

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

DELAWARE STATE AND FEDERAL EMPLOYEES	:	
LOCAL 1029, LABORERS INTERNATIONAL UNION	:	
OF NORTH AMERICA, AFL-CIO,	:	
Charging Party,	:	Unfair Labor Practice Charge
	:	<u>No. 25-09-1504</u>
v.	:	
	:	PROBABLE CAUSE DETERMINATION
DEPARTMENT OF HEALTH AND SOCIAL	:	
SERVICES, DIVISION OF SUBSTANCE ABUSE AND	:	
MENTAL HEALTH, CRISIS INTERVENTION	:	
SERVICES,	:	
Respondent.	:	

The State of Delaware (“State”) is a public employer within the meaning of §1302(p) of the Delaware Public Employment Relations Act (“PERA”), 19 *Del. C.* Chapter 13. The Department of Health and Social Services (“DHSS”) is an agency of the State. The Division of Substance Abuse and Mental Health (“DSAMH”) is an organizational division within DHSS, and the Office of Crisis Intervention Services is a DSAMH unit.

The Delaware State and Federal Employees Local 1029 of the Laborers International Union of North America, AFL-CIO, (“LiUNA Local 1029”) is an employee organization within the meaning of 19 *Del. C.* §1302(i) and is the exclusive representative of a bargaining unit of DHSS/DSAMH/CIS employees within the meaning of 19 *Del. C.* §1302(j). At the time of the incident giving rise to the Charge, LiUNA Local 1029 represents a bargaining unit which included:

All Regular Full-Time and Part-Time Non-Supervisory Behavioral Health Case Managers II and III, and Social Service Specialists III.¹

¹ Charge, Exhibit 1, §4.1. p. 4.

On September 24, 2025, LiUNA Local 1029 filed an unfair labor practice charge with the Delaware Public Employment Relations Board (“PERB”) alleging conduct by the State in violation of 19 Del. C. §1307(a)(1), (a)(5) and (a)(7), 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 because of the exercise of any right guaranteed under this chapter.
 - (5) Refuse to bargain collectively in good faith with an employee representative which is the exclusive representative of employees in an appropriate unit, except with respect to a discretionary subject.
 - (7) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.

The Charge alleges that the State has repeatedly refused to sign a mutually negotiated collective bargaining agreement and to implement the terms of the agreement. LiUNA seeks an order requiring the State to bargain in good faith, to acknowledge and adhere to the terms of the negotiated agreement, and to make the bargaining unit members whole by retroactive implementation of the contractual promotional wage increases and by paying the negotiated annual clothing reimbursement.

On October 13, 2025, the State filed its Answer to the Charge denying many of the facts set forth in the Charge. In new matter included in its Answer, the State asserts the Charge fails to allege facts sufficient to support a claim that the PERA has been violated as alleged. The State requests the Charge be dismissed in its entirety, with prejudice, and that PERB directs the parties to implement the last draft agreement exchanged by the parties on July 23, 2025. *Answer Exhibit 1.*

LiUNA Local 1029 filed its response to the New Matter on October 23, 2025, in which it denied the legal defenses and conclusions asserted by the State. It asserts in its

Response that the draft Agreement signed by LiUNA Local 1029 on December 30, 2024 had been provided by the State on both November 6, 2024 and December 19, 2024.

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).

The bargaining unit was initially certified on February 23, 2023 to include the DHSS/DSAMH Crisis Intervention employees, only.² The parties entered into a

² The bargaining unit was subsequently modified on February 26, 2025 and August 7, 2025 to

Memorandum of Agreement (“MOA #1”) on or about April 30, 2024 (to be effective “the first full pay period in July 2024”) which addressed compensation for the Crisis Intervention employees.³ MOA #1 includes a §24.2.2 which states:

Employees promoted within the bargaining unit shall receive the amount on the Pay Table based on the employee’s classification, paygrade, and length of qualified service or 3% whichever is greater, not both.

The parties entered into a second Memorandum of Agreement (“MOA #2”) on May 13, 2025, which addressed compensation for Crisis Intervention Specialists.⁴ At issue in this Charge appears to be the first complete collective bargaining agreement for this bargaining unit between these parties.

The Charge alleges the parties came to agreement on December 23, 2024, on the terms of a collective bargaining agreement with a term February 23, 2023 through June 30, 2027, which LiUNA Local 1029 reduced to writing and forwarded to the State. That document included the following provisions:

- 33.1 The State agrees to issue all bargaining unit members at the time of hire or upon the execution of this Agreement the following items, if such items have not been previously issued to the employee:
 - ... Provide reimbursement of up to \$250.00 per calendar year for the purchase of approved tactical pants consistent with C.I.S. dress code policy.
- 34.1.7 Employees promoted within the bargaining unit shall receive the amount on the Pay Table based on the employee’s classification, paygrade, and length of qualified service or 9% which is greater, not both.

include DHSS/DSAMH Promise Program employees.

³ State’s Answer Exhibit 2.

⁴ State’s Answer Exhibit 3. MOA #2 notes that the former Social Service Specialists III, Psychiatric Social Worker II, and Psychiatric Social Worker III positions in the Crisis Intervention Unit had been reclassified to Crisis Intervention Specialist, Crisis Intervention Specialist I, and Crisis Intervention Specialist Lead positions.

LiUNA sent a second copy of the document to the State, this time signed by the Union’s representatives on December 30, 2024, again requesting the State execute the agreement.

The Charge alleges that the State provided LiUNA with a “modified Agreement providing, at Article 34.1.7 ... to reduce the minimum increase upon promotion to 3%.”⁵ The State asserts the 9% minimum promotional increase originated with a LiUNA proposal early in the negotiations on which agreement was never reached.

The Charge also alleges the State has refused to implement §33.1 which requires it to reimburse bargaining unit employees for the purchase of tactical pants up to \$250 per calendar year.⁶ The State denies that the parties reached an agreement to implement this provision.⁷

The pleadings in this matter are sufficient to establish probable cause to believe an unfair labor practice may have occurred. It will ultimately be the Charging Party’s burden to establish by a preponderance of the evidence that the State violated the statute, as alleged.

DETERMINATION

Considered in a light most favorable to the Charging Party, the pleadings are sufficient to establish that the State may have violated 19 Del. C. §1307 (a)(1), (a)(5), and/or (a)(7), 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.

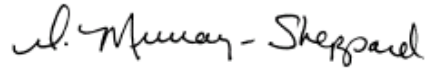
WHEREFORE, a hearing will be promptly scheduled for the purpose of developing

⁵ Charge ¶12.
⁶ Charge ¶13.
⁷ Answer ¶13.

a full and complete factual record upon which a decision can be made concerning:

WHETHER DHSS/DSAMH/CIS FAILED OR REFUSED TO BARGAIN IN GOOD FAITH WITH LIUNA LOCAL 1029, THE EXCLUSIVE REPRESENTATIVE OF THE BARGAINING UNIT EMPLOYEES, REFUSED TO REDUCE AN AGREEMENT REACHED IN NEGOTIATIONS TO WRITING AND TO SIGN AND IMPLEMENT IT, AND/OR OTHERWISE INTERFERED WITH THE RIGHTS GUARANTEED TO EMPLOYEES BY THE PUBLIC EMPLOYMENT RELATIONS ACT, IN VIOLATION 19 DEL. C. §1307(A)(1), (A)(5), AND/OR (A)(7), AS ALLEGED.

DATE: March 11, 2026



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