

STATE OF DELAWARE  
PUBLIC EMPLOYMENT RELATIONS BOARD

AFSCME, DISTRICT COUNCIL 81,	:	
	:	
Petitioner	:	<u>Rep. No. 95-06-133</u>
	:	
	:	

JURISDICTION

AFSCME, District Council 81 (hereinafter "Petitioner") is the exclusive bargaining representative of a bargaining unit comprised of the maintenance and custodial employees of the Brandywine School District within the meaning of 14 Del.C. Chapter 13, Section 1302(i).

BACKGROUND

On June 1, 1995, a Decertification Petition was filed on behalf of the above-referenced bargaining unit. On June 8, 1995, the Petitioner filed a Petition for a Declaratory Statement contesting the sufficiency of the Petition. The substantive portions of the petition include the following:

4. The facts alleged are: A) the Decertification Petition requires that the person making the Petition make a declaration that the facts contained are true to the best of that persons knowledge and belief; B) the Petition is not signed and without a signature, it is defective [see Board rule 3.2(6)]; C) the Petition requires that the person filing the Petition supply a proper address and telephone number; D) the Petition does not contain a valid mailing address, nor does it contain a valid telephone number. It is maintained by the Petitioner that the Decertification is so defective as to be stricken as improperly filed.

5. This dispute has arisen as it would appear that the Board requirement for proper completion of the Petition has been ignored, and the Board has proceeded with the Petition despite its defects.

The most recent collective bargaining agreement applicable to this bargaining unit expired some time ago. The Petitioner and the Brandywine School District are currently involved in collective bargaining negotiations. As of the date of this decision there has been no ratification of a renewal agreement.

### OPINION

The Decertification Petition was personally filed with the PERB by employee Jeff Miller on June 1, 1995, on behalf of employees in the above-referenced bargaining unit.

On June 2, 1995, the Employer was requested to provide the PERB with the names of all employees in the bargaining unit in order to verify that the Petition is properly supported by signatures of at least 30% of the bargaining unit. The requested information was to be received not later than June 14, 1995.

On June 7, 1995, the Petition was returned to employee Miller in order to obtain his missing signature. By covering letter, Mr. Miller was informed that the missing information was to be provided not later than June 14, 1995. Thereafter, Mr. Miller was advised by this office that the telephone number on the Petition was not valid nor was the address sufficient for the post office to deliver correspondence. These errors were also to be corrected not later than June 14, 1995. The corrected or amended petition was returned by Mr. Miller on June 7, 1995.

There is no reason to believe, nor is any alleged, that the omission and errors of the initial Petition were other than mere oversights. Because the Petition was personally filed by Mr. Miller on June 1, 1995, there was no question how Mr. Miller could be reached either by mail or phone. Furthermore, the information requested of the District to validate the Petition was not required until June 14, 1995. There is no reason to believe, nor is it alleged, that the Petitioner was in any way prejudiced by the circumstances to which it objects.

For these reasons the missing and incorrect information on the initial Petition were technical violations of the filing requirements which Mr. Miller was afforded the opportunity to correct.

The action of the hearing officer to expedite the processing of the Petition by requesting required information from the District was not alone dispositive of the validation process or of any other allegation contesting the validity of the Petition.

In fact, the corrected or amended Petition, is capable of standing on its own as a new Petition. It is timely filed and satisfies all of the filing requirements.

DECISION

Based upon the foregoing discussion, it is determined that the requirements for the proper filing of a Decertification Petition were not ignored, as alleged. The Decertification Petition filed on June 1, 1995, as amended on June 8, 1995, satisfies the statutory criteria and is sufficient to raise a valid question concerning representation.

**IT IS SO ORDERED.**

DATED: June 9, 1995

/s/Charles D. Long, Jr.  
Charles D. Long, Jr.  
Executive Director  
Delaware Public Employment Relations Bd.