

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

INTERNATIONAL UNION SECURITY POLICE AND :  
FIRE PROFESSIONALS OF AMERICA LOCAL 506 :  
 :  
v. : Case No. PERA-C-20-263-E  
 :  
HAZLETON AREA SCHOOL DISTRICT :

**PROPOSED DECISION AND ORDER**

On November 2, 2020, the International Union, Security, Police and Fire Professionals of America Local 506 (Union) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (Board) against the Hazleton Area School District (District or Employer), alleging that the District violated Section 1201(a)(1) and (5) of the Public Employe Relations Act (PERA or Act) by refusing to provide information to the Union on October 1 and October 4, 2020, which was essential to conducting a mail vote for the ratification of an alleged collective bargaining agreement.

On December 2, 2020, the Secretary of the Board issued a Complaint and Notice of Hearing, assigning the charge to conciliation, and directing a hearing on April 8, 2021, if necessary. The parties ultimately agreed to enter joint stipulations of fact in lieu of appearing for an evidentiary hearing before the Board. The Board received the duly executed joint stipulations on April 2, 2021. The parties each filed separate post-hearing briefs in support of their respective positions on May 10, 2021. The Union filed a Motion to Strike the District's post-hearing brief on May 21, 2021, alleging that the District's brief improperly contained many references to alleged facts that were beyond the record, as well as numerous exhibits that were never admitted or proposed into evidence. In response, the District filed an amended post-hearing brief on May 21, 2021.

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

FINDINGS OF FACT

1. The District is a public employer within the meaning of Section 301(1) of PERA.
2. The Union is an employe organization within the meaning of Section 301(3) of PERA.
3. The Union is the exclusive bargaining representative for a unit of school security employes at the District. (Joint Exhibit 1)<sup>1</sup>
4. In September and October 2020, the Union requested from the District a list of Union-represented bargaining unit members and their contact information, including names, addresses, email addresses, phone numbers, and positions. (Joint Exhibit 1)

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<sup>1</sup> The joint stipulations of fact have been marked as Joint Exhibit 1.

5. Although the District provided a list of bargaining unit members, the District refused to provide addresses. (Joint Exhibit 1)

6. The Union explained to the District that it requested this information so that it may update its records and contact the bargaining unit for a contract ratification vote. (Joint Exhibit 1)

7. In prior years, including 2014-2019, the District provided the Union with lists of bargaining unit members that included their addresses. (Joint Exhibit 1)

#### DISCUSSION

In its charge, the Union specifically alleged that the District violated Section 1201(a)(1) and (5) of the Act<sup>2</sup> by refusing to provide information to the Union in October 2020, which was essential to conducting a mail vote for the ratification of an alleged collective bargaining agreement (CBA) between the Union and the District. The District contends that the charge should be dismissed because the right to informational privacy precludes the District from disclosing its employees' personal information without their prior consent. Likewise, the District asserts that its prior decision to provide the personal information does not constitute a binding past practice.

It is well settled that an employer is generally obligated to provide relevant information requested by the union, which the union needs to intelligently carry out its grievance handling and collective bargaining functions. AFSCME Council 13, AFL-CIO v. Commonwealth of Pennsylvania, Dept. of Corrections, 17 PPER ¶ 17072 (Proposed Decision and Order, 1986), 18 PPER ¶ 18057 (Final Order, 1987). The standard for relevance is a liberal discovery type standard that allows the union to obtain a broad range of potentially useful information. Commonwealth of Pennsylvania v. PLRB, 527 A.2d 1097 (Pa. Cmwlth. 1987). If the record contains substantial and legally credible evidence that the union requested relevant information and the employer improperly denied the request, the employer must be found in violation of its bargaining obligation. AFSCME Council 13, AFL-CIO v. Commonwealth of Pennsylvania, Dept. of Corrections, *supra*.

The Union has sustained its burden of proving a violation of the Act. Indeed, the record shows that the Union requested from the District a list of Union-represented bargaining unit members and their contact information, including names, addresses, email addresses, phone numbers, and positions in September and October 2020. The record also shows that, although the District provided a list of bargaining unit members, the District refused to provide addresses. The record further shows that the requested information is relevant, as the Union explained to the District that it requested this information so that it may update its records and contact the bargaining unit members for a contract ratification vote. As the Union persuasively notes in

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<sup>2</sup> Section 1201(a) of PERA provides that "[p]ublic employers, their agents or representatives are prohibited from: (1) Interfering, restraining or coercing employees in the exercise of the rights guaranteed in Article IV of this act...(5) Refusing to bargain collectively in good faith with an employe representative which is the exclusive representative of employes in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative. 43 P.S. § 1101.1201.

its post-hearing brief, the National Board has held that addresses and phone numbers of bargaining unit employees are presumptively relevant for the purposes of collective bargaining and must be furnished upon request of the bargaining representative. River Oak Center for Children, Inc. and Social Services Union, Local 535 Service Employees International Union, 345 NLRB 1335 (2005). Indeed, it cannot be seriously disputed that the Union's ability to conduct a ratification vote for a tentative CBA is an essential collective bargaining function. That the Union chooses to do so by mail is an internal Union matter, which is of no consequence to the District, especially in light of the ongoing Covid-19 pandemic.<sup>3</sup> As such, the District has committed unfair practices in violation of Section 1201(a) (1) and (5) of PERA.

Notably, the District does not even argue in its post-hearing brief that the requested information is irrelevant. Instead, the District relies on Pennsylvania State Education Association v. Commonwealth of Pennsylvania, 148 A.3d 142 (Pa. 2016), Markham v. Wolf, 190 A.3d 1175 (Pa. 2018), and City of Duquesne v. Teamsters Local Union No. 205, No. 567 C.D. 2020 (Pa. Cmwlth. 2021),<sup>4</sup> for the proposition that there is a well-defined public policy in Pennsylvania against the unauthorized access to personally identifiable information, such as home addresses. However, the District's reliance on those decisions is misplaced, as they are clearly not controlling here. In PSEA, the Pennsylvania Supreme Court held that there is a constitutional right to privacy in one's home address in connection with requests filed pursuant to the Right-to-Know Law, 65 P.S. § 67.101 et. seq., which is readily distinguishable from the instant matter. In this case, the Union is the exclusive bargaining representative for a unit of security employees at the District, and not simply a member of the public requesting personal information about union members. In fact, the Union owes a duty of fair representation to its members and possesses the legal authority to enter agreements, which are binding on the individual employees. As a result, the District's disclosure of home addresses to the Union here stands in stark contrast to the unauthorized public disclosure pursuant to the Right-to-Know Law, of which the Pennsylvania Supreme Court expressly disapproved in PSEA, as well as the alleged unauthorized access to such information prevalent in City of Duquesne.<sup>5</sup> <sup>6</sup> The standards and obligations for providing information under the Right-to-Know Law do not govern or apply to the obligations of the parties in a collective bargaining relationship under PERA. Accordingly, the

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<sup>3</sup> The District filed an amended post-hearing brief, which purports to cure the alleged defects, about which the Union complained in its Motion to Strike. However, while the District appears to have removed some references to matters outside the stipulated record in its amended post-hearing brief, the amended post-hearing brief still contains references to several alleged facts which are unsupported by the record, as well as exhibits which were not proposed or admitted into evidence. To this extent, the Union's objections to the District's post-hearing brief are well-taken, and although the brief has not been stricken, the unsupported facts and unadmitted exhibits have not been considered.

<sup>4</sup> City of Duquesne, *supra*, is an unpublished opinion from the Commonwealth Court.

<sup>5</sup> City of Duquesne, *supra*, involved the alleged unauthorized access to personal information of various individuals by a police secretary, who was a City employe at the time and who was discharged as a result thereof.

<sup>6</sup> In Markham, the Pennsylvania Supreme Court remanded the matter to the Commonwealth Court for consideration of its prior holding in PSEA.

District's argument is rejected, and the District will be directed to provide the Union with the requested information.

#### CONCLUSIONS

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

1. The District is a public employer within the meaning of Section 301(1) of PERA.

2. The Union is an employe organization within the meaning of Section 301(3) of PERA.

3. The Board has jurisdiction over the parties hereto.

4. The District has committed unfair practices in violation of Section 1201(a) (1) and (5) of PERA.

#### ORDER

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

#### HEREBY ORDERS AND DIRECTS

That the District shall:

1. Cease and desist from interfering, restraining or coercing employes in the exercise of the rights guaranteed in Article IV of the Act.

2. Cease and desist from refusing to bargain collectively in good faith with the employe organization which is the exclusive representative of employes in the appropriate unit, including but not limited to discussing of grievances with the exclusive representative.

3. Take the following affirmative action which the examiner finds necessary to effectuate the policies of PERA:

(a) Immediately provide the Union with the requested list of Union-represented bargaining unit members and their contact information, including names, addresses, email addresses, phone numbers, and positions;

(b) Post a copy of this Decision and Order within five (5) days from the effective date hereof in a conspicuous place, readily accessible to its employes, and have the same remain so posted for a period of ten (10) consecutive days;

(c) Furnish to the Board within twenty (20) days of the date hereof satisfactory evidence of compliance with this Decision and Order by completion and filing of the attached Affidavit of Compliance; and

(d) Serve a copy of the attached Affidavit of Compliance upon the Union.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this decision and order shall become and be absolute and final.

SIGNED, DATED AND MAILED from Harrisburg, Pennsylvania this 24<sup>th</sup> day of June, 2021.

PENNSYLVANIA LABOR RELATIONS BOARD

/s/ John Pozniak  
John Pozniak, Hearing Examiner

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**AFFIDAVIT OF COMPLIANCE**

The District hereby certifies that it has ceased and desisted from its violations of Section 1201(a) (1) and (5) of the Public Employe Relations Act; that it has complied with the Proposed Decision and Order as directed therein by immediately providing the Union with the requested list of Union-represented bargaining unit members and their contact information, including names, addresses, email addresses, phone numbers, and positions; that it has posted a copy of the Proposed Decision and Order in the manner prescribed therein; and that it has served a copy of this affidavit on the Union at its principal place of business.

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Title

SWORN AND SUBSCRIBED TO before me  
the day and year first aforesaid

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Signature of Notary Public