

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
 :
 : Case No. PERA-R-16-125-E
MONTGOMERY COUNTY :

FINAL ORDER

On June 3, 2016, Teamsters Local 384 (Union) filed timely exceptions with the Pennsylvania Labor Relations Board (Board) to the May 16, 2016 decision of the Secretary of the Board declining to direct a hearing on the Petition for Representation filed by the Union under the Public Employee Relations Act (PERA). In the Petition, the Union sought to represent a bargaining unit limited to employees of the Montgomery County (County) Department of Health. The Secretary declined to direct a hearing and dismissed the Petition on the ground that it does not comply with the Board's broad-based bargaining unit policy, citing **Bucks County**, 10 PPER ¶ 10074 (Nisi Order of Amended Certification, 1979) and **Somerset County**, 10 PPER ¶ 10261 (Order and Notice of Pre-Election Conference, 1979). The Secretary stated that under the broad-based bargaining unit policy, the petitioned-for employees are appropriately included in a unit of all full-time and regular part-time professional human services employees, and not in a unit comprised of employees of a single department.

The cases cited by the Secretary applied the Board's broad-based bargaining unit policy and demonstrate that this policy has been in effect for nearly forty years. The rationale for the broad-based bargaining unit policy was discussed in **Chester County**, 26 PPER ¶ 26118 (Proposed Order of Dismissal, 1995), 27 PPER ¶ 27003 (Final Order, 1995), **aff'd**, No. 95-11568 (Court of Common Pleas of Chester County, 1998) as follows:

When assessing what is an appropriate unit the Board has traditionally included whether employees have an identifiable community of interest under Section 604(1)(i) of [PERA]. In making that determination the Board examines, "the employees' skills, their duties, areas of work, working conditions, interchange of employees, supervision, grievance procedure, hours of work, trade requirements, pay scales and employee desires." **Allegheny General Hospital v. PLRB**, 14 Pa. Commonwealth Ct. 381, 387-388, 322 A.2d 793, 799 (1974). Yet the Act demands that the Board also consider the effects of overfragmentization, suggesting the desirability of fewer and larger units. **Western Psychiatric Institute and Clinic v. PLRB**, 16 Pa. Commonwealth Ct. 204, 211, 330 A.2d 257, 260 (1974). Consequently, the Board's policy under Section 604(1)(ii) has been to make sure, "that the units must be as few as practically can be." *Id.* at 210, 330 A.2d at 260...

26 PPER at 274. Similarly, in dismissing a petition to represent a narrow unit in **Bucks County Public Defender's Office**, 13 PPER ¶ 13109 (Final Order, 1981), the Board noted "the danger of the whipsaw effect on public employers" if they must bargain with a multitude of overly fragmented units. 13 PPER at 198.

Express requirements in PERA and constitutional separation of powers concerns compel the Board to separate county employees into multiple units (court-related, court-appointed, residual, prison guards, security guards) that may be further separated into professionals and nonprofessionals unless the professionals vote in favor of a combined unit. 43 P.S. §§ 1101.604(2), 604(3). The Board also certifies professional and nonprofessional units of County human services employees. As recognized by the Secretary, permitting the Union to proceed in this case on a petition to represent only a narrow unit of professional employees of the County health department, as opposed to a broad unit of all professional human services employees, would violate the Board's broad-based bargaining unit policy and promote overfragmentization, contrary to the express intent of the legislature in enacting PERA. 43 P.S. § 1101.604(1)(ii).

In its exceptions, the Union asserts that it represents a bargaining unit of human services employees in Chester County that does not include employees of the health department, and that in Bucks County, there is a unit of health department employees that is separate from a unit of other human services employees. However, the Board's records indicate that the Bucks County units were certified in 1971 and 1974 (PERA-R-937-E, PERA-R-4230-E), which was before the Board adopted the broad-based bargaining unit policy. Therefore, those certifications do not support a different result in this case, particularly in view of the Board's consistent application of the broad-based bargaining unit policy for nearly forty years after those units were certified.

The Chester County bargaining unit referenced by the Union was certified in a Nisi Order of Certification issued by the Board on April 19, 2013, which describes the unit as including all full-time and regular part-time professional human services employees, including but not limited to certain specified positions (PERA-R-13-9-E). Thus, consistent with the Board's broad-based bargaining unit policy, the unit is broadly stated to include all professional employees in the field of human services. The issue of whether the Board's certification in Chester County encompasses professional health department employees is not before us. Moreover, the Union's allegation that such employees are treated as outside the human services unit by the Union and employer in Chester County does not justify a departure here from the Board's longstanding policy of certifying broad units, which the Board likewise sought to effectuate in certifying the broadly-described unit in Chester County. Simply stated, the petitioned-for unit in this matter was inappropriate under longstanding Board policy and case law, and was properly dismissed by the Secretary.

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the exceptions and affirm the Secretary's decision declining to direct a hearing and dismissing 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 filed by Teamsters Local 384 are dismissed and the Secretary's May 16, 2016 decision declining to direct a hearing and dismissing 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, Robert H. Shoop, Jr., Member, and Albert Mezzaroba, Member, this nineteenth day of July, 2016. 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.