2025**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays,

Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review. Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: May 16, 2025



LAURAA. SACKS
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 01
Thomas P. O'Neill Jr. Federal Building
10 Causeway St, Room 1002
Boston, MA 02222-1001



United States of America
National Labor Relations Board
NOTICE OF ELECTION



PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by SECRET ballot under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violations of these rules should be reported immediately to an NLRB agent. Your attention is called to Section 12 of the National Labor Relations Act which provides: ANY PERSON WHO SHALL WILLFULLY RESIST, PREVENT, IMPEDE, OR INTERFERE WITH ANY MEMBER OF THE BOARD OR ANY OF ITS AGENTS OR AGENCIES IN THE PERFORMANCE OF DUTIES PURSUANT TO THIS ACT SHALL BE PUNISHED BY A FINE OF NOT MORE THAN \$5,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off, and also include employees in the military service of the United States who appear in person at the polls. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are *not* eligible to vote.

SPECIAL ASSISTANCE: Any employee or other participant in this election who has a handicap or needs special assistance such as a sign language interpreter to participate in this election should notify an NLRB Office as soon as possible and request the necessary assistance.

PROCESS OF VOTING: Upon arrival at the voting place, voters should proceed to the Board agent and identify themselves by stating their name. The Board agent will hand a ballot to each eligible voter. Voters will enter the voting booth and mark their ballot in secret. **DO NOT SIGN YOUR BALLOT.** Fold the ballot before leaving the voting booth, then personally deposit it in a ballot box under the supervision of the Board agent and leave the polling area.

CHALLENGE OF VOTERS: If your eligibility to vote is challenged, you will be allowed to vote a challenged ballot. Although you may believe you are eligible to vote, the polling area is not the place to resolve the issue. Give the Board agent your name and any other information you are asked to provide. After you receive a ballot, go to the voting booth, mark your ballot and fold it so as to keep the mark secret. **DO NOT SIGN YOUR BALLOT.** Return to the Board agent who will ask you to place your ballot in a challenge envelope, seal the envelope, place it in the ballot box, and leave the polling area. Your eligibility will be resolved later, if necessary.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the voting place and at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.



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VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time ticket agents, call center employees, customer service employees, operations supervisors (including dispatchers, road supervisors, dispatch supervisors, and training supervisors), garage foremen, procurement officers (buyers), and parts managers employed by the Employer out of its 601 Brayton Avenue, Fall River, MA; 118 4th Street, Fall River, MA; 65 Potomska Street, New Bedford, MA; and 134 Elm Street New Bedford, MA, 846 Cumberland Hill Road, Woonsocket, Rhode Island facilities, who were employed by the Employer during the payroll period ending May 04, 2025.

EMPLOYEES NOT ELIGIBLE TO VOTE:

All confidential employees, managers, guards, and professional employees and supervisors as defined in the Act.

If a majority of valid ballots are cast for the Petitioner, they will be taken to have indicated the employees' desire to be included in the existing unit of operators, technicians, helpers, first class general building and structures maintenance and repairmen, janitors, and cleaners currently represented by the Petitioner. If a majority of valid ballots are not cast for representation, they will be taken to have indicated the employees' desire to remain unrepresented.

DATES, TIMES AND PLACES OF ELECTION

Wednesday, June 4, 2025	12:30p.m. to 2:30p.m.	Call Center Conference Room 118 4th Street Fall River, MA
Thursday, June 5, 2025	12:30p.m. to 2:30p.m.	Conference Room 65 Potomska Street New Bedford, MA

EMPLOYEES ARE FREE TO VOTE AT ANY TIME THE POLLS ARE OPEN.

ALL BALLOTS WILL BE COUNTED IMMEDIATELY AFTER THE CONCLUSION OF THE LAST VOTING SESSION.

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UNITED STATES OF AMERICA
National Labor Relations Board

01-RC-358638



OFFICIAL SECRET BALLOT

For certain employees of
TRANSDEV SERVICES, INC. D/B/A SOUTH COAST TRANSIT MANAGEMENT

Do you wish to be represented for purposes of collective bargaining by
**FALL RIVER LOCAL UNION NUMBER 174 OF THE AMALGAMATED TRANSIT
UNION AND AMALGAMATED TRANSIT UNION LOCAL 1037?**

MARK AN "X" IN THE SQUARE OF YOUR CHOICE

YES

☐

NO

☐

**DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT
WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR
CHOICE ONLY.**

**If you make markings inside, or anywhere around, more than one square, return your ballot to the
Board Agent and ask for a new ballot. If you submit a ballot with markings inside, or anywhere
around, more than one square, your ballot will not be counted.**

The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample
ballot have not been put there by the National Labor Relations Board.



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RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities
- In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- Threatening loss of jobs or benefits by an Employer or a Union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time where attendance is mandatory, within the 24-hour period before the mail ballots are dispatched
- Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law

Anyone with a question about the election may contact the NLRB Office at (617)565-6700 or visit the NLRB website www.nlr.gov for assistance.