

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

FIRST STUDENT, INC.

Employer

Case 18-RC-17565

and

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL
284 and AMALGAMATED TRANSIT UNION, LOCAL 1005

Joint Petitioners

**REPORT ON OBJECTION TO CONDUCT
AFFECTING THE RESULTS OF THE ELECTION,
ORDER DIRECTING HEARING AND NOTICE OF HEARING**

Pursuant to a petition filed on February 29, 2008,¹ and a Stipulated Election Agreement executed by the parties and approved on March 11, an election by secret ballot was conducted on April 9 among certain employees of the Employer.²

¹ Unless otherwise indicated, all dates are in 2008.

² The appropriate collective bargaining unit agreed to by the parties and approved by the Regional Director is defined as:

All full-time and regular part-time drivers and substitute drivers employed by the Employer at its 2021 32nd Ave. NW Rochester, Minnesota and its 2450 30th Ave. SE, Rochester, Minnesota locations; excluding office clerical employees, monitors, mechanics, and dispatchers, and all guards, professional employees, and supervisors as defined in the Act.

The results of the election are set forth in the Tally of Ballots which was served on the parties at the conclusion of the election.³

On April 15, the Joint Petitioners filed a timely objection to conduct affecting the results of the election, a copy of which was duly served upon the Employer. Petitioners assert that the Employer utilized a supervisor, Patricia Baldwin, as an election observer.

Pursuant to Section 102.69 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, I have investigated the issues raised by the objection. I conclude that the Petitioners' objection can best be resolved upon record testimony received in a formal hearing.

PETITIONERS' OBJECTION

Attached as Exhibit A is a copy of the objection, as filed by the Joint Petitioners. The Employer asserts that their observer, Patricia Baldwin, is not a supervisor and that her presence at the election did not affect the results of the election in this case.

CONCLUSION AND ORDER

Based on the investigation of the Petitioner's objection, I conclude that the objection raises substantial and material issues of fact and law which can best be resolved by record testimony received at a formal hearing. Accordingly, pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended,

³ The Tally of Ballots shows:

Approximate number of eligible voters.....	180
Number of void ballots	0
Number of votes cast for labor organization	67
Number of votes cast against participating labor organization	83
Number of valid votes counted	150
Number of challenged ballots	8
Number of valid votes counted plus challenged ballots**	158

**The Tally of Ballots issued on April 9, 2008 incorrectly states that the number of valid votes counted plus challenged ballots (the sum of lines 7 and 8) was 157. A corrected Tally of Ballots issued on April 25, 2008 and corrected line 9 to show 158.

IT IS HEREBY ORDERED that a hearing be held before a hearing officer designated by the Regional Director for Region Eighteen for the purpose of receiving evidence to resolve the issues raised by the Petitioners' objection.

IT IS FURTHER ORDERED that the hearing officer designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of said issues. Within fourteen (14) days from the date of issuance of such report, any party may file with the Board in Washington, DC, an original and seven (7) copies of exceptions thereto. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director, and a statement of service shall be made to the Board simultaneously with the filing of the exceptions. The rights and obligations are further delineated in Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, and all actions of the parties shall be in accordance with the rules covering this type of proceeding as contained therein. In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with the Board in Washington, DC. If a party wishes to file one of these documents electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov" on the National Labor Relations Board web site: <http://www.nlr.gov>.

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that commencing at **9:00 a.m. on the 7th day of May, 2008**, and consecutive days thereafter, as needed, in **NLRB Hearing Room, Suite 790, 330 Second Avenue South, Minneapolis, Minnesota**, the hearing on the objections will be conducted before a hearing officer of the National Labor Relations Board upon the objection set forth above, at which time and place the parties will have the right to appear in person, to give testimony and to examine and cross-examine witnesses.

Dated at Minneapolis, Minnesota, this 25th day of April, 2008.

/s/ Robert W. Chester

Robert W. Chester, Regional Director
National Labor Relations Board
Eighteenth Region
330 Second Avenue South, Suite 790
Minneapolis, MN 55401-2221

Attachment