

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
: :  
: Case No. PERA-R-17-302-E  
: (PERA-R-03-246-E)  
: :  
PENNSYLVANIA STATE SYSTEM OF :  
HIGHER EDUCATION :

**ORDER DIRECTING REMAND TO SECRETARY FOR FURTHER PROCEEDINGS**

A Petition for Representation under the Public Employee Relations Act (PERA or Act) was filed with the Pennsylvania Labor Relations Board (Board) on October 23, 2017, accompanied by a showing of interest and alleging that thirty percent or more of certain employees of the Pennsylvania State System of Higher Education (PASSHE) desire to be represented by the PASSHE Officers Association (Petitioner). The Petitioner further alleged that there are presently 180 bargaining unit employees currently represented by the International Union of Security, Police and Fire Professionals of America (Incumbent Union),<sup>1</sup> and that an agreement covering those employees expired on August 31, 2017. Petitioner requested that pursuant to Section 607 of PERA, the Board schedule a hearing and order an election.

On October 24, 2017, the Board acknowledged the filing of the petition and directed PASSHE to furnish the Board with a list of the employees in the unit on the payroll immediately prior to the filing of the petition. On October 27, 2017, the Board received an employee list from PASSHE containing the names of 205 employees in the unit as of the filing of the petition. Based on the employee list submitted by PASSHE, it was determined that the Petitioner had failed to submit a thirty percent showing of interest as required by Section 607 of PERA. Therefore, on October 31, 2017, the Secretary declined to direct a hearing and dismissed the Petition for Representation.

On November 6, 2017, the Petitioner filed timely exceptions with the Board, challenging the Secretary's dismissal of the Petition for Representation and alleging that the employee list submitted by PASSHE includes individuals who are not employed in the job classifications that are included in the bargaining unit. On December 19, 2017, the Board remanded the matter to the Secretary with direction to order a hearing, limited solely to the accuracy of PASSHE's list of employees.

On January 2, 2018, the Secretary issued an Order and Notice of Hearing, in which the matter was assigned to a prehearing conference, and designating February 15, 2018, in Harrisburg, as the time and place of hearing, if necessary. The parties elected to submit stipulations of fact in lieu of appearing for a hearing on the matter. The Board received the duly executed stipulations on or about February 1, 2018.

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<sup>1</sup> On October 3, 2003, in Case No. PERA-R-03-246-E, the Board certified the Incumbent Union as the exclusive bargaining representative for a unit of PASSHE employees who are full-time and regular part-time security guards.

The Examiner, on the basis of all matters and documents of record, makes the following:

#### FINDINGS OF FACT

1. PASSHE is a public employer within the meaning of Section 301(1) of PERA. (Joint Exhibit 1)<sup>2</sup>
2. The Petitioner is an employe organization within the meaning of Section 301(3) of PERA. (Joint Exhibit 1)
3. The Incumbent Union is an employe organization within the meaning of Section 301(3) of PERA. (Joint Exhibit 1)
4. The PASSHE list of employes on the payroll immediately prior to the filing date of the petition, which contained the names of 205 employes and which the Board received on October 27, 2017, was inaccurate. (Joint Exhibit 1)
5. The accurate PASSHE list of employes on the payroll immediately prior to the filing date of the petition includes the names of 201 employes. (Joint Exhibit 1, 2)

#### DISCUSSION

The Petitioner contends that PASSHE submitted an inaccurate list for use by the Board in checking its showing of interest offered in support of the Representation Petition. The record shows that PASSHE did, indeed, submit an inaccurate list to the Board on October 27, 2017, which contained the names of 205 employes. The record also shows that the accurate PASSHE list of employes on the payroll immediately prior to the filing date of the petition actually includes the names of 201 employes. Therefore, the Petitioner was required to submit at least 61 valid authorization cards to satisfy the thirty percent threshold set forth in Section 607 of PERA. In fact, the Petitioner has submitted at least 61 valid authorization cards. As such, the Petitioner has demonstrated an adequate showing of interest. Accordingly, this matter will be remanded to the Secretary for further proceedings consistent with Section 607 of PERA.

#### CONCLUSIONS

The Examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. PASSHE is a public employer within the meaning of Section 301(1) of PERA.
2. The Petitioner is an employe organization within the meaning of Section 301(3) of PERA.
3. The Incumbent Union is an employe organization within the meaning of Section 301(3) of PERA.

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<sup>2</sup> The stipulation of facts has been marked as Joint Exhibit 1. The stipulation also included an attachment, which has been marked as Joint Exhibit 2.

4. The Board has jurisdiction over the parties.

5. The Petitioner has demonstrated the requisite showing of interest as defined in the Act.

**ORDER**

In view of the foregoing and in order to effectuate the policies of the Act, the Examiner

**HEREBY ORDERS AND DIRECTS**

that the Petition is remanded to the Secretary for further proceedings consistent with Section 607 of PERA.

**IT IS HEREBY FURTHER ORDERED AND DIRECTED**

that no exceptions may be filed to this procedural order pursuant to 34 Pa. Code § 95.96(a).

SIGNED, DATED AND MAILED from Harrisburg, Pennsylvania this 9<sup>th</sup> day of February, 2018.

PENNSYLVANIA LABOR RELATIONS BOARD

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John Pozniak, Hearing Examiner