

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
 :
 : Case No. PERA-R-23-50-E
 :
 LYCOMING COUNTY :

FINAL ORDER

A Petition for Representation under the Public Employee Relations Act (PERA) was filed with the Pennsylvania Labor Relations Board (Board) on March 13, 2023, by the National Correctional Employees Union (Petitioner), alleging that it represented thirty percent or more of the Bail Release Officer employees employed by Lycoming County (Employer) and requesting pursuant to Section 603(c) of PERA that the Board schedule a hearing and order an election. On April 18, 2023, the Secretary of the Board issued a letter declining to direct a hearing, stating that the petitioned-for unit limited to Bail Release Officers was inappropriately narrow under the Board's broad-based bargaining unit policy. Therefore, the Secretary dismissed the Petition.

On May 8, 2023, the Petitioner filed timely exceptions with the Board, challenging the Secretary's dismissal of the Petition for Representation. In the exceptions, the Petitioner contends that the Secretary erred in dismissing the Petition based upon the Board's broad-based bargaining unit policy because the petitioned-for unit would not disrupt labor harmony or cause potential fragmenting of the current County bargaining units.

Section 604 of PERA provides that the Board "shall determine the appropriateness of a unit". 43 P.S. § 1101.604. When determining the appropriateness of a unit, the Board must take into consideration (1) that the employees share an identifiable community of interest and (2) the effects of overfragmentization. *Id.* In this respect, the Board is guided by its longstanding, broad-based bargaining unit policy under Section 604(1)(ii) of PERA. In *City of Philadelphia*, 10 PPER ¶ 10059 (Final Order, 1979), the Board stated that:

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 overfragmentization 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. Commonwealth of Pennsylvania, Pennsylvania Board of Probation and Parole, 43 PPER 20 (Final Order, 2011).

The Board will deviate from its policy of certifying broad-based units "only under the most compelling of circumstances." Northampton County, 11 PPER ¶ 11001 at 6 (Order and Notice of Pre-Election Conference, 1979). Therefore, the party seeking deviation from the Board's broad-based bargaining unit policy must demonstrate that an identifiable community of interest is completely lacking between those employees included in and excluded from the proposed unit. West Perry School District, 29 PPER ¶ 29110 (Final Order, 1998), aff'd sub. nom, West Perry School District v. PLRB, 752 A.2d 461 (Pa. Cmwlth. 2000), appeal denied, 795 A.2d 984 (Pa. 2000); Bucks County Public Defenders Office, 13 PPER ¶ 13109 (Final Order, 1981), aff'd, 15 PPER ¶ 15062 (Court of Common Pleas, 1984); Commonwealth of Pennsylvania, Pennsylvania Board of Probation and Parole, supra. Here, the Petitioner has failed to allege sufficient facts to demonstrate that the Bail Release Officers completely lack a community of interest with the County employees in either the court-related or residual units¹ to warrant deviation from the Board's broad-based bargaining unit policy. Indeed, the Petitioner is not seeking to represent all of the court-related or residual employees, but is only seeking to represent the Bail Release Officers consisting of five employees. To permit the Petitioner to proceed on its Petition would violate PERA's admonition under Section 604(1)(ii) against overfragmentization. Accordingly, the Secretary properly dismissed the Petition for Representation, which was filed for an inappropriate unit.

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the Petitioner's exceptions and affirm the Secretary's decision not to direct a hearing on the representation petition.

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 the National Correctional Employees Union are hereby dismissed and the Secretary's April 18, 2023 decision declining to direct a hearing on the Petition for Representation be and the same is hereby made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, James M. Darby, Chairman, Albert Mezzaroba, Member, and Gary Masino, Member this nineteenth day of September, 2023. 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.

¹ The Board has not certified an exclusive representative for either the court-related or residual units of the Employer.