

the IAFF's motion to stay implementation of the decision of the binding interest arbitrator and request to file supplemental written argument on its request for review. Each party was provided the opportunity to present oral argument and to respond to questions from the Board. The decision reached herein is based upon consideration of the record, the written submissions, and the oral argument made on June 15, 2020.

DISCUSSION

The standard for issuance of a stay is well established. A request for review does not act as an automatic stay of any action ordered by the decision.² A stay is an extraordinary remedy and is only issued where to do so would advance the public interest. The moving party must demonstrate that each of the following elements are present and supports the issuance of a stay:

- 1) There is a likelihood that the appellant will succeed on the merits;
- 2) That immediate, prejudicial and irreparable injury will result to the appellant if the stay is not granted;
- 3) There is no substantial harm to other interested parties if the stay is granted; and
- 4) The public interest supports entry of the stay.³

The IAFF asserts it is likely to prevail on the merits in the Board's review of the arbitrator's decision because by adopting the City's last, best, final offer the right to bargain concerning mandatory subjects of bargaining (including hours of work) were effectively eviscerated as the right to change the schedule and define units and tours of duty were left to the discretion of the Chief of Fire. It also argues the decision was based on acceptance

conference, using the Zoom platform. Log-in instructions were provided prior to the hearing and there were 59 persons logged in during the hearing.

² Delaware PERB Administrative Memorandum #00-02 (1/24/00).

³ *Department of Corrections v. Delaware Correctional Officers Association*, C.A. 19115, Master's Report on Appellant's Request for Stay (Del.Ch. 2002).

