

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NORWICH UNIVERSITY – THE MILITARY
COLLEGE OF VERMONT

Employer

and

Case 03-RC-366072

CHAUFFEURS, TEAMSTERS, WAREHOUSEMEN
AND HELPERS UNION NO. 597

Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is granted solely with respect to whether the petitioned-for unit is appropriate under extant precedent.¹ Pursuant to Section 102.67(h) of the Board's Rules and Regulations, the parties may file briefs addressing this issue with the Board within 10 business days after issuance of this order. The request for review is denied in all other respects. The Employer's Request for Review of the Regional Director's Decision on Objections and Certification of Representative is denied as it raises no substantial issues warranting review.² The Employer's motion for extraordinary relief is denied as moot.

¹ Under extant Board precedent, a petitioned-for subdivision of employee classifications is appropriate if the petitioned-for unit "(1) shares an internal community of interest; (2) is readily identifiable as a group based on job classifications, departments, functions, work locations, skills, or similar factors; and (3) is sufficiently distinct." See *American Steel Construction, Inc.*, 372 NLRB No. 23, slip op at 13 (2022). When analyzing if a petitioned-for unit is sufficiently distinct, "the Board will apply its traditional community-of-interest factors to determine whether there is an 'overwhelming community of interest' between the petitioned-for employees and excluded employees, such that there is no rational basis for the exclusion." *Id.*

Chairman Murphy and Member Mayer note that they did not participate in *American Steel Construction* and express no opinion whether that case was correctly decided. They agree to apply it here for institutional reasons.

² In denying review of the Decision on Objections and Certification of Representative, we do not rely on the Regional Director's application of *Polymers, Inc.*, 174 NLRB 282 (1969), *enfd.* 414 F.2d 999 (2d Cir. 1969), *cert. denied* 396 U.S. 1010 (1970). Because the Employer's objections assert that the Board agent's conduct reflected bias, the applicable standard is not *Polymers* but rather the more particularized standard prescribed in *Athbro Precision Engineering Corp.*, 166 NLRB 966 (1967) (finding that the Board will set aside an election "when the conduct of the Board [] agent tends to destroy confidence in the Board's election process or could reasonably be interpreted as impairing the election standards the Board seeks to maintain"). Applying *Athbro*, we find that both the Board agent's verbal remark inaccurately

JAMES R. MURPHY,	CHAIRMAN
DAVID M. PROUTY,	MEMBER
SCOTT A. MAYER,	MEMBER

Dated, Washington, D.C., July 20, 2026.

characterizing the preelection hearing as “no issue” and the Board agent’s email describing only one of the legal issues the hearing was to cover did not constitute objectionable conduct sufficient to warrant setting aside the election. See *Indeck Energy Solutions*, 316 NLRB 300, 300 (1995); see also *S. Lichtenberg & Co.*, 296 NLRB 1302, 1302 (1989) (finding that Board agent’s remarks describing a pending complaint against the employer, which were published in local newspaper five days prior to the election, were not objectionable under *Athbro*). Accordingly, the Regional Director’s decision overruling the Employer’s objections does not raise a substantial issue warranting review.