

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
:
: Case No. PERA-R-25-332-E
:
CITY OF PHILADELPHIA DISTRICT :
ATTORNEY'S OFFICE :

ORDER GRANTING MOTION TO INTERVENE/PROPOSED ORDER OF DISMISSAL

On December 15, 2025, the United Steelworkers Local 286 (USW or Union) filed a Petition for Representation with the Pennsylvania Labor Relations Board (Board), alleging a 30-percent showing of interest among a professional employe unit of all paralegals employed by the City of Philadelphia District Attorney's Office (City or DAO) and seeking an election pursuant to Section 603(c) of the Public Employe Relations Act (PERA or Act).

On January 22, 2026, the Board Secretary issued an Order and Notice of Hearing, assigning the matter to conciliation, and directing a hearing on March 26, 2026, if necessary. By letter dated February 11, 2026, the USW amended the Petition for Representation to allege a 30-percent showing of interest among a nonprofessional unit of paralegals employed with the DAO.

On February 26, 2026, the American Federation of State, County, and Municipal Employees, District Council 47 (DC 47) filed a Motion to Intervene, alleging that DC 47 was actively organizing a unit of professional employes in the DAO, and arguing that a separate professional unit of paralegals would be inappropriately narrow, which should be rejected in favor of a broad-based professional unit of assistant district attorneys and paralegals. On February 27, 2026, the American Federation of State, County, and Municipal Employees, District Council 33 (DC 33) also filed a Motion to Intervene, alleging that, to the extent the paralegals are determined to be nonprofessional employes under PERA, those employes belong in the DC 33 nonprofessional unit, which has been expressly authorized to represent the civil service, nonprofessional employes of the City pursuant to the grandfather clause in Section 2003 of PERA. On March 5, 2026, USW filed a response to the pending Motions to Intervene, opposing the same. On March 9, 2026, the DAO filed a response to the pending Motions to Intervene, indicating that it does not oppose a unit of nonprofessional, non-civil service employes or a freestanding professional unit of paralegals.

On March 24, 2026, I continued the hearing to May 5, 2026, to permit time for the Board's conciliator to hold an additional prehearing conference. On May 4, 2026, I continued the hearing indefinitely to permit additional time to resolve the various prehearing issues. By letter dated May 5, 2026, DC 47 withdrew its pending Motion to Intervene, indicating that its pending representation petition, which was docketed at PERA-R-26-67-E, was now unaffected, in light of a stipulation between USW and the City during a prehearing conference that the petitioned-for employes are nonprofessional.

The instant Petition for Representation filed by USW must be dismissed as a matter of law pursuant to the Board's holding in Philadelphia Register of Wills, 11 PPER ¶ 11049 (Decision and Order, 1980), wherein the Board found that it did not have jurisdiction over the City DAO by operation of Section

2003 of PERA.¹ In Philadelphia Register of Wills, the Board specifically opined as follows:

The issue facing the Board is whether approving the stipulations of the parties, as to the appropriateness of the unit, will effectuate the policies of the Act. As the Board finds that the Register of Wills office is the only elected court-related row office in the City of Philadelphia, which is subject to the jurisdiction of the Board pursuant to Section 2003 of the PERA, we find the unit stipulated to by the parties to be an appropriate residual unit of non-court appointed court-related employees. By virtue of the Philadelphia Home Rule Charter, the City of Philadelphia and the County of Philadelphia are co-extensive. The court-related row offices of the City and County of Philadelphia are the Register of Wills, Prothonotary, Clerk of Quarter Sessions, Sheriff and District Attorney. As is set forth in Lennox v. Clark, 372 Pa. 355 (1953) and Welsh v. Tate, 444 Pa. 229 (1971), the only two offices in Philadelphia that are not subject to the Home Rule Charter and, therefore, the Ordinance of April 4, 1961, are the Register of Wills and the Prothonotary. In Employees of the City of Philadelphia v. Pennsylvania Labor Relations Board, 350 A.2d 923, 23 Pa. Commonwealth Ct. 233, 8 PPER 158 (1976), the court held that deputy sheriffs are not within the provisions of Act 195 because of the exclusions set forth in Section 2003 of the Act. Likewise, in Chalfin v. Specter, 426 Pa. 464 (1967), it was determined that the District Attorney's office is also subject to the Home Rule Charter. The record also reveals that the City of Philadelphia has bargained with employees of the Clerk of Quarter Sessions office and District Attorney's office pursuant to the Ordinance of April 4, 1961. Furthermore, the sheriffs are represented by District Council 33 of AFSCME. As such, it is clear that these three row offices are not presently subject to the jurisdiction of the Board by operation of Section 2003. It therefore appears that only the Prothonotary's office and the Register of Wills office are not covered by the 1961 Ordinance. As is set forth in 42 Pa.C.S.A. 2732(b), the Prothonotary of Philadelphia is appointed by the Court of Common Pleas of Philadelphia County. The Prothonotary is thereby a court-appointed row office. The only elected court-related row office in the City of Philadelphia, which is subject to Board jurisdiction, is the Register of Wills office. In accordance with Bucks County, 10 PPER 10074 (1979), the Register of Wills office is an appropriate residual unit of all remaining non-court appointed employees directly involved with and necessary to the functioning of the courts.

Of course, the City amended the April 4, 1961 Ordinance in 1980 to define uniformed and investigatory personnel, which are exempt from civil

¹ Section 2003 provides that "[p]resent provisions of an ordinance of the City of Philadelphia approved April 4, 1961, entitled 'An Ordinance to authorize the Mayor to enter into an agreement with District Council 33, American Federation of State, County and Municipal Employees, A.F.L.-C.I.O., Philadelphia and vicinity regarding its representation of certain City Employees,' which are inconsistent with the provisions of this act shall remain in full force and effect so long as the present provisions of that ordinance are valid and operative." 43 P.S. § 1101.2003.

service, to include "police, fire, deputy sheriffs and deputy sheriff officers." This, in turn, led Board Hearing Examiner Elliot Newman to conclude that, by virtue of the 1980 amendment to the Ordinance, the Board now had jurisdiction to entertain a representation petition for the deputy sheriffs. City of Philadelphia, 12 PPER 12148 (Proposed Order of Dismissal, 1981).² The Board affirmed the hearing examiner's determination in this regard in City of Philadelphia, 12 PPER 12378 (Final Order, 1981).

In 1980, the Board also confronted a question regarding the residual employees, who were not classified as civil service employees, in the City's Office of Housing and Community Development (OHCD). In City of Philadelphia, 11 PPER ¶ 11206 (Order and Notice of Further Hearing, 1980), the Board allowed a representation petition to move forward because the OHCD employees were exempt from the civil service system, as those employees were located in the Office of the Mayor.

Eventually, in 1984, the Board certified the Fraternal Order of Police (FOP) Lodge 5 as the exclusive representative of a unit of deputy sheriffs and clerical employees of the Register of Wills in City of Philadelphia, PERA-R-84-237-E. See also In the Matter of the Employees of the City of Philadelphia, 16 PPER ¶ 16166 (Final Order, 1985).

Notably, the Board has never wavered from its holding that it generally lacks jurisdiction over the District Attorney's Office employees in Register of Wills, *supra*, nor has the 1961 Ordinance been amended to compel a different result. While the Board has processed the representation petition filed by DC 47 in PERA-R-26-67-E, that matter involves the professional employees, who have been specifically exempted from the civil service system, similar to the OHCD employees set forth above.³ However, there is no exception for the petitioned-for nonprofessional employees in the District Attorney's office in the instant matter, who must be deemed civil service employees, consistent with Lennox, *supra*, and Register of Wills. As the Board recognized in Register of Wills, the District Attorney's office is subject to the City's Home Rule Charter, and as a result, the petitioned-for employees are covered by the Ordinance of April 4, 1961. For these reasons, the Motion to Intervene filed by DC 33 must be granted, as DC 33 is the employee representative of the petitioned-for employees, consistent with the 1961 Ordinance, and the representation petition filed by USW for the nonprofessional employees in the District Attorney's office must be dismissed pursuant to Section 2003 of PERA.

ORDER

In view of the foregoing and in order to effectuate the policies of PERA, the hearing examiner:

² The hearing examiner ultimately dismissed the representation petition on other grounds pursuant to Section 602(b) and Section 605(7)(ii) of PERA.

³ Section 2-108 of the City's Civil Service regulations provides that: "(1) *Civil Service*. All officers and employees of the officers, offices, boards and commissions created or continued by this Title shall be subject to the civil service provisions of the Charter except... (c) Assistant District Attorneys."

HEREBY ORDERS AND DIRECTS

that the Motion to Intervene filed by DC 33 is granted, and the Petition for Representation filed by USW is dismissed.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this decision and order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this second day of June, 2026.

PENNSYLVANIA LABOR RELATIONS BOARD

/s/ John Pozniak
John Pozniak, Hearing Examiner