

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :  
: :  
: Case No. PERA-R-17-40-E  
: :  
PENNSYLVANIA STATE UNIVERSITY :

NISI ORDER OF DISMISSAL

A Petition for Representation was filed with the Pennsylvania Labor Relations Board (Board) on February 22, 2017, by the Coalition of Graduate Employees, PSEA/NEA (Petitioner) alleging that it represented thirty (30) percent or more of certain employes of Pennsylvania State University (Employer or Penn State), and requesting that a hearing be scheduled and an Order be issued for an election to determine the exclusive collective bargaining representative, if any, pursuant to the provisions of Section 603 of the Public Employee Relations Act (Act).

On March 10, 2017, the Secretary of the Board issued an Order and Notice of Hearing. Seven days of hearing were held in September 2017, at which time all parties in interest were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. Post-hearing briefs were filed by the Petitioner on November 15, 2017 and the Employer on December 26, 2017. The Petitioner filed a reply brief on January 4, 2018.

On February 6, 2018, the Hearing Examiner issued an Order Directing Submission of Eligibility List (ODSEL) resolving all outstanding issues and directing the Employer to submit a list of names and addresses of the employes in the unit found appropriate. After the Employer raised concerns regarding compliance with the Family Educational Rights and Privacy Act (FERPA), the Secretary of the Board issued a subpoena on February 21, 2018 directing the Employer to submit a list of names and addresses as provided in the ODSEL. On March 14, 2018, the Employer filed a motion to partially quash subpoena on behalf of eligible employes who objected to disclosure of their names and/or addresses. The Petitioner filed a response to the Employer's motion on March 15, 2018. On that same date, the motion was denied by the Hearing Examiner. On March 16, 2018, the Employer submitted a list of names and addresses of employes in the unit to the Board.

On March 28, 2018, an Order and Notice of Election was issued directing that a secret ballot election be held and conducted among the employes of the Employer to ascertain the exclusive representative, if any, for the purpose of collective bargaining in respect to wages, hours and terms and conditions of employment in a subdivision of the employer unit comprised of all full-time and regular part-time professional employes who are graduate students on graduate assistantship or traineeship and who perform services as teaching assistants, research assistants, or administrative support assistants; and excluding graduate students on fellowship, management level employes, supervisors, first level supervisors, confidential employes and guards as defined in the Act. The Order and Notice of Election directed the conduct of an election on-site at Penn State University Park on April 10-13, 2018, at Penn State College of Medicine in Hershey on April 16, 2018, and at Penn

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State Harrisburg on April 17, 2018. The Order and Notice of Election further directed that voting would be conducted by United States Mail for employes working at Penn State Great Valley and Penn State Behrend.

The election was conducted by election officers assigned by the Board. All ballots cast on-site were impounded and sealed and combined with the mail ballots in a ballot count that took place on April 24, 2018 in Room E100, Labor & Industry Building, 651 Boas Street, Harrisburg, PA.

The Board Representative, from all matters and documents of record, makes the following:

#### FINDINGS OF FACT

That FINDINGS OF FACT numbers 1 through 77 inclusive, as set forth in the Order and Notice of Election issued March 28, 2018, are hereby affirmed and incorporated by reference herein and made a part hereof.

78. That the Board conducted a secret ballot election in accordance with the Order and Notice of Election issued March 28, 2018.

79. That the question voted on was whether the eligible employes in the appropriate unit wished to be represented by the Coalition of Graduate Employees, PSEA/NEA or whether said employes wished no representative.

80. That two thousand, four hundred and ninety-two (2,492) ballots were cast during the election.

81. That of the two thousand, four hundred and ninety-two (2,492) ballots, nine hundred and fifty (950) ballots were cast in favor of representation by the Coalition of Graduate Employees, PSEA/NEA; one thousand, four hundred and thirty-eight (1,438) ballots were cast for No Representative; and one hundred and four (104) ballots were cast by persons whose votes were challenged. Seven (7) ballots were void.

82. That the duly appointed watchers in attendance at the election have certified that the counting and tabulating were fairly and accurately done, that the secrecy of the ballot was maintained, and that the results were as indicated above.

#### DISCUSSION

The Board will not open, canvass or pass upon the validity of the ballots cast by the persons whose votes were challenged because their inclusion in the total votes cast would have no material effect upon the results of the election.

#### CONCLUSIONS

The Board Representative, therefore, after due consideration of the foregoing and the record as a whole, and more particularly in consideration of the election conducted in accordance with the Order and Notice of Election issued March 28, 2018, concludes and finds:

That CONCLUSIONS numbers 1 through 4 inclusive, as set forth in the aforesaid Order and Notice of Election, are hereby affirmed and incorporated by reference herein and made a part hereof.

5. That a majority of the valid ballots cast by employes of the Employer within the heretofore-defined appropriate unit have not selected and designated the Coalition of Graduate Employes, PSEA/NEA as their exclusive representative for the purpose of collective bargaining.

In view of the foregoing and in order to effectuate the policies of the Act, the Board Representative hereby

ORDERS AND DIRECTS

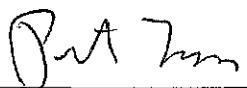
that the petition heretofore filed to the above case number, be and the same is hereby dismissed, and

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed pursuant to 34 Pa. Code § 95.98 within twenty (20) days of the date hereof, this Decision and Order shall become and be absolute and final.

SIGNED, DATED and MAILED this second day of May, 2018, pursuant to 34 Pa. Code § 95.96(b).

PENNSYLVANIA LABOR RELATIONS BOARD



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PETER LASSI  
Board Representative