

**STATE OF DELAWARE**

**PUBLIC EMPLOYMENT RELATIONS BOARD**

IN THE MATTER OF:

STATE OF DELAWARE,	:	
	:	Representation Petition
and	:	
	:	<u>No. 07-08-581</u>
CORRECTIONAL OFFICERS' ASSOCIATION	:	
OF DELAWARE AND AMERICAN FEDERATION	:	(SB36 UNIT CLARIFICATION)
OF STATE COUNTY AND MUNICIPAL	:	
EMPLOYEES, COUNCIL 81, AFL-CIO.	:	<b>UNIT 10</b>

APPEARANCES

*Aaron Shapiro, SLEP/HRM/OMB, for the State  
Lance Geren, Esq., Freedman & Lorry, for COAD  
Perry F. Goldlust, Esq., for AFSCME Council 81*

**SB36 Unit 10 Scope of Unit Definition Determination**

1. The State of Delaware is a public employer within the meaning of §1302(p) of the Public Employment Relations Act (“PERA”), 19 Del.C. Chapter 13 (1994).

2. The Correctional Officers’ Association of Delaware (“COAD”) is an employee organization within the meaning of 19 Del.C. §1302(i) and has as one of its purposes the representation of public employees in collective bargaining. COAD represents a bargaining unit of correctional officers defined in DOL Case 1.

3. The American Federation of State, County and Municipal Employees, AFL-CIO (“AFSCME”), Council 81 is an employee organization within the meaning of

19 Del.C. §1302(i). AFSCME, through its affiliated locals 247, 2004 and 2004-1, is the exclusive bargaining representative of employees of the Delaware Department of Correction, Bureau of Prisons, and the Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitative Services who work within the State's adult correction and youth detention facilities.

4. On August 2, 2007, the Governor signed SB 36 which modified the Public Employment Relations Act, 19 Del.C. Chapter 13 ("PERA"), to (along with other changes) include a new section 1311A, Collective Bargaining in the state service. This section identified twelve statewide bargaining units and stated:

The Board shall determine the proper assignment of job classifications to bargaining units and the bargaining unit status of individual employees and shall provide for certified bargaining representatives to combine bargaining units or portions of bargaining units of employees they represent within the bargaining units defined in this section based upon the job classifications of the employees represented.

5. On or about July 27, 2007, COAD filed a representation petition seeking clarification of the bargaining unit defined in §1311A(b)(10) ("Unit 10") as including "Correctional Officers and similar correctional occupations. COAD asserted in its petition that it believed it represents all Unit 10 classifications.

6. At PERB direction, on or about August 30, 2007, the State provide a list of all State merit classifications which it believes fall within the statutory Unit 10 definition. The list also indicated whether the listed classifications were currently represented for purposes of collective bargaining, and if so, identified the certified exclusive bargaining representative.

7. The State's list included classifications with positions working correctional and detention facilities in both the Department of Correction and the

Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitative Services.

8. The State's list also identified that the majority of positions in classifications alleged to be included in Unit 10 were currently represented by COAD, some were represented by AFSCME through its locals 247 and 2004, and two classifications were not represented, specifically the Business Operations/Trades Instructor and the CO Electronics Technician classifications.

9. The State's information was provided to both COAD and AFSCME for response.

10. Through a series of meeting, teleconferences and discussions between the parties and the PERB, Unit 10 was stipulated to include the following classifications:

- Business Operations/Trades Instructor
- CO Canine Handler
- CO Electronics Technician
- CO Laundry Operator
- CO Laundry Supervisor
- CO Physical Plant Maintenance Trades Mechanic I, II, III
- CO Stationary Fireman I, II
- CO Storekeeper I, II
- CO Trades Instructor
- CO/YR Food Service Specialist I, II, III
- Correctional Corporal
- Correctional Officer
- Correctional Sergeant
- Correctional Sergeant/ Canine Handler
- Recreation Program Leader

11. AFSCME objected to the State's characterization of the representation status of the Business Operations/Trades Instructor classification, asserting incumbents

holding positions under this classification are represented and that union dues are being withheld by the State and forwarded to AFSCME on behalf of LU 247.

12. COAD objected to the State's characterization of the representation status of the CO Electronics Technician classification, asserting incumbents holding positions under this classification are represented and that union dues are being withheld by the State and forwarded to COAD.

13. A hearing was held on November 29, 2007, during which both AFSCME and COAD withdrew their positions concerning the representation status of the Business Operations/Trades Instructor and CO Electronics Technician classifications, respectively.

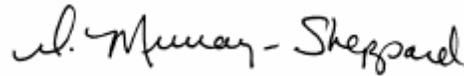
**WHEREFORE**, the SB36 Unit Clarification petition filed by COAD is resolved and this matter is closed. Unit 10, defined to include "Correctional Officers and similar correctional occupations" (19 Del.C. §1311A(b)(10)) is stipulated to include the following state merit classifications:

- Business Operations/Trades Instructor
- CO Canine Handler
- CO Electronics Technician
- CO Laundry Operator
- CO Laundry Supervisor
- CO Physical Plant Maintenance Trades Mechanic I, II, III
- CO Stationary Fireman I, II
- CO Storekeeper I, II
- CO Trades Instructor
- CO/YR Food Service Specialist I, II, III
- Correctional Corporal
- Correctional Officer
- Correctional Sergeant
- Correctional Sergeant/ Canine Handler
- Recreation Program Leader

This unit is not properly postured to bargain compensation as it is defined in 19 Del.C. §1311A because not all of the classifications in the stipulated unit are currently represented for purposes of collective bargaining.

IT IS SO ORDERED.

DATE: 30 November 2007



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DEBORAH L. MURRAY-SHEPPARD  
Hearing Officer  
Del. Public Employment Relations Bd.