

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 1**

**DANVERS – T, INC. D/B/A IRA TOYOTA OF
DANVERS**

Employer

And

Case 01-RC-272355

**INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
AFL-CIO, DISTRICT LODGE 15**

Petitioner

DECISION AND DIRECTION OF ELECTION¹

Danvers – T, Inc. d/b/a Ira Toyota (the Employer) is a car dealership located in Danvers, Massachusetts. The Employer is owned by Group 1, a corporation which operates five dealerships in Massachusetts and three in New Hampshire under the Ira brand.²

International Association of Machinists and Aerospace Workers, AFL-CIO, District Lodge 15, (the Petitioner) seeks to represent a bargaining unit of approximately 45 service technicians and lube technicians. The Employer takes the that the smallest appropriate unit would also include 15 service advisors and one dispatcher.

The other matter in contention is whether to conduct a manual or mail ballot election. The Employer contends that a manual election would be most appropriate despite the present Covid-19 pandemic, while the Petitioner is amenable to either a manual election or a mail ballot election.

I find that the service advisors do not share a sufficient community of interest with the technicians to warrant their inclusion in the unit. I have concluded, however, that the record is insufficient to determine whether the dispatcher shares a sufficient community of interest with the

¹ The petition in this case was filed under Section 9(c) of the Act. The parties were provided opportunity to present evidence on the issues raised by the petition at a hearing held via videoconference before a hearing officer of the National Labor Relations Board (the Board). I have the authority to hear and decide this matter on behalf of the Board under Section 3(b) of the Act. I find that the hearing officer's rulings are free from prejudicial error and are affirmed; 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; that the Petitioner is a labor organization within the meaning of the Act; and that a question affecting commerce exists concerning the representation of certain employees of the Employer. Parties were given the opportunity to file post-hearing briefs, and the Employer did so.

² Another of Group 1's Ira facilities, Ira Subaru of Danvers, is the subject of petition 01-RC-272344. Ira Subaru of Danvers and Ira Toyota of Danvers are located next to each other and share some supervisory personnel. The Subaru technicians and the Toyota technicians work in the same building, separated by a wall.

technicians to require that the position be included in the petitioned for unit. Therefore, I am directing that the dispatcher be allowed to vote subject to challenge and that his eligibility will be resolved in a post-election proceeding if necessary. Additionally, I have directed a mail ballot election because this is the safest and most appropriate method of conducting a prompt election in view of the extraordinary circumstances presented by the pandemic.

Facts

Background

The Employer sells, leases, and services automobiles. Internally, the Employer is divided into three departments: sales, service, and parts. The sales department sells and leases vehicles; the parts department sells parts and accessories; and the service department maintains and repairs Toyotas.

All employees are paid weekly; record their hours worked in the same payroll system; and receive the same holidays, health insurance options, and 401K. All employees are subject to the same work rules and handbooks. All employees are offered uniforms but are not required to wear them. Service advisors and the dispatcher wear polo shirts; technicians wear flame-resistant clothing appropriate for mechanical labor.

The service department's "service drive" is attached to the sales building at the front of the Employer's premises. The shop itself is located in a separate building a few minutes' walk from the sales building. Technicians and the dispatcher spend the majority of their time in the shop, while the rest of the staff spends the majority of its time in the sales building. Most customers visit only the sales building, but some customers visit the shop when there is a dispute about the nature of a requested or suggested automobile repair. Technicians have their own breakroom in the shop, while other employees use a breakroom in the sales building.

Market Director John Zillioux oversees the eight Ira-brand car dealerships in Massachusetts and New Hampshire. General Manager Mark Giovani reports to Zillioux and oversees all operations of sales, service, and parts for the dealership at issue here.

Service Director Mitchell Dick reports to Giovani. Dick oversees the scheduling of clients; overall workload; hiring and firing of technicians, service advisors, and valets; budgets; and customer satisfaction.

Service Manager Nick D'Agostino reports to Dick. Paul Sitomer, the shop foreman, reports to D'Agostino. Sitomer supervises the technicians and the dispatcher, while D'Agostino directly supervises service advisors. Sitomer is charged with hiring technicians, disciplining technicians, firing technicians, and making certain that technicians are matched with appropriate work assignments.

Flat Rate Technicians (Line Technicians)

The Employer currently employs 32 flat rate technicians. The technicians are divided into six teams. Each team has a team leader who offers guidance to the other technicians as needed.³ Six of the technicians focus exclusively on internal work; they service vehicles owned by the dealership and receive work assignments directly from an internal service advisor rather than from a dispatcher.

A newly hired technician need not have any particular educational or employment background, but technician Omar Gutierrez testified that the technicians he knows learned theory at a high school or a trade school before gaining hands-on experience with tools and vehicles.

The technicians' job description states that they are responsible for the actual service and/or repair of vehicle assigned to them by service management or their designated representatives.

Technicians handle repairs and recalls. They perform major mechanical work or suspension work on vehicles. They also "shake down" vehicles to determine whether additional repairs are warranted. If a technician recommends additional repairs, he communicates that recommendation to the service advisor who speaks to the customer. Likewise, the technician's initial assignment is based upon a repair order generated by a service advisor.

Technicians are certified by Toyota. They receive a wage increase if they pass an Automotive Service Excellence test, which is administered by a third party.⁴ At least half of the current technicians have done so.

Technicians provide their own hand tools such as screwdriver sets and socket sets; the Employer provides larger tools such as balance machines and alignment racks. Technicians' personal "tool bills" may run from \$100 to \$200 per week. Technicians keep their tool boxes beside their assigned lifts. They share computers.

Technicians are paid a flat hourly wage based on experience, certifications, and history. They are paid a designated number of hours per job (for example, a brake repair) performed regardless of how quickly a given technician is actually able to perform the job. Thus, a particularly efficient flat rate technician will earn more in the same amount of time when compared to a less efficient flat rate technician performing the same tasks. Flat rate technicians do not receive overtime. The high end of flat rate technicians' annual pay is \$160,605 for a team leader and \$125,839 otherwise.

³ No party asserts that team leaders are statutory supervisors. When they are not coming to the aid of technicians who are "stuck" on a problem, team leaders have duties identical to those of the other technicians.

⁴ There are a total of eight tests. A technician who passes all eight becomes a master technician.

Lube Technician (Express Technician)

The Employer currently employs 15 lube technicians. Lube technicians work primarily on light maintenance including oil changes, tire rotation, and air filters. The position is an introductory one, and lube technicians are sometimes hired with no previous experience. The Employer's job description for lube technicians is identical to its job description for flat rate technicians: responsible for the actual service and/or repair of vehicle assigned to them by service management or their designated representatives.

Lube technicians are paid an hourly wage and are eligible to receive overtime. Unlike flat rate technicians, their daily wages are unrelated to how many tasks they successfully completed. They may clean the shop or fetch parts.

A lube technician typically becomes a flat rate technician after six months to one year on the job.

Service Advisors

A newly hired service advisor should have a customer service background and, preferably, experience in the automotive industry. The Employer's job description for service advisors states that they are responsible for customer relations and service sales. The job requires satisfaction of all customer and vehicle-related problems, meeting predetermined service sales objectives, and the satisfactory completion of designated administrative activities.

Service advisors greet customers as the customers arrive at the service drive.⁵ They then perform a walk-around of the customer's vehicle; list any customer concerns; make note of any scratches or warning lights on the customer's vehicle; check for recalls; and help the customer complete a repair order. Service advisors may also reset customers' vehicles' warning lights or change cabin air filters.

Each service advisor has an individual podium, which is essentially a desk with a computer, filing cabinet, and chair. They are regularly in contact with technicians, who have phones in their bays inside the shop. Service advisors and technicians may also communicate about a given customer's vehicle face-to-face or by electronic means. They may discuss a repair many times or not at all depending on the situation.

Service advisors are required to complete a series of computer-based trainings covering the vehicles and their internal systems. Service technicians undergo the same training. Service advisors receive a bonus if they complete the Automotive Service Excellence test; there is no record evidence to suggest that any current service advisor has done so.

⁵ The Employer also employs one internal service advisor who, like the internal service technicians, handles only Employer-owned vehicles rather than customer-owned vehicles.

Service advisors are paid 17 percent of their service gross (sale to the customer minus the cost of labor). They can receive overtime based on minimum wage. Service advisors increase their own wages—as well as the wages of the technicians assigned to repair vehicles—when they convince a customer to purchase additional services. Service advisors do not work while no technicians are working; technicians do not work while no service advisors are working. The high end of a service advisor’s pay range is \$179,459 per year; however, only one service advisor achieved this top potential salary last year.

Approximately five years ago, a technician became a service advisor; no technician has converted to service advisor since then.

Service Dispatcher

The Employer presently employs one service dispatcher, Doug Tower. Tower became a dispatcher two years ago after working as a technician for almost twenty years. In his present position, he may in theory repair vehicles as needed; however, there is no record evidence to suggest that he has completed a hands-on repair in recent memory. He works at a desk with a computer. The dispatcher’s job description, like the service advisors’ job description, reads:

Responsible for a positive customer relations in service sales. Job requires satisfaction of customers in vehicle-related problems, meeting predetermined service sales objectives, and the satisfactory completion of designated administrative activities.

However, Service Director Dick testified that the job description is not accurate.

Tower is not involved in the hiring process. Likewise, he does not discipline, discharge, suspend, layoff, or conduct performance evaluations for technicians.

When a service advisor brings a customer’s repair order to Tower, Tower must assign the job to a technician based on promise time to the client, drop time to the client, the skill level of the technician, the availability of the technician, and the overall experience of the technician.⁶ There is mixed evidence regarding whether a technician may refuse an assignment.

Tower is paid on a two-part system. He receives an hourly wage, plus overtime. Like service technicians, he also receives commission style pay based on the hours of work performed in the shop.

Method of Election

The Employer contends that a manual election would be most appropriate despite the present Covid-19 pandemic, while the Petitioner is amenable to either a manual election or a mail ballot election.

⁶ Neither party argued on the record that the dispatcher is a supervisor and the issue was not explored in full.

The parties are in agreement that a manual election should take place in a breakroom in the Employer's service shop building. The breakroom, which measures over 700 square feet, is large enough to allow for social distancing between voters, observers, and a Board Agent. The parties suggest that a manual election should take place between 2:00 p.m. and 4:00 p.m. on a Thursday and between 3:00 p.m. and 5:00 p.m. on a Friday with the related Ira Subaru election taking place on that same Friday between 1:00 p.m. and 3:00 p.m. Both ballot counts would take place at 5:00 on Friday.

The Employer states that it is willing to comply with Memorandum GC 20-10 and that there is no current outbreak of Covid-19 on its premises. The Employer notes that in total, only two people in the entire Service Department have tested positive for Covid-19 since January 1, 2021, and that there is no indication that they contracted Covid-19 at work.

Analysis

Inclusion of Job Classifications

In *PCC Structural, Inc.*, 365 NLRB No. 160 (2017), the Board reinstated the traditional community-of-interest test as articulated in, e.g., *United Operations*, 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.

The Board held in *PCC Structural* that, in weighing both the shared and the distinct interests of petitioned-for and excluded employees, the Board must determine whether excluded employees have meaningfully distinct interests in the context of collective bargaining that outweigh similarities with unit members. Having made that determination— applying the above factors— the appropriate-unit analysis is at an end. At no point does the burden shift to the employer, as it did under *Specialty Healthcare*, to show that any additional employees it seeks to include share an *overwhelming* community of interest with employees in the petitioned-for unit.

In *Boeing Company*, 368 NLRB No. 67 (2019), the Board elaborated that *PCC Structural* requires “a three-step process for determining an appropriate bargaining unit under our traditional community-of-interest test.” Firstly, the proposed unit must share an internal community of interest. Next, the interests of those within the proposed unit and the shared and distinct interests of those excluded from that unit must be comparatively analyzed and weighed. Finally, consideration must be given to the Board's decisions on appropriate units in the particular industry involved.

Here, neither party disputes that the technicians in the petitioned-for unit share an internal community of interest.⁷

- Community of Interest

All involved employees have certain interests in common. They receive the same vacation, holidays, 401K, and health insurance benefits . They are subject to the same work rules and handbook. They are organized in the same department, the Service Department, under the leadership of D’Agostino and Dick. Their jobs are functionally integrated; technicians are not scheduled to work when service advisors are not working and vice versa. Technicians and service advisors communicate regularly about the repairs needed by any given vehicle.

However, although the service advisors are directly supervised by D’Agostino, the technicians are supervised by Sitomer. There is no temporary interchange between the technicians and the service advisors, and the only example of an employee permanently moving from one position to another occurred five years ago. The work performed by the petitioned-for employees is completely different from the work performed by the service advisors. The technicians, regardless of experience level or compensation formula, perform mechanical work on vehicles while rarely interacting with customers. Accordingly, they wear uniforms or clothing designed to resist flames and other realities of hands-on maintenance. Meanwhile, the service advisors are primarily responsible for interacting with customers. They wear polo shirts and work at podiums with computers rather than in bays with tools.

The dispatcher, unlike the service advisors, works in the same area as the technicians and shares a supervisor with the technicians. His job duties, however, do not overlap with theirs. He works at a desk with a computer while wearing a polo shirt rather than working with tools in a bay while wearing flame-retardant clothing. He possesses the same skills and training as the technicians, although he does not utilize those skills and training in his present position.

- Units Within the Industry

Depending upon the specific organization of a given dealership, the Board has sometimes found that a unit including all service department employees is the smallest appropriate unit and has sometimes found that the employees who perform mechanical work on vehicles appropriately comprise a unit separate from those employees who do not perform mechanical work.

For example, as cited by the Employer in its brief, in *R.H. Peters Chevrolet, Inc.*, 303 NLRB 791 (1991), the Board held that service advisors shared a strong community of interest

⁷ The Petitioner submits that the technicians constitute a craft unit as contemplated by the Board in *Burns & Roe Services Corp.*, 313 NLRB 1307 (1994). This argument is not persuasive where the lube technicians need not have any particular training or education at the time of hiring and need not engage in a training program to raise their skill level to that of the flat rate technicians (although many do).

with mechanics. Several factors were present in that case which are not present here. The unit included not only service employees but parts employees. Significantly, employees shared common front-line supervision. Mechanics substituted for service advisors with some frequency and one service advisor became a mechanic. I find that *R.H. Peters Chevrolet* is inapplicable here where there is no recent employee interchange, the employees' duties do not overlap, the employees do not share front-line supervision, and the structure of the petitioned-for unit does not cross departmental lines.

The Employer also cites *Worthington Chevrolet*, 271 NLRB 365, 366 (1984), in which a petitioner sought to represent a unit of unskilled employees where there was no clear line of demarcation between included and excluded classifications and where the included and excluded classifications' tasks overlapped. The Board held that a unit of all employees in the service department would be appropriate. The same conclusion is not warranted here where the included and excluded classifications' tasks do not overlap.

Meanwhile, the Petitioner cites *Dodge City of Wauwatosa*, 282 NLRB 459 (1986) and *Fletcher Jones Chevrolet*, 300 NLRB 875 (1990) in support of its position that the employees who perform mechanical work on the vehicles appropriately comprise a unit separate from those employees who do not perform mechanical work.

In *Dodge City of Wauwatosa* and *Fletcher Jones Chevrolet*, the Board concluded that when mechanics possess skills and training unique among other employees, it is appropriate to exclude other service department employees from the mechanics unit. The same conclusion is warranted here. While the Employer notes, correctly, that the industry is evolved and changed over the past thirty-five years, technicians still utilize specialized tools and perform job duties that are distinct from those of the other employees.

I have determined that a unit of service technicians, excluding service advisors, is an appropriate unit. However, I have also concluded that there is insufficient evidence in the record to determine whether the dispatcher should be included in a unit of all service technicians. Therefore, I will permit him to vote subject to challenge.

Method of Election

In response to the evolving realities of the pandemic, the Office of the General Counsel issued Memorandum GC 20-10 on July 6, 2020. The suggested protocols include: polling times sufficient to accommodate social distancing without unnecessarily elongating exposure among Board Agents and observers; the employer's certification in writing that polling area is consistently cleaned in conformity with CDC standards; a spacious polling area, sufficient to accommodate six-foot distancing; separate entrances and exits for voters; separate tables spaced six feet apart; sufficient disposable pencils without erasers for each voter to mark their ballot; glue sticks or tape to seal challenge ballot envelopes; plexiglass barriers of sufficient size to protect the observers and Board Agent; and provision of masks, hand sanitizer, gloves and disinfecting wipes. The Employer asserts that it is willing to comply with all protocols as necessary.

Memorandum GC 20-10 also requests an employer’s written certification of how many individuals have been present in the facility within the preceding 14 days who have tested positive for Covid-19; who have been directed by a medical professional to proceed as if they have tested positive for Covid-19; who are awaiting results of a Covid-19 test; who are exhibiting symptoms of Covid-19; or who have had direct contact with anyone in the previous 14 days who has tested positive for Covid-19.

The Board offered further guidance regarding the direction of manual elections during the Covid-19 pandemic in *Aspirus Keweenaw*, 370 NLRB No. 45 (November 9, 2020). In *Aspirus Keweenaw*, the Board set forth six situations under which a Regional Director should consider directing a mail-ballot election. While *Aspirus Keweenaw* does not require a Regional Director to direct a mail ballot election where one or more of the six factors are present, the Board stated that Regional Directors who direct mail-ballot elections under those circumstances will not be found to have abused their discretion.

The six situations are:

- 1) The Agency office tasked with conducting the election is operating under “mandatory telework” status;
- 2) Either the 14-day trend in the number of new confirmed cases of Covid-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher;
- 3) The proposed manual election site cannot be established in a way that avoids violating mandatory state or local health orders relating to maximum gathering size;
- 4) The employer fails or refuses to commit to abide by the GC Memo 20-10 protocols;
- 5) There is a current Covid-19 outbreak at the facility or the employer refuses to disclose and certify its current status; and
- 6) Other similarly compelling considerations.

As the Board acknowledged, no Regional Office, including Subregional and Resident Offices, has been in a mandatory-telework status since mid-June. The Employer’s proposed polling place does not appear to violate any mandatory state or local health orders. The Employer

has expressed a willingness to abide by the GC Memorandum 20-10 protocols.⁸ There is no Covid-19 outbreak at the Employer’s facility. As of March 18, 2021, the Covid-19 positivity rate in Essex County, in which the Employer’s facility is located, was measured at between 2.6% and 3%, although 79% of ICU capacity was in use and the daily number of new cases was considered “very large”⁹ by the website Covid Act Now and the county was deemed at a “very high risk level” by *The New York Times*.¹⁰

As of March 18, Johns Hopkins University’s website showed the following number of new cases in Essex County for each day for the preceding fourteen days:¹¹

Date	Number of New Cases
March 17	236
March 16	109
March 15	124
March 14	200
March 13	181
March 12	197
March 11	183
March 10	168
March 9	92
March 8	100
March 7	136
March 6	209
March 5	175
March 4	137

In averaging the change in the number of new daily cases, the number of new daily cases rose at an average rate of 7.6 cases per day in Essex County.

Based on the rising positivity rate in Essex County I find that a mail-ballot election is warranted in keeping with the Board’s decision in *Aspirus Keweenaw*.

⁸ However, I note that members of the public regularly enter the Employer’s facility to procure repairs for their vehicles. There is no way to prevent a customer from knowingly or unknowingly entering the premises while infected; therefore, there is no way for the Employer to certify, in keeping with Memorandum GC 20-10, whether Covid-positive individuals have been in the facility in the recent past.

⁹ https://covidactnow.org/us/massachusetts-ma/county/essex_county/?s=1675607; retrieved on March 18, 2021.

¹⁰ <https://www.nytimes.com/interactive/2021/us/essex-massachusetts-covid-cases.html>; retrieved on March 18, 2021.

¹¹ <https://bao.arcgis.com/covid-19/jhu/county/25009.html>; retrieved on March 18, 2021.

Conclusion

I conclude that that the service advisors and the dispatcher do not share a sufficient community of interest with the technicians to warrant their inclusion in the unit.

The National Labor Relations Board will conduct a secret ballot election among the employees in the following unit:

All full-time and regular part-time service technicians, service technician team leaders, and service lube technicians employed by the Employer at its Danvers, Massachusetts Toyota dealership, but excluding all service advisors, confidential employees, managers, guards, professional employees and supervisors as defined in the Act.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classification of dispatcher whose eligibility remains unresolved as specified above and in the Notice of Election.

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 International Association of Machinists and Aerospace Workers, AFL-CIO, District Lodge 15.

A. Election Details

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. On **April 2, 2021**, , ballots will be mailed to voters by National Labor Relations Board, Region 1. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 1 office by close of business on April 22, 2021.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by April 9, 2021, should communicate immediately with the National Labor Relations Board by either calling the Region 1 Office at 617-565-6700 or our national toll-free line at 1-844-762-NLRB (1-844-762-6572).

Due to the extraordinary circumstances of COVID-19 and the directions of state or local authorities including but not limited to Shelter in Place orders, travel restrictions, social distancing and limits on the size of gatherings of individuals, I further direct that the ballot count will take place virtually, on a platform (such as Zoom, Skype, WebEx, etc.) to be determined by the Regional Director, at 11:00 am on Friday, April 23, 2021. Each party will be allowed to have an observer attend the virtual ballot count.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

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.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the dispatcher classification whose eligibility remains unresolved as specified above and in the Notice of Election.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (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(1) 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, 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 **Monday, March 22, 2021**. 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.

Pursuant to Section 102.5 of the Board's Rules and Regulations, the list must be filed electronically by submitting (E-Filing) it through the Agency's website (www.nlr.gov), unless the Employer provides a written statement explaining why electronic submission is not possible or feasible. The Employer must also electronically serve the list on the other parties. To file electronically, go to **www.nlr.gov**, click on **E-File Documents**, enter the **NLRB case number**, and follow the detailed instructions. The burden of establishing the timely filing and receipt of the list is on the sending party.

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, and distribute the Notice by 12:01 a.m. Tuesday, March 30, 2021**, and copies must remain posted until the end of the election. 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.

Please be advised that in a mail ballot election, the election begins when the mail ballots are deposited by the Region in the mail.

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 14 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 may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.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. 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. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: March 18, 2021



PAUL J. MURPHY
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 01



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. (See VOTING UNIT in this Notice of Election for description of eligible employees.) 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 carried out through the U.S. mail 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. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a yellow self-addressed envelope needing no postage.

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. 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.

CHALLENGE OF VOTERS: An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

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 counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

METHOD AND DATE OF ELECTION

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 4:30p.m. on Friday, April 2, 2021, ballots will be mailed to voters from the National Labor Relations Board, Region 01, Thomas P. O'Neill Fed Bldg, 10 Causeway St, Room 601, Boston, MA 02222-1001. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by Friday, April 9, 2021, should communicate immediately with the National Labor Relations Board by either calling the Region 01 Office at (617)565-6700 or our national toll-free line at 1-844- 762-NLRB (1-844- 762-6572) or by contacting Board Agent Holly Beaverstock at 857-317-7789 or Holly.Beaverstock@nlrb.gov.

All ballots will be commingled and counted at the Region 01 Office on Friday, April 23, 2021 at 11:00am.

In order to be valid and counted, the returned ballots must be received in the Region 01 Office prior to the counting of the ballots.



United States of America
National Labor Relations Board
NOTICE OF ELECTION



VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time service technicians, service technician team leaders, and service lube technicians employed by the Employer at its Danvers, Massachusetts Toyota dealership, who were employed by the Employer during the payroll period ending March 13, 2021.

EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: All service advisors, confidential employees, managers, guards, professional employees and supervisors as defined in the Act.

OTHERS PERMITTED TO VOTE:

The Regional Director has decided that the dispatcher may vote in the election but their ballot will be challenged since their eligibility has not been resolved. No decision has been made regarding whether the individuals in these classifications or groups are included in, or excluded from, the bargaining unit. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.



United States of America
National Labor Relations Board
NOTICE OF ELECTION



UNITED STATES OF AMERICA
National Labor Relations Board

01-RC-272355



OFFICIAL SECRET BALLOT

For certain employees of
DANVERS – T, INC. D/B/A IRA TOYOTA OF DANVERS

Do you wish to be represented for purposes of collective bargaining by
**INTERNATIONAL ASSOCIATION OF MACHINISTS AND
AEROSPACE WORKERS, AFL-CIO, DISTRICT LODGE 15?**

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, you may request a new ballot by referring to the enclosed instructions. 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.



United States of America
National Labor Relations Board
NOTICE OF ELECTION



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.

United States of America
National Labor Relations Board

**Instructions to Eligible Employees Voting
By United States Mail**



INSTRUCTIONS

1. MARK YOUR BALLOT IN SECRET BY PLACING AN X IN THE APPROPRIATE BOX. DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.
2. IF YOU SUBMIT A BALLOT WITH MARKINGS INSIDE, OR ANYWHERE AROUND, MORE THAN ONE SQUARE, YOUR BALLOT WILL NOT BE COUNTED. YOU MAY REQUEST A NEW BALLOT BY CALLING THE REGIONAL OFFICE AT THE NUMBER BELOW.
3. IT IS IMPORTANT TO MAINTAIN THE SECRECY OF YOUR BALLOT. DO NOT SHOW YOUR BALLOT TO ANYONE AFTER YOU HAVE MARKED IT.
4. PUT YOUR BALLOT IN THE BLUE ENVELOPE AND SEAL THE ENVELOPE.
5. PUT THE BLUE ENVELOPE CONTAINING THE BALLOT INTO THE YELLOW ADDRESSED RETURN ENVELOPE.
6. SIGN THE BACK OF THE YELLOW RETURN ENVELOPE IN THE SPACE PROVIDED. TO BE COUNTED, THE YELLOW RETURN ENVELOPE MUST BE SIGNED.
7. DO NOT PERMIT ANY PARTY – THE EMPLOYER, THE UNION(S), OR THEIR REPRESENTATIVES, OR AN EMPLOYEE-PETITIONER – TO HANDLE, COLLECT, OR MAIL YOUR BALLOT.
8. MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY. For further information, call the Regional Office at:

Region 01 Office at (617)565-6700 or our national toll-free line at 1-844- 762-NLRB (1-844- 762-6572) or by contacting Board Agent Holly Beaverstock at 857-317-7789 or Holly.Beaverstock@nlrb.gov.

TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL OFFICE

BY 4/22/2021

RIGHTS OF EMPLOYEES

Under the National Labor Relations Act, employees have the right:

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, 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 non representational 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. Where 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 the 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
- 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. The National Labor Relations Board as an agency of the United States Government does not endorse any choice in the election.



NATIONAL LABOR RELATIONS BOARD
an agency of the
UNITED STATES GOVERNMENT