

**State of Maryland**  
*State Higher Education Labor Relations Board*

---

In the matter of:	)	
Fraternal Order of Police, Lodge #141,	)	
	)	
and,	)	SHELRB EL 2020-01
	)	
University of Maryland,	)	
Baltimore,	)	
	)	

---

**DECISION AND ORDER**

**I. DECISION**

**a. Factual and Procedural Background**

On June 16, 2020, the Fraternal Order of Police, Lodge #141 (“FOP Lodge 141”) filed with the State Higher Education Labor Relations Board (“SHELRB”) a Certification Petition seeking to represent, as the exclusive bargaining representative, Sergeants working for the University of Maryland, Baltimore (Police Department) (“UMB”).

FOP Lodge 141 is the exclusive bargaining representative of the sworn police unit of UMB.<sup>1</sup>

**b. Issue**

The question before the SHELRB is whether Title 3 of the SPP permits the SHELRB to conduct an election to certify a new bargaining unit to represent Sergeants working for UMB.

**c. Analysis**

Title 3 of the State Personnel and Pensions Article sets forth the process for electing and certifying an exclusive representative of a bargaining unit. More specifically, Section 3-401(a) states, “[e]xcept as otherwise provided in this subtitle, the Board shall conduct an election for an exclusive representative of a bargaining unit if: (1) a valid petition is filed in accordance with § 3-402 of this subtitle; **and (2) the bargaining unit involved in the petition is determined to be**

---

<sup>1</sup> This case comes on the heels of our decision in SHELRB UC 2020-01 involving the same parties. In that matter, FOP Lodge 141 filed a Clarification/Contest of Unit Designation Petition in which it argued that UMB wrongfully excluded eight Sergeants from the Sworn Police Unit by designating the Sergeants as supervisors pursuant to State Personnel and Pensions (“SPP”) Article § 3-201(b)(12). The union disputed that designation and sought a determination by the SHELRB that the Sergeants are not supervisors and therefore should be included in the sworn police unit. For the reasons set forth therein, the SHELRB denied FOP Lodge 141’s Petition.

**an appropriate bargaining unit under § 3-403 of this subtitle”** (emphasis added). Md. Code Ann., State Personnel and Pensions, Art. § 3-401(a).

Section 3-403(d)(1) states, “[e]ach system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall have separate bargaining units.” Md. Code Ann., State Personnel and Pensions, Art. § 3-403(d)(1). Section 3-403(d)(3) states, “[a]ppropriate bargaining units shall consist of: (i) all eligible nonexempt employees, as described in the federal Fair Labor Standards Act,... except eligible sworn police officers; (ii) all eligible exempt employees, as described in the federal Fair Labor Standards Act; and (iii) all eligible sworn police officers.” Md. Code Ann., State Personnel and Pensions, Art. § 3-403(d)(3).

Looking to the plain language of Sections 3-403(d)(1) and (3), it is clear that only three bargaining units are permitted at each system institution – one unit representing all eligible nonexempt employees, one unit representing all exempt employees, and one unit representing all eligible sworn police officers.

As indicated above, FOP Lodge 141 is the exclusive bargaining representative of the sworn police unit of UMB, which this Board previously determined properly excludes Sergeants. Because a bargaining unit representing sworn police officers already exists, creation of an additional and separate bargaining unit for Sergeants is not permitted under Title 3. Therefore, the SHELRB is precluded from holding an election to certify a new bargaining unit to represent Sergeants working for UMB.

## **II. ORDER**

IT IS HEREBY ORDERED THAT the Petition in SHELRB EL 2020-01 is dismissed.

BY ORDER OF THE HIGHER EDUCATION LABOR RELATIONS BOARD:

  
\_\_\_\_\_  
Harriet E. Cooperman, Chair

Annapolis, MD

August 8, 2020

### **APPEAL RIGHTS**

Any party aggrieved by this action of the Board may seek judicial review in accordance with Title 10 of the State Government Article, Annotated Code of Maryland, Section 10-222, and Maryland Rule 7-201, *et seq.*, Maryland Rules of Practice and Procedure.