

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
: Case No. PERA-U-17-129-E
: (PERA-R-11-244-E)
RIDLEY TOWNSHIP :

FINAL ORDER

Teamsters Local 312 (Teamsters) filed timely exceptions and a supporting brief with the Pennsylvania Labor Relations Board (Board) on June 20, 2017, from the June 2, 2017 decision of the Secretary of the Board declining to direct a hearing on the Teamsters' Petition for Amendment of Certification. The Secretary, in reliance on Section 95.24(a) of the Board's Rules and Regulations, dismissed the Teamsters' Petition because it was not filed by the Industrial and Allied Workers Union, Local 574 (IAWU), which is the employee representative certified by the Board in Case No. PERA-R-11-244-E.¹

Through its May 22, 2017 Petition for Amendment of Certification, the Teamsters seek to administratively change the named certified employee representative in Case No. PERA-R-11-244-E from the IAWU to the Teamsters, without the need for invoking the Board's statutory representation proceedings under Article VI of the Public Employee Relations Act (PERA). In its Petition for Amendment of Certification, the Teamsters allege that "[t]he membership has voted to merge with Teamsters Local 312, and to make Teamsters Local 312 the certified bargaining representative."

On exceptions, the Teamsters argue that following the Board's December 21, 2011 certification of the IAWU, the IAWU sought the assistance of the Teamsters to negotiate a collective bargaining agreement with the Township, that an agreement was reached naming the Teamsters as the party to the contract and the representative of the bargaining unit employees, that the employees ratified the agreement, that the Teamsters negotiated a successor agreement, and that under both collective bargaining agreements, the Teamster have been servicing the bargaining unit including filing and handling employee grievances. The Teamsters therefore assert that amendment of the Board certification to name their organization as the certified employee representative would cause no change in the day to day operation of representation of the employees. The Teamsters further allege that the IAWU has ceased to exist. Accordingly, the Teamsters argue that they have satisfied the requirements for an Amendment of Certification under Lincoln Intermediate Unit #12, 7 PPER 137 (Final Order, 1976).

A Petition for Amendment of Certification under Section 95.24 of the Board's Rules and Regulations may be filed "by the collective bargaining representative or the public employer" and may be utilized

¹ In Case No. PERA-R-11-244-E, following a Board-conducted representation election, the Board Representative issued a Nisi Order of Certification on December 21, 2011, certifying the IAWU as the exclusive collective bargaining representative for units of employees who had been represented by the Service Employees International Union, Local 32BJ certified in Case Nos. PERA-R-08-524-E and PERA-R-08-525-E.

only "[i]f no question of representation exists..." 34 Pa. Code §95.24(a). The Board has consistently held that the amendment of certification process cannot be employed to occasion a change in the relationship between the employee organization and the public employer or raise a question of representation. Lincoln Intermediate Unit #12, supra.

To ensure that the requested amendment of certification serves the purposes of PERA, and would not raise a question of representation, the Board has held in the similar case of an affiliation, that the petitioner must establish that "(1) the newly affiliated local is a continuation of the old with the same officers and functional leaders, and; (2) steps have been taken to insure that a majority of the membership approves and that there is no loss of identity of the certified local, and; (3) there is no change in the day-to-day relationship with the employer, and; (4) it is made clear that all contract commitments with the employer will be honored..." Lincoln Intermediate Unit #12, 7 PPER at 138. The petitioning party must provide the required information to the Board prior to the processing of the petition. Based on such information, the Board can determine whether the granting of the petition assures affected employees a continuity of their organization and representation, and whether the procedure utilized in bringing about the change accurately reflects the decision of the employees involved.

However, an administrative amendment of the Board's certification is not appropriate if there is any question of the continued identity, or continuity of the employee representative that was named in the Board certification. Indeed, in Steel Valley School District, 14 PPER ¶14167 (Final Order, 1983), the Board stated as follows:

The Association's contention that affiliation is itself sufficient to compel a merger of independent units holds the potential of threatening the rights of certified locals and their employees. In such cases, the local is the certified representative chosen by the employees.... The position of the Association would obliterate the distinction and enable the larger entity to swallow the smaller. Such a result is antithetical to the democratic structure of labor relations mandated by PERA.... Although the Board does seek to encourage the formation of broadly-based units, the Board will not sanction an interpretation of PERA which serves to defeat employee rights. Westmoreland Intermediate Unit, 12 PPER ¶12347 (1981). As the Board noted in Lincoln Intermediate Unit #12, 7 PPER 137 (1976), the Board will permit affiliation only if it entails no loss of identity for the certified local. To permit the Association to usurp the place of the secretarial organization would be contrary to the purposes of PERA.

Steel Valley School District, 14 PPER at 360.

The information submitted by the Teamsters in its Petition for Amendment of Certification fails to demonstrate continuity of representation, and thus raises a question of representation. Indeed, Teamsters do not contend that they have the same officers and functional leaders as the IAWU, or that the members of the two

organizations each voted to merge into one organization. Rather the facts alleged by the Teamsters indicate that it has assumed representation of the bargaining unit employees, that it has obtained ratification by the Township of collective bargaining agreements to which it was a party, and that it now seeks to administratively supplant the allegedly defunct IAWU as the certified employee representative of the bargaining unit employees. In view of the facts alleged by the Teamsters, administratively amending the Board's certification in Case No. PERA-R-11-244-E to reflect a change in representative from the IAWU to the Teamsters would not serve to effectuate the purposes of PERA. 43 P.S. §§1101.401, 1101.603, 1101.606; 34 Pa. Code 95.24 (c). Indeed, a Petition for Amendment of Certification cannot be used as a mechanism to bypass the statutory procedures for employee free-choice through representation proceedings under Article VI of PERA. Steel Valley School District, supra.; 34 Pa. Code §95.24.²

Accordingly, after a thorough review of the exceptions and all matters of record, the Secretary of the Board did not err in declining to direct a hearing, and dismissing the Petition for Amendment of Certification. Therefore, the exceptions filed by the Teamsters shall be dismissed, and the Board Secretary's decision shall be made absolute and final.

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 312 are hereby dismissed, and the June 2, 2017 decision of the Secretary dismissing the Petition for Amendment of Certification, be and hereby is made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, Robert H. Shoop, Jr, Member, and Albert Mezzaroba, Member this twenty-first day of November, 2017. 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.

² Moreover, as stated by the Secretary, the Petition for Amendment of Certification in this case must nevertheless be dismissed as it was not filed by the named certified employee representative, but by the Teamsters. 34 Pa. Code 95.24(a).