

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
: Case No. PERA-R-07-120-E  
:  
:  
:  
:  
ALLENTOWN CITY SCHOOL DISTRICT :

**FINAL ORDER**

A Petition for Representation was filed with the Pennsylvania Labor Relations Board (Board) on March 15, 2007, by the Communications Workers of America, AFL-CIO (Petitioner), alleging that it represented thirty (30) percent or more of the Department of Information Technology workers employed by the Allentown City School District (District). Pursuant to Section 603(c) of the Public Employee Relations Act (PERA), the Petitioner requested that a hearing be scheduled and an order be issued for election.

On April 3, 2007, the Board Secretary issued a letter declining to direct a hearing on the Petition for Representation, reasoning that the petitioned-for unit, limited to information technology employees, did not comport with the Board's broad-based bargaining unit policy.

On April 24, 2007, the Petitioner filed exceptions to the Secretary's decision.<sup>1</sup> In its exceptions, the Petitioner contends that the petitioned-for unit of twenty (20) information technology employees constitutes an appropriate unit under PERA. In support of this position, the Petitioner states that the information technology employees do not share a community of interest with the Health Room Assistants and Secretary Assistants in the existing white-collar nonprofessional bargaining unit represented by the Allentown School District Secretarial Educational Support Personnel Association, ESPA/PSEA/NEA (Incumbent Union) because they perform different work, have different supervision and have different educational and skill requirements.

However, it is well-settled that an identifiable community of interest can exist despite differences among employee classifications. In the Matter of the Employees of Lansdale Borough, 24 PPER ¶ 24053 (Final Order, 1993) (citing Washington Township Municipal Authority v. PLRB, 569 A.2d 402 (Pa. Cmwlth. 1990), appeal denied, 525 Pa. 652, 581 A.2d 575 (1990); Western Psychiatric Institute and Clinic v. PLRB, 330 A.2d 257 (Pa. Cmwlth. 1971); Pittston Area School District, 12 PPER ¶ 12180 (Final Order, 1981); Peters Township School District, 16 PPER ¶ 16070 (Order Directing Submission of Eligibility List, 1985); and Neshannock Township School District, 17 PPER ¶ 17153 (Final Order, 1986)).

The Board has a long-standing policy of certifying broadly-based bargaining units, the application of which would, in this case, militate against the separate certification of the information technology employees. See West Perry School District, 29 PPER ¶ 29110 (Final Order, 1998), aff'd, 752 A.2d 461 (Pa. Cmwlth. 2000), appeal denied, 568 Pa. 675, 795 A.2d 984 (2000). The broad-based bargaining unit policy is based on Section 604(1)(ii) of PERA, which directs the Board, when making the determination of an appropriate unit, to take into account the effects of overfragmentization of bargaining units. In City of Philadelphia, 10 PPER ¶ 10059 (Final Order, 1979), the Board stated that:

---

<sup>1</sup> Pursuant to Section 95.98(b) of the Board's Rules and Regulations, 34 Pa. Code § 95.98(b), exceptions must be filed within 20 days. It is noted that the exceptions, bearing the mark of a private postage meter, were received 21 days after the Secretary's letter. However, pursuant to the rule set forth in Miller v. Unemployment Compensation Board of Review, 50 Pa. 8, 476 A.2d 364 (1984), the Board will accept exceptions as timely filed if they are received one day after the expiration of the 20 day period because it is apparent that the exceptions were of necessity placed in the mail at least one day earlier and therefore within the time for filing. See also Teamsters Local No. 764 v. Lycoming County, 37 PPER ¶ 14 (Final Order, 2006).

The public policy of the Commonwealth and the purpose of the Act as set forth in Section 101 is to promote orderly and constructive relationships between public employers and their employees and to preserve at the same time the rights of the citizens of the Commonwealth to keep inviolate the guarantees for their health, safety and welfare. It is our considered judgment that the public policy of the Act will best be effectuated by avoiding the dangers of overfragmentation inherent in the certification of a bargaining unit limited to a small number of employees from among a much larger group. The whipsaw effect bargaining with a myriad of fragmented bargaining units has on an employer undermines rather than fosters harmonious employee-employer relations and the rights of the public.

Id. at 97. See also County of Allegheny, 11 PPER ¶ 11031 (Court of Common Pleas of Allegheny County, 1979).

The Board will deviate from its broad-based bargaining unit policy upon a showing that an identifiable community of interest is completely lacking between those employees included in and excluded from the proposed unit. West Perry, supra, citing Bucks County (Public Defender's Office), 13 PPER ¶ 13109 (Final Order, 1989), aff'd sub nom. District 65, United Autoworkers v. PLRB, 15 PPER ¶ 15062 (Court of Common Pleas of Bucks County, 1984). The Petitioner makes no claim that an identifiable community of interest is completely lacking between the information technology employees and the existing white-collar nonprofessional unit. Moreover, while identifying certain alleged differences between the information technology employees and the members of the existing unit, the Petitioner does not claim that there are differences in the other community of interest factors relied on by the Board (e.g. pay scales, hours and benefits, areas of work and other working conditions). Thus, the Petitioner's allegations, even if proven, would not warrant a departure from the Board's broad-based bargaining unit policy.

Under the broad-based bargaining unit policy, the Board recognizes all-inclusive blue-collar units, all-inclusive white-collar units and wall-to-wall nonprofessional units as appropriate under the Act. Lansdale Borough, supra, citing Methacton School District, 11 PPER ¶ 11040 (Decision and Order, 1980), 11 PPER 11227 (Final Order, 1980); Montgomery County Intermediate Unit 23, 11 PPER ¶ 11036 (Decision and Order, 1980). To accept the Petitioner's argument here would result in the certification of two separate units of white-collar nonprofessional employees. Absent even an allegation that an identifiable community of interest is totally lacking, such a unit configuration violates PERA's admonition against overfragmentation of bargaining units and is antithetical to the interests of the public and public employers throughout the Commonwealth. Accordingly, the Petitioner's exceptions must be dismissed.

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the exceptions filed by the Petitioner and affirm the decision of the Board Secretary declining to direct a hearing on the Petition for Representation.

#### ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employee Relations Act, the Board

#### HEREBY ORDERS AND DIRECTS

that the exceptions are dismissed and the Secretary's decision not to direct a hearing on the Petition For Representation is hereby made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, Anne E. Covey, Member and James M. Darby, Member, this nineteenth day of June, 2007. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.