

P.E.R.C. NO. 2014-8

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION  
AND COMMISSIONER OF EDUCATION

In the Matter of

WINSLOW TOWNSHIP PARAPROFESSIONAL  
ORGANIZATION LOCAL 6171, AFT,  
AFL-CIO,

OAL DKT. NO. EDU 1077-110  
AGENCY DKT NO. 159/6/11  
PERC DKT NO. CO-2011-086

Petitioner/Charging Party,

-and-

WINSLOW TOWNSHIP BOARD OF EDUCATION,

Respondent.

SYNOPSIS

The Chair of the Public Employment Relations Commission and the Commissioner of Education issue a joint order consolidating for a hearing a petition before the Commissioner of Education and an unfair practice charge before PERC filed by the Winslow Township Paraprofessional Organization Local 6171, AFT, AFL-CIO. The Chair and Commissioner further hold that the predominant interest rests with PERC.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Petitioner/Charging Party, Freedman & Lorry,  
P.C., attorneys (Lance Geren, of counsel)

For the Respondent/Respondent, Wade, Long, Wood &  
Kennedy, LLC, attorneys (Leonard J. Wood, of counsel)

DECISION

On July 20, 2011, Winslow Township Paraprofessional Organization, Local 6172, AFT, AFL-CIO filed a petition with the Commissioner of Education appealing the determination by the Winslow Township Board of Education to hire a private company to provide educational aides, bus aides, day-care providers and before and after school care givers.

On August 23, the Local filed an unfair practice charge with the Public Employment Relations Commission (PERC) alleging that the Board violated the New Jersey Employer-Employee Relations

Act, N.J.S.A. 34:13A-5.4a(1), (3) and (5)<sup>1/</sup>, (Act) when it unilaterally subcontracted unit work and interfered with the Local's selection of its representatives in retaliation for protected activity.

On July 5, 2013, the Local filed a motion to consolidate the cases and for a predominant interest determination. On August 8, 2013, Administrative Law Judge Susan M. Scarola issued an Order For Consolidation and Determination of Predominant Interest finding that the matters should be consolidated and that PERC has the predominant interest.

Having independently evaluated the record and considered the Administrative Law Judge's Order, the Chair of the Public Employment Relations Commission on August 28, 2013, acting pursuant to authority delegated to her by the full Commission and the Commissioner of Education on August 29, 2013, made the following determination in this matter.

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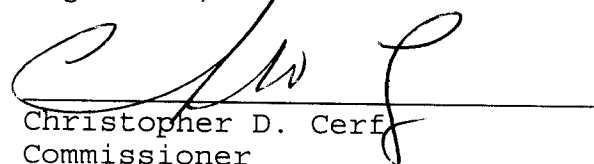
<sup>1/</sup> These provisions prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. ... (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act. ... [and] (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative."

JOINT ORDER

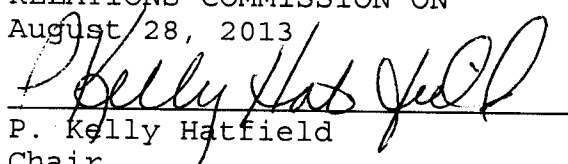
The matters should be consolidated for hearing before the Administrative Law Judge. The Administrative Law Judge will first offer recommended findings of fact and conclusions of law to both the Public Employment Relations Commission and the Commissioner of Education, disposing of all issues in controversy through a single initial decision under N.J.A.C. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a). Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to PERC to determine whether the Local engaged in protected activity, and whether that activity, if protected, was a substantial and motivating factor in the Board's decision to subcontract. PERC will also determine whether the Board transferred Local 6171 unit work to non-unit employees of the same public employer and, if so, whether it was required to negotiate before doing so;

PERC's decision and the complete record will then be transferred to the Commissioner of Education who will then decide any remaining education law issues.

DECISION RENDERED BY THE  
COMMISSIONER OF EDUCATION ON  
August 29, 2013

  
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Christopher D. Cerf  
Commissioner  
Trenton, New Jersey

DECISION RENDERED BY THE CHAIR  
OF THE PUBLIC EMPLOYMENT  
RELATIONS COMMISSION ON  
August 28, 2013

  
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P. Kelly Hatfield  
Chair  
Trenton, New Jersey