

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

FRATERNAL ORDER OF POLICE LODGE 10, AND	:	
FRATERNAL ORDER OF POLICE LODGE 11,	:	
	:	Petition for Declaratory
Petitioners,	:	Statement
	:	<u>22-08-1317</u>
v.	:	
	:	
	:	
STATE OF DELAWARE, DEPARTMENT OF	:	ORDER OF DISMISSAL
CORRECTION AND DEPARTMENT OF SAFETY	:	
AND HOMELAND SECURITY,	:	
	:	
Respondents.	:	

Appearances

Anthony Delcollo, Esq., Offit Kurman, P.A., for FOP Lodges 10 and 11

Lauren E.M. Russell, Esq., Young Conaway Stargatt & Taylor, for the State of Delaware

1. The State of Delaware (“State”) is a public employer within the meaning of 19 Del. C. §1602(13). The Departments of Correction (“DOC”) and Safety and Homeland Security (“DSHS”) are agencies of the State.

2. Fraternal Order of Police Lodge 10 is an employee organization within the meaning of 19 Del. C. §1602(7). It is the exclusive bargaining representative of a bargaining unit of Probation and Parole Officers (“PPOs”) within the meaning of 19 Del. C. §1602(11). DOL Case 165.

3. Fraternal Order of Police Lodge 11 is an employee organization within the meaning of 19 Del. C. §1602(7). It is the exclusive bargaining representative of a

bargaining unit of Capitol Police Officers (“CPOs”) within the meaning of 19 Del. C. §1602(11). DOL Case 153.

4. On August 29, 2022, FOP Lodges 10 and 11 (“Petitioners”) filed a petition requesting the issuance of a declaratory statement with the Delaware Public Employment Relations Board (“PERB”) “...seeking a determination as to whether the limitations set by [19 Del. C.] Chapter 13 on wage scales are applicable to bargaining by the Petitioners [under 19 Del. C. Chapter 16].” Specifically, the Petitioners sought to collectively bargain for compensation (including Holiday Pay, Overtime, Call Back Pay, and Standby Pay) exceeding the pay ranges for the classifications they represent.

5. A Petition for Declaratory Statement may be filed, pursuant to PERB Rule 6.1, when there exists a controversy concerning:

- (1) A potential unfair labor practice;
- (2) Whether a matter is within the scope of collective bargaining as defined by statute; or
- (3) The application of any statutory provision or regulation or order of the Board.

Rule 6.1 further states that controversy exists within the meaning of the Regulation when:

- (1) The controversy involves the rights and/or statutory obligations of a party seeking a declaratory statement;
- (2) The party seeking the declaratory statement is asserting a statutory claim or right against a public employer, an exclusive representative or a public employee who has an interest in contesting that claim or right;
- (3) The controversy is between parties whose interests are real and adverse; and,
- (4) The matter has matured and is in such a posture that the issuance of a declaratory statement by the Board will facilitate the resolution of the controversy.

6. The State filed its response to the Petition on September 16, 2022, in which

it asserted the issue raised was not yet ripe for issuance of a Declaratory Statement because the State had not yet taken a definitive position in negotiations on any of the issues identified by the Petitioners. It concluded that because the State had not yet refused to negotiate over any subject, had not engaged in any action that did or might constitute a unfair labor practice, and that there was no real, adverse or mature dispute between the parties, the Petition is moot because the State has agreed to bargain on the items which the Petitioners raised.

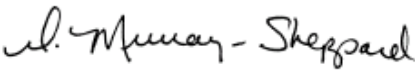
7. By email dated September 23, 2022, the Petitioners requested that an extension be granted for their reply to the State’s Answer as the parties were actively involved in settlement negotiations. The State agreed to the requested extension.

8. By email dated November 30, 2022, the Petitioners requested to withdraw their Petition for Declaratory Statement as the parties “... are engaged in good-faith bargaining with respect to all items which had been at issue in the ... Petition...” and that no present controversy exists.

WHEREFORE, this Petition for Declaratory Statement is hereby dismissed.

IT IS SO ORDERED.

DATE: December 8, 2022



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