

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

FRATERNAL ORDER OF POLICE, LODGE 15,	:	
Charging Party,	:	Unfair Labor Practice Charge
	:	<u>No. 25-10-1508</u>
V.	:	
	:	PROBABLE CAUSE DETERMINATION
CITY OF DOVER, DELAWARE,	:	
	:	
Respondent.	:	

The City of Dover, Delaware is a public employer within the meaning of §1602(13) of the Delaware Police Officers' and Firefighters' Employment Relations Act ("POFERA"), 19 *Del. C.* Chapter 16.

The Fraternal Order of Police ("FOP") is an employee organization within the meaning of 19 Del. C. §1602(7). The FOP, by and through its affiliated Lodge No. 15 ("FOP Lodge 15") is the exclusive representative of a bargaining unit of Dover Police Officers within the meaning of 19 Del. C. §1602(8). FOP Lodge 15 represents a bargaining unit which includes all full-time and part-time sworn Dover police officers at and below the rank of Captain.

FOP Lodge 15 and the City are parties to a fully executed collective bargaining agreement which has a term which expires on June 30, 2026.

On October 2, 2025, FOP Lodge 15 filed an unfair labor practice charge with the Delaware Public Employment Relations Board ("PERB") alleging conduct by the City in violation of 19 Del. C. §1607(a)(1), (2), (3), and (4), which state:

- (a) It is an unfair labor practice for a public employer or its designated representative to do any of the following:

- (1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this chapter.
- (2) Dominate, interfere with or assist in the formation, existence or administration of any labor organization.
- (3) Encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure or other terms and conditions of employment.
- (4) Discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint, or has given information or testimony under this chapter.

The Charge alleges that the City violated the POFERA when the Dover Police Department (“DPD”) issued a change to General Order 26A, Code of Conduct, Section III, Subsection I, Conduct Toward Other Officers and Associates, which now states:

1. Members shall treat superior officers, subordinates and associates with respect at all times. It shall be a violation of this policy to engage in conduct that has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment. (GO 26A, as amended Sept. 2025, appended to the Charge).

The Charge alleges the underlined change to the policy was issued on September 30, 2025, in response to a vote of no-confidence taken by FOP Lodge 15, on July 24, 2025. FOP Lodge 15 asserts all eligible members of FOP Lodge #15 participated in the vote which resulted in 93% of the membership “confirming they have no confidence that the [Chief of Police] can continue to lead the Dover Police Department.” *Charge ¶4.*

FOP Lodge 15 alleges the addition of the underlined language restrains FOP members from exercising their right to advocate on behalf of the union; interferes with the administration of the union; intimidates FOP members from being part of and/or active in union leadership for fear of retaliation, discipline or other forms of unfair treatment for engaging in advocacy of their rights on and off duty; and “implies that if the union were to file a grievance and/or an Unfair Labor Practice alleging misconduct or unprofessional

behavior of the Chief of Police and/or his staff they could be subject to discipline under the revised policy....” *Charge ¶¶ 10-13.*

On October 17, 2025, the City filed its Answer to the Charge admitting some of the facts set forth in the Charge, but specifically denying the Chief of Police had engaged in unethical behavior at any point during his tenure. The City denied all the legal conclusions drawn by FOP Lodge 15. In new matter included with its Answer, the City asserts the changes to GO 26A were necessitated as part of the accreditation renewal process being conducted by the Commission on Accreditation for Law Enforcement Agencies (“CALEA”). It alleges, “CALEA’s lead assessor flagged General Order 26A because, although it contained provisions addressing sexual harassment, it did not have a more general prohibition on harassment, which is a CALEA requirement.” *New Matter ¶8.* The City further alleges that the contested language is taken directly from the CALEA standards manual. *New Matter ¶10.* The City concluded the Charge failed to allege any facts which, if proven, would support a finding that it had violated 19 Del. C. §1607(a)(1), (2), (3), and (4), as alleged, and requested the Charge be dismissed in its entirety.

FOP Lodge 15 filed its response to the City’s New Matter on October 28, 2025, in which it admitted that the Dover Police Department is or was engaged in a CALEA reaccreditation process, but asserts the City has failed to provide factual support to its assertion that the renewal process required the contested changes to GO 26A. It further denies the City’s legal conclusions concerning the adequacy of the Charge.

This probable cause determination is based on review of the pleadings submitted by the parties.

DISCUSSION

Rule 5.6 of the Rules and Regulations of the Delaware Public Employment

Relations Board provides:

- (a) Upon review of the Complaint, the Answer and the Response the Executive Director shall determine whether there is probable cause to believe that an unfair labor practice may have occurred. If the Executive Director determines that there is no probable cause to believe that an unfair labor practice has occurred, the party filing the charge may request that the Board review the Executive Director's decision in accord with the provisions set forth in Regulation 7.4. The Board will decide such appeals following a review of the record, and, if the Board deems necessary, a hearing and/or submission of briefs.
- (b) If the Executive Director determines that an unfair labor practice may have occurred, he shall where possible, issue a decision based upon the pleadings; otherwise, he shall issue a probable cause determination setting forth the specific unfair labor practice which may have occurred.

For purposes of reviewing the pleadings to determine whether a probable cause exists to support the charge, factual disputes revealed by the pleadings are considered in a light most favorable to the Charging Party in order to avoid dismissing a valid charge without the benefit of receiving evidence in order to resolve factual differences. *Flowers v. DOT/DTC*, ULP 04-10-453, V PERB 3179, 3182 (Probable Cause Determination, 2004).

Preliminarily, there is nothing in the facts alleged in the Charge which supports the allegation that any bargaining unit employee or FOP Lodge 15 officer was discharged or otherwise discriminated against because that individual signed or filed an affidavit, petition or complaint, or has given information or testimony under the POFERA. Consequently, the allegation that the City violated 19 Del. C. §1607(a)(4) is dismissed.

FOP Lodge 15 charges the language of GO 26A was modified to retaliate against it and its members. It asserts that the sentence which was added to Section III, Subsection I (1) holds Officers and representatives of FOP Lodge 15 liable for any conduct which has either the purpose of interfering with an employee's work performance or which creates an

intimidating, hostile, or offensive work environment. The amended sentence also holds individuals responsible for the “effect” of such conduct. The City, on the other hand, alleges the modification of the cited provision of GO 26A was required and necessary to secure renewal of the Dover Police Department’s CALEA accreditation. Both the FOP’s charges and the City’s defenses require development of a factual record on which legal argument can be made and determination rendered.

With all inferences drawn in favor of FOP Lodge 15, the pleadings are sufficient to support the possibility that an unfair labor practice may have occurred. It will ultimately be the FOP’s burden to establish that the City engaged in conduct which violates 19 *Del. C.* §1607(a)(1), (2), and/or (3), as alleged.

DETERMINATION

Considered in a light most favorable to the Charging Party, the pleadings are sufficient to establish that the City may have violated 19 *Del. C.* §1607 (a)(1), (2), and/or (3), as alleged. The pleadings raise both questions of fact and law which can only be resolved following the creation of a complete evidentiary record and the consideration of argument.

WHEREFORE, a hearing will be promptly scheduled for the purpose of developing a full and complete factual record upon which argument can be made and a decision rendered concerning:

WHETHER THE CITY OF DOVER, DELAWARE, INTERFERED WITH, COERCED OR RESTRAINED EMPLOYEES IN EXERCISING THEIR STATUTORILY PROTECTED RIGHTS; DOMINATED, INTERFERED WITH OR ASSISTED IN THE FORMATION OF FOP LODGE 15; AND/OR ENCOURAGED OR DISCOURAGED MEMBERSHIP IN FOP LODGE 15 BY DISCRIMINATION IN REGARD TO HIRING, TENURE OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT; IN VIOLATION OF 19 *DEL. C.* §1607(A)(1), (2), AND/OR (3), AS ALLEGED.

DATE: December 30, 2025

Deborah L. Murray-Sheppard

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