

**STATE OF DELAWARE**  
**PUBLIC EMPLOYMENT RELATIONS BOARD**

<b>CORRECTIONAL OFFICERS ASSOCIATION OF DELAWARE,</b>	:	
	:	
	:	<b>UNFAIR LABOR PRACTICE CHARGE</b>
Charging Party,	:	<b><u>NO. 26-03-1533</u></b>
	:	
V.	:	
	:	<b>PROBABLE CAUSE DETERMINATION</b>
<b>DELAWARE DEPARTMENT OF CORRECTION,</b>	:	
	:	
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 Correction (“DOC”) is an agency of the State. 19 *Del. C.* §1302(p)

The Correctional Officers Association of Delaware (“COAD”) is an employee organization within the meaning of 19 *Del. C.* §1302(i). COAD is the exclusive representative of a bargaining unit within the meaning of 19 *Del. C.* §1302(j). It is the certified representative of the bargaining unit of uniformed Correctional Officers as defined in DOL Case 1.

COAD and the State are parties to a current collective bargaining agreement which has a term of July 1, 2023 through June 30, 2026.

On March 6, 2026, COAD 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) and (a)(5), which state:

§1307. Unfair labor practices.

- (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.
- (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.

The Charge alleges the State unilaterally implemented a requirement that certain bargaining unit employees utilize body worn cameras without providing COAD the opportunity to bargain over the decision and its impact on mandatory subjects of bargaining. By failing or refusing to bargain with COAD, the State has interfered with the statutory rights of the employees.

On March 19, 2026, the State filed an Answer to the Charge admitting to some of the facts set forth in the Charge, but denying the requirement to wear body worn cameras in the performance of employees' duties has been implemented.

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 the submission of briefs.
- (b) If the Executive Director determines that an unfair labor practice has, or 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 status quo of a mandatory subject of bargaining is subject to change only through the collective bargaining process.<sup>1</sup> A unilateral change in the status quo of a mandatory subject of bargaining constitutes a per se violation of the duty to bargain in good faith.<sup>2</sup> “Terms and conditions of employment” are statutorily defined to mean, “...matters concerning or related to wages, salaries, hours, grievance procedures and working conditions; provided however, that such term shall not include those matters determined by this chapter or any other law of the State to be within the exclusive prerogative of the public employer.”<sup>3</sup>

The pleadings contain both factual and legal disputes. With all inferences drawn in the favor of the Charging Party, the pleadings are sufficient to support the possibility that an unfair labor practice may have occurred. It will be COAD’s burden to establish

<sup>1</sup> *New Castle County Vo-Tech Education Assn. v. Bd. of Education*, ULP 88-05-025, I PERB 257, 259 (1988); *Christina Education Assn. v. Bd. of Education*, ULP 88-09-026, I PERB 359, 366 (1988).

<sup>2</sup> *AFSCME Council 81 v. Delaware Dept. of Transportation*, ULP 95-01-111, II PERB 1279, 1290 (1995), affirmed by full Board at II PERB 1201 (1995); *CWA Local 13101 v. Kent County Levy Court*, ULP 14-08-971, VIII PERB 6321, 6326 (2014); *AFSCME 218 v. Christina School District*, ULP 15-03-994, IX PERB 7031, 7036 (2018); *IAFF Local 1590 v. City of Wilmington*, ULP 20-12-1253, IX PERB 8573 (2022, Probable Cause Determination and Order of Dismissal), affirmed by full Board at IX PERB 8609, 8611 (2022); *LiUNA Local 1029 v. DSCYF, DPBHS*, ULP 24-08-1427, PERB 9083, 9095 (2026).

<sup>3</sup> 19 *Del. C.* §1302(t).

that the State had engaged in conduct which violates 19 *Del. C.* §1307(a)(1) and/or (a)(5), as alleged.

**DETERMINATION**

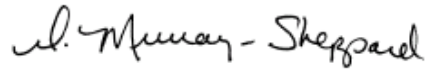
Considered in a light most favorable to the Charging Parties, the pleadings are sufficient to establish that the Respondents may have violated 19 *Del. C.* §1307(a)(1) and/or (a)(5), as alleged. The pleadings raise both questions of fact and law which can only be resolved following the creation of a 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 STATE DEPARTMENT OF CORRECTION, ENGAGED IN CONDUCT RELATING TO THE USE OF BODY WORN CAMERAS WHICH INTERFERED WITH, RESTRAINED OR COERCED ANY EMPLOYEE IN OR BECAUSE OF THE EXERCISE OF ANY RIGHT GUARANTEED BY THE PERA AND/OR FAILED OR REFUSED TO BARGAIN COLLECTIVELY WITH COAD, THE EXCLUSIVE BARGAINING REPRESENTATIVE OF DOC UNIFORMED EMPLOYEES, IN VIOLATION OF 19 *DEL. C.* §1307(A)(1) AND/OR (A)(5), AS ALLEGED.

A hearing on the merits of this matter will be scheduled promptly.

DATE: March 25, 2026



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