State of Maryland
State Higher Education Labor Relations Board

In the matter of:	)	
	)	
Fraternal Order of Police,	)	
Lodge # 82,	)	
Petitioner,	)	
	)	
	)	
and	)	SHELRB Election Case No.
	)	EL 05-02, UMBC
	)	Sworn Police Unit
University of Maryland,	)	
Baltimore County,	)	
Agency/Employer.	)	
	)	
	)	

FINAL ELECTION ORDER

A valid petition having been filed in the above-captioned matter with the State Higher Education Labor Relations Board (Board), in accordance with Title 3 of the State Personnel and Pension Article (SPP), 2001 Supplement, and the Regulations of the Board at COMAR 14.30.01 – 11, and

Pursuant to the authority vested in the Board by Title 3 the SPP, Sections 3-101 – 3-602 and Regulations of the Board, Section 14.30.05.06 et.al., the Executive Director of the SHELRB hereby issues the following Final Election Order for a representation proceeding in the Sworn Police Unit at the University of Maryland, Baltimore County:

IT IS HEREBY ORDERED THAT:

A representation election shall be held for Sworn Police Unit employees of the University of Maryland, Baltimore County;

The election choices shall be **FOP, Lodge #82** and **No Exclusive Representative**.

I. Date, time, method, and location of election

The election shall be held on **March 9, 2005**; the hours of in-person voting shall be as follows:

- 6:00 – 8:00am
- 2:00 – 4:30pm

The election shall be held in:

Conference Room 101, Central Plant Police Building

The election shall be conducted by secret ballot on paper.

Mail (absentee) ballots shall be sent to eligible voters in the following circumstances:

1. serving in the military overseas on the day of the election;
2. assigned to a training off campus on the day of the election;
3. the day of the election falls on an assigned day off similar to weekend day.

Mail ballots shall not be provided to eligible voters who are on personal, annual, or sick leave.

II. Rules Governing the Election

The election shall be conducted according to the rules set forth below. Any conflict between the rules provided below and Title 3 the SPP, Section 3-

101 – 3-602 and/or the Regulations of the Board, Section 14.30.01 – 11, rulings shall be decided by the statute and the regulations.

III. Withdrawal of Union Candidacy

Withdrawal of union candidacy shall be subject to the requirements as stipulated in the proposed Board regulation on candidacy withdrawal at COMAR 14.30.05(D).

IV. Notice, Sample Ballots, Balloting Methods, Voter Sign-In rules and procedures for the University of Maryland, Baltimore County Sworn Police Unit election

A. Final Election Order—the Executive Director shall send or deliver the final election order no later than February 8, 2005 to:

1. The petitioner (FOP, Lodge # 82); and

2. The employer (UMBC).

B. The Board shall provide by mail a Notice of Election and Sample Ballot and such other information as it deems appropriate to each eligible employee of the sworn police unit at UMBC using labels provided by the employer or using a third party mail house.

1. Sample Ballots shall be a reasonable representation of the actual ballot to be used during the election;

2. Notice and Sample Ballot shall include information about the requirement that voters bring Photo ID with them to vote;

3. Notice and Sample Ballot shall include information banning the wearing or distribution of campaign paraphernalia within certain areas during the election period.

C. Posting of Notice

1. The Notice of Election and Sample Ballot shall be posted in public display at the Maryland Higher Education Commission/SHELRB offices;

2. The employer shall post the Notice and the Sample Ballot at all work locations where notices are customarily posted for the benefit of employees;

a. the employer shall post the Notices and Sample Ballots no later than February 9, 2005;

b. the employer shall take reasonable precautions to ensure that posted notices of election and sample ballots shall not be altered, covered, defaced, or removed before the completion of the election.

3. The Executive Director shall post this Order on the SHELRB website at www.mhec.state.md.us/shelrb, as per Board Regulation COMAR 14.30.04.09.

D. Ballots

1. Paper ballots—the Executive Director shall prepare official paper ballots which shall be made available to all voters, including voters who appear at the polling site but have been challenged.

2. The Executive Director may adopt appropriate means to guarantee the authenticity of ballots used in the election.

3. All eligible voters who seek to vote in person shall present a photo ID to verify their identities.

4. Prior to voting by secret paper ballot,

a. voter will sign name or make appropriate mark on the official eligible voter list held by the Board's election clerks;

b. clerk will strike through voter name or otherwise clearly indicate that the voter has appeared;

c. voter, once issued ballot, will be directed to an area to mark ballot in secret;

d. voter will deposit ballot in ballot box or return voter card and immediately leave the designated polling area.

6. Ballots shall contain the choices of, in order of appearance, FOP, Lodge # 82 and No Exclusive Representative.

7. Challenged and Void Ballots—*see below.*

V. Voter Eligibility, Lists, Accessibility, and Confidentiality

A. Employees eligible to vote are those who

1. Meet the applicable requirements defining covered employees in the SPP § 3-120(b)(9);

2. Were employed by UMBC on the last pay period ending prior to the issuance of this Order, which is February 5, 2005;

3. Are employed by UMBC as sworn police unit employees on the date of the election. Eligible employees who have a reasonable expectation of continued employment shall be considered to be working on election day despite not being at work due to factors including but not limited to vacation, illness, leave of absence, or circumstances covered by the Federal Family and Medical Leave Act.

B. Eligible voter lists

1. No later than February 9, 2005, the employer shall make available or mail an up-to-date eligible voter list for Sworn Police unit employees to the Petitioner and the Executive Director.

2. The eligible voter list shall contain the following information for each employee in the unit who is eligible to vote:

a. full name, department, and job title;

b. work site address;

c. names of sworn officers who are excluded and reason for exclusion.

d. names of any eligible employees who by virtue of assignment will not be on campus during the hours of the on site election for such reasons as assignment to training, regularly scheduled off day (as a "weekend" day), or other official reason; or

e. eligible employees who are on active military duty.

Note: For individuals under (d) and (e) above, the employer will provide the Board with a postal address to be used for the sole purpose of providing absentee ballots. The Board will protect the confidentiality of such addresses.

3. The employer (UMBC) and the candidate union (FOP, Lodge # 82) are encouraged to meet in a timely manner prior to the election to discuss any questions regarding an employee's eligibility or excluded status in order to minimize challenges during the election.

a. in the event, as a result of any such meetings and discussions, the eligibility list would be altered by agreement of both UMBC and FOP, Lodge #82, a new updated list shall be provided to the Executive Director no less than 48 hours prior to the commencement of the onsite election;

b. changes agreed to by UMBC and FOP, Lodge #82 shall be clearly identified to the Executive Director in a separate list.

C. Access—there shall be equal access for the candidate union and eligible employees on behalf of any ballot choice.

1. FOP, Lodge #82 and eligible employees shall enjoy the right of reasonable access to college and university facilities, including grounds, rooms, bulletin boards, campus mail, and other common areas and forums for the purpose of conducting speech activities regardless of their position on any ballot choice.

2. UMBC may not alter or revise existing speech access rules or practices for the campus community or general public in order to limit unfairly or prevent employees or FOP, Lodge #82 from organizing for collective bargaining.

3. The employer may not discriminate against an employee's private speech in the workplace based on its labor-related content or viewpoint.

4. While the Board encourages maximum participation by eligible employees in the election, each eligible employee has the absolute right to decide for him- or herself a position on the ballot choices or to decide not to participate and/or not to vote.

D. Confidentiality of employee addresses

Confidentiality of employee home addresses shall not be compromised.

VI. Conduct of the Election

A. The anonymity of ballots shall be maintained to the greatest extent possible.

B. Responsibility for the Election

1. The Executive Director on behalf of the Board shall be solely responsible for the conduct of the election; the polling site and immediate environs; voting materials, including ballots and the counting of ballots, recording of results, and certification of the accuracy of the count, as attested to by UMBC and FOP, Lodge #82; and certification of results of the election, subject to final Board approval.

2. The Executive Director shall appoint himself or a qualified representative to be the Election Supervisor and assistant election supervisors and clerks as needed who shall perform the duties required for a fair and impartial election;

a. the Executive Director shall retain final responsibility to certify election results subject to Board authority;

b. all decisions of the Election Supervisor, if other than the Executive Director, may be challenged and appealed to the Executive Director within five (5) working days of the election.

3. UMBC as employer shall grant reasonable release time to employees so that they can vote during their workday or shift. Except in unusual circumstances, employees shall notify their supervisors when they are taking this time to vote—supervisors shall be involved only to ensure adequate coverage of University operations. The location of the polls shall be handicap-accessible. No employee shall be discouraged by any entity from going to the polling location and voting, nor shall any employee be forced by any entity to go to the polling place to vote. UMBC shall provide that parking near the polling site is available to eligible voters and shall provide parking for Board staff.

4. The boundaries of the polling area shall be clearly designated and marked by the Election Supervisor as circumstances may require. For all practical purposes, the exterior of the Central Plant Police Building shall be considered the boundary of the polling area.

a. no campaign literature, paraphernalia, or clothing shall be distributed or worn within the proscribed polling area during the period of voting;

b. the Board may set aside an election outcome favorable to a party who substantially violates the provisions of this Order.

5. Any eligible voter in line to vote at the close of the polling period shall be allowed to vote.

C. Election Observers

1. FOP, Lodge #82 and UMBC shall designate to the Executive Director in advance of the opening of the polls on the date of the election the names of persons who shall serve as observers during the election.

a. each party may have one observer at any given time per clerical line;

b. each party may have one observer at any given time to monitor the ballot box areas in such a manner as not to compromise the privacy of the voting;

c. each party may have one observer only during the tally period; said observer shall be the sole spokesperson for that party during the tally period and shall attest to the accuracy of the count on a form provided by the Board;

d. observers may not campaign or converse with voters during their service nor in any way interfere with the voting process; any concerns must be directed to the Election Supervisor;

e. exchange of observer lists must occur outside the polling area as approved by the Election Supervisor;

f. observers may be eligible voters;

g. observers, except the one serving during the tally period, may not have managerial authority or supervisory power over eligible Sworn Police unit employees;

h. any member of the Board may observe the voting at any time.

D. Challenged and Void ballots, Absentee Ballots, and Ballot counting

1. Challenging of voters' right to cast ballots

a. any prospective voter may be challenged by an official observer for cause notwithstanding the efforts prior to the election of the parties to meet and resolve differences regarding employee eligibility;

b. a prospective voter whose name is not on the approved and official eligibility list shall be challenged by the Board for the reason, "Not on the List".

c . a voter challenged for cause:

i. shall vote, place his or her ballot in a "secret ballot" envelope which is then deposited by the voter in a "challenged ballot envelope" containing information on the outside of the identity of the voter, the reason for the challenge, and the maker of the challenge; the outside may also contain markings related to the investigation of the validity of the challenge and resolution, if any.

ii. The large challenged ballot envelope containing the unidentifiable white secret ballot envelope shall then be placed into the ballot box, preferably by the voter.

2. Challenged ballots shall be considered at the conclusion of the regular tally only if the number of their total could affect the outcome of the election (i.e., are "determinative");

a. the total of ballots cast shall be considered initially to determine the highest tally required for a majority to be reached by a choice;

b. if there are enough challenged ballots to affect the outcome, the Election Supervisor shall resolve the validity of the challenges if possible and may do so only to the point at which the remaining number is no longer determinative.

3. Void ballots—the Election Supervisor shall determine a ballot void if the ballot does not reveal the intent of the voter due to mutilation, soiling, or any other reason:

a. a void ballot shall not be counted as a ballot cast;

b. a voter may request a replacement ballot for a mismarked one provided that the mismarked ballot has not been deposited in the ballot box and has been returned to the Election Supervisor who shall mark it

"void" prominently; all voided ballots shall be kept separately in the election record;

c. a ballot on which a voter has marked a name—presumably his or her own—shall be deemed to constitute a waiver of anonymity; other words or marks on a ballot shall not make the ballot void if otherwise the intent of the voter is clear; a question mark or other mark other than X or a checkmark within the appropriate box shall be construed as evidence of positive intent for that choice.

4. Unchallenged and Absentee Ballots shall be counted immediately following the conclusion of the voting period and results shall be announced as soon as known by the Election Supervisor:

a. challenges and inspection of ballots shall be limited to official observers as specified below;

b. FOP, Lodge #82 and UMBC shall each designate one specific observer/representative to observe the tabulation and act on the party's behalf; only one specified observer/representative may act during the counting period on behalf of the designating party;

c. the marking and thus crediting of a ballot as called by the Election Supervisor may be challenged; any such ballot shall be set aside and its tally included as called, subject to later review.

2. All ballots, challenged or otherwise, and envelopes shall be retained by the Executive Director and archived by the SHELRB for as long as required by law or regulation. Parties' observers may be requested to sign across seals of balloting materials.

E. Determination of Election Outcome

1. Majority vote required—more than 50% of the valid ballots cast is required for FOP, Lodge #82 to be determined as winner of the representation election (e.g., 13 of 25);

2. Tie vote—the Executive Director shall certify "No Exclusive Representative" as winner if there is a tie vote.

VII. Report of Election and Certification of Representative

A. Within seven (7) working days after an election, the Executive Director shall certify the results of that election. Prior to this certification, any announcement of results shall be deemed "unofficial."

B. If FOP, Lodge #82 receives the majority of valid votes cast, it shall be certified by the Executive Director as the bargaining representative.

C. If "No Exclusive Representative" receives a majority, or if there is a tie, the Executive Director shall so certify.

D. The Executive Director shall report by mail the result of the election and the certification of the bargaining unit to the petitioner, FOP, Lodge #82; the employer UMBC; and the State Higher Education Labor Relations Board.

E. Objections to the conduct of Board agent

Within eight (8) days after the election results are certified by the Executive Director, any party who objects to any action of the Executive Director in conducting an election as having materially prejudiced the party and likely changed the outcome of the election may request a hearing before the Board.

F. Objections to the conduct of a party

1. Within eight (8) calendar days after election results are certified by the Executive Director, any party to the election who objects to prejudicial conduct of another party may file an objection with the Executive Director.

2. Activities of a party to an election which materially compromise the secret ballot process, effectively disenfranchise eligible voters,

or otherwise substantially interfere with laboratory conditions of a free and fair election are grounds for such an objection.

3. The Executive Director may examine such an objection and render a decision. The Executive Director's decision may be appealed to the Board within seven (7) calendar days of receipt of his decision.
If the Board sustains any such objection, it may overturn the results of the election and order a new election.

BY ORDER OF THE STATE HIGHER EDUCATION LABOR RELATIONS BOARD

Karl K. Pence, Executive Director
Annapolis, MD

February 7, 2005

Maryland State Higher Education Labor Relations Board

Notice of Election[1]

It is hereby ordered that an election shall be held on the campus of the University of Maryland, Baltimore County (UMBC) to determine by secret ballot whether the Sworn Police employees of UMBC shall be represented exclusively for the purposes of collective bargaining by the union candidate, Fraternal Order of Police, Lodge #82, or shall not be represented for the purposes of collective bargaining.

Date of Election: Wednesday, March 9, 2005[2]

Location of Polling Place: Conference Room 101, Central Plant Police Building

Time of Election: 6:00 – 8:00am
2:00 – 4:30pm

Sworn Police unit employees who are eligible to vote must present a photo ID in order to receive a ballot at the polling site. No distribution or wearing of campaign literature for any ballot choice shall be permitted within a designated area in proximity to the polling site.

By: Karl K. Pence

Karl K. Pence, SHELRB Executive Director

Authority: State Personnel & Pensions Article, § 3-2A-05, Annotated Code of Maryland

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[1] Complete copy of Final Order available on website: www.mhec.state.md.us/shelrb

[2] Certain employees, as specified by the Final Order, will be notified of a vote-by-mail option. For those employees, the ballots will be mailed no later than February 10, 2005. The ballots must be received at the SHELRB office no later than 5pm on March 8, 2005 to be counted following the close of polls on March 9, 2005.

University of Maryland, Baltimore County

Sworn Police Employees Unit

Vote for ONE of the Following

Mark X within the box to the left of your choice

☐ **Fraternal Order of Police, Lodge # 82**

☐ **No Exclusive Representative**

Eligible voters shall present a photo ID in order to receive a ballot.

This election is conducted under the authority of the State Higher Education Labor Relations Board (SHELRB), Jamin B. Raskin, Chair.

Authority: State Personnel and Pensions Article, § 3-2A-05, Annotated Code of Maryland