

PUBLIC EMPLOYMENT RELATIONS BOARD

STATE OF DELAWARE

MERIT EMPLOYEE UNIT 2 BARGAINING UNIT	:	
COALITION, INCLUDING AFSCME	:	
COUNCIL 81, LIUNA LOCAL 1029, AND	:	
PUBLIC HEALTH NURSES COUNCIL,	:	
DSEA/NEA,	:	ORDER OF DISMISSAL
	:	
Charging Party,	:	Binding Interest Arbitration
	:	
v.	:	<u>BIA 12-09-877</u>
	:	
STATE OF DELAWARE, DEPARTMENTS OF	:	
AGRICULTURE; HEALTH AND SOCIAL	:	
SERVICES; SERVICES FOR CHILDREN,	:	
YOUTH AND THEIR FAMILIES; NATURAL	:	
RESOURCES AND ENVIRONMENTAL	:	
CONTROL; AND STATE,	:	
	:	
Respondents.	:	

1. The State of Delaware (“the State”) is a public employer within the meaning of §1302(p) of the Public Employment Relations Act (19 Del.C. Chapter 13, “PERA”). The Departments of Agriculture; Health and Social Services; Services for Children, Youth and Their Families; Natural Resources and Environmental Control; and State are agencies of the State of Delaware.

2. The American Federation of State, County and Municipal Employees, Council 81, AFL-CIO (“AFSCME”) is an employee organization within the meaning of 19 Del.C. 1302(i). Through its affiliated local unions, AFSCME is the certified exclusive bargaining representative of certain State of Delaware merit employees employed in the Departments of Agriculture; Health and Social Services; Services for Children, Youth and Their Families; Natural Resources and Environmental Control; and State.

3. Laborers International Union of North America (“LIUNA”) is an employee organization within the meaning of 19 Del.C. 1302(i). Through its affiliated Local 1029, LIUNA is the certified exclusive bargaining representative of certain State of Delaware merit employees employed in the Department of Health and Social Services.

4. Public Health Nurses Council, an affiliate of Delaware State Education Association and the National Education Association (“PHNC”), is an employee organization within the meaning of 19 Del.C. 1302(i) and is the certified exclusive bargaining representative of certain State of Delaware merit employees employed in the Department of Health and Social Services.

5. The PERA states at §1311A (a):

Notwithstanding any other provision of this Code, exclusive representatives of state merit employees, who are in the classified service and not working in higher education, shall collectively bargain in the units provided pursuant to subsection (b) of this section.

6. Subsection (b) of 19 Del.C. §1311A defines the unit at issue in this proceeding:

(b) For purposes of bargaining pursuant to this section, employees shall be classified in the following bargaining units, each of which shall independently bargain compensation:

...(2) Nonprofessional patient care workers which is composed of institutional care classes, including licensed practical nurses, nursing assistants, active treatment assistants, technicians, therapy aides and similar classes.

7. On or about April 29, 2008, the Public Employment Relations Board (“PERB”) certified AFSCME, LIUNA and PHNC to join together in a bargaining coalition to bargain collectively, pursuant to §1311A, for the unit identified in 19 Del.C. §1311A(b)(2) (hereinafter “Unit 2”). This coalition of bargaining representatives shall be hereinafter referred to as the “Unit 2 Coalition”.

8. Thereafter, on or about June 22, 2010, the Unit 2 Coalition and the State entered into negotiations for an initial §1311A agreement for Unit 2. Over the next two years, the parties

conducted at least twenty-two bargaining sessions but were unable to reach a mutually acceptable agreement.

9. The parties unsuccessfully participated in three PERB sponsored mediation during August and September, 2011.

10. On or about September 25, 2012, the Unit 2 Coalition requested binding interest arbitration be initiated pursuant to 19 Del.C. §1315.

11. Last, best, final offers were submitted by the parties in early October, 2012, and a prehearing conference was convened by the Public Employment Relations Board.

12. On or about December 28, 2012, the Unit 2 Coalition filed an unfair labor practice charge and the State filed a counterclaim on or about January 9, 2013, each alleging that the other party failed or refused to bargain in good faith during the course of the negotiations and in the development of the submitted last, best, final offers.

13. On or about February 20, 2013, a probable cause determination was issued finding, “the Charge and Counterclaim raise for the first time a question concerning the scope of bargaining for state merit employee units established by 19 Del.C. §1311A and the obligation of the State and the coalition of bargaining representatives in negotiating thereunder.”

14. On February 1, 2013, the interest arbitration proceedings were stayed pending a decision on the unfair labor practice charge and counterclaim.

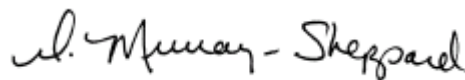
15. On or about March 26, 2015, AFSCME Council 81 on behalf of the Unit 2 Coalition notified the PERB, “... the parties have reached an amicable resolution... and have determined a path forward in negotiating an agreement for Unit 2.” The Coalition moved to withdraw its request for binding interest arbitration and requested the parties be afforded the opportunity to engage in negotiations.

16. Consistent with PERB’s statutory mandate to promote harmonious and cooperative

relationships between public employers and their employees through support for collective bargaining and assistance in resolving disputes, this binding interest arbitration proceeding is closed and the parties are encouraged to continue in their efforts to reach an initial agreement for state Unit 2.

IT IS SO ORDERED.

DATE: April 8, 2015



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