

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY,	:	
AND MUNICIPAL EMPLOYEES, COUNCIL 81,	:	
LOCAL UNION 247,	:	
	:	
Petitioner,	:	<u>Representation Pet. 07-09-598</u>
	:	
v.	:	Clarification Petition
	:	DOC Teachers
STATE OF DELAWARE, DEPARTMENT OF	:	
CORRECTION,	:	
	:	
Respondent.	:	

ORDER OF DISMISSAL

1. The State of Delaware (“State”) is a public employer within the meaning of section 1302(p) of the Public Employment Relations Act, 19 Del.C. Chapter 13. The Department of Correction (“DOC”) is an agency of the State.

2. The American Federation of State, County and Municipal Employees, Council 81, Local Union 247, (“AFSCME”) is an employee organization within the meaning of 19 Del.C. §1302(i). It is the exclusive bargaining representative, within the meaning of 19 Del.C. §1302(j), of certain DOC employees in the bargaining unit defined by DOL Case 123.

3. On or about September 20, 2007, AFSCME filed a Representation Petition seeking clarification of the bargaining unit status of Teachers working in adult correctional facilities. Specifically, AFSCME clarified its request on October 10, 2007:

A definitive response to the question of Representation is desired by all concerned parties. First, does the current Epilogue Language bar the Department of Corrections Educational Supervisor (Teachers) from the fruits of representation under the “CBA” of AFSCME Local 247, and

secondly, is the Department of Correction in violation of the PERB Act Section 1307 when it fails to enforce the “CBA”.

4. On or about October 23, 2007, the State responded to AFSCME’s petition, objecting to the petition and framing the issue as “whether those public employees who are employed by the Department of Education (“DOE”), as opposed to those who are employed by the Department of Correction (“DOC”) are or should be represented by the Union under Local 247, as are the teachers employed by DOC.”

5. On or about February 11, 2008, PERB convened a meeting at the request of the parties, which was attended by representatives of AFSCME, DOC, DOE, and the State Labor Relations and Employment Practices section of the Office of Management and Budget.

6. A draft settlement agreement was prepared by PERB and forwarded to the parties on February 21, 2008.

7. AFSCME accepted the draft as written on February 25, 2008. The State made modifications to the draft and provided its revised draft to AFSCME on March 7, 2008.

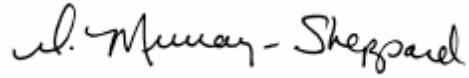
8. By letter dated March 13, 2008, AFSCME requested to withdraw its petition, stating:

... After reviewing the draft, the Union has come to the conclusion that it does not want to expend its scarce resources of time and people to even contemplate entering into negotiations over the wording of what is a simple statement of fact set forth in [the PERB Executive Director’s] memorandum. There is no current case or controversy that will be resolved by the memo. Therefore, in consideration of all of the other things that have to be accomplished, the Union has concluded that there is no need to carry this matter any further. There will not be any response on the part of the Union to the State’s revision. We would just as soon let the matter end with no written testament to any issue being resolved, as there is no justiciable issue before the Board...

WHEREFORE, the Petitioner's request to withdraw its petition is hereby granted, and the Petition is dismissed.

IT IS SO ORDERED.

DATE: 11 April 2008

A handwritten signature in black ink, reading "D. Murray-Sheppard", written over a horizontal line.

DEBORAH L. MURRAY-SHEPPARD
Executive Director
Del. Public Employment Relations Bd.