

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

|                                      |   |                           |
|--------------------------------------|---|---------------------------|
| AMERICAN FEDERATION OF STATE, COUNTY | : |                           |
| AND MUNICIPAL EMPLOYEES, COUNCIL     | : |                           |
| 81, LOCAL 1007, AFL-CIO              | : |                           |
|                                      | : | <u>ULP No. 18-10-1163</u> |
| Charging Party,                      | : |                           |
|                                      | : |                           |
| v.                                   | : | Order of Dismissal        |
|                                      | : |                           |
| DELAWARE STATE UNIVERSITY,           | : |                           |
|                                      | : |                           |
| Respondent.                          | : |                           |

Appearances

*Lance Geren, Esq., O’Donoghue & O’Donoghue, for AFSCME Local 1007*

*LaKresha R. Moultrie, Esq., Assistant General Counsel, for DSU*

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

2. The American Federation of State, County and Municipal Employees, Council 81, AFL-CIO, through its affiliated Local 1007 (“AFSCME” or “Union”) is an employee organization within the meaning of 19 Del.C. §1302(i). AFSCME is the exclusive bargaining representative of a unit of DSU Clerical/Technical employees as defined in DOL Case 116, within the meaning of 19 Del.C. §1302(j).

3. On or about October 11, 2018, AFSCME filed an unfair labor practice charge (“Charge”) asserting DSU violated 19 Del.C. §1307 (a)(1), (3), (5), and/or (6), by reclassifying bargaining unit positions and requiring incumbent employees to apply for the new positions, and that DSU removed the reclassified positions from the bargaining unit.

The Charge also alleged DSU had instructed union members as to how to revoke their union membership.

4. On November 7, 2018, DSU filed its Answer in which it admitted many of the facts but denied the allegations in the Charge that it had violated its statutory obligations. It also included affirmative defenses in its Answer.

5. On November 19, 2018, AFSCME filed a response to the University's New Matter in which it denied all of the affirmative defenses asserted by the University. It does admit that the fair share fee provisions of the collective bargaining agreement are no longer enforceable.

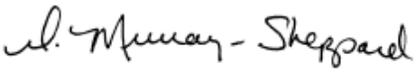
6. On January 29, 2019, a Probable Cause Determination was issued, dismissing the charges relating to alleged changes in bargaining unit status, but finding the pleadings sufficient to establish that probable cause existed to believe that the University may have interfered with bargaining unit employees' rights and/or encouraged or discouraged membership in the union by communicating directly with bargaining unit employees, instructing them as to how to revoke their union membership.

7. A hearing was scheduled for March 15, 2019.

8. By email dated March 4, 2019, AFSCME notified PERB that it wished to withdraw its charge.

**WHEREFORE**, this unfair labor practice charge is dismissed in its entirety and the hearing scheduled for March 15, 2019, is cancelled.

DATE: March 8, 2019

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