

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

FRATERNAL ORDER OF POLICE :
LODGE NO. 5 :
v. : CASE NO. PF-C-24-7-E
CITY OF PHILADELPHIA :

PROPOSED DECISION AND ORDER

On January 8, 2024, the Fraternal Order of Police, Lodge No. 5 (Union or FOP) filed a charge of unfair labor practices with the Pennsylvania Labor Relations Board (Board) alleging that the City of Philadelphia (City) violated Section 6(1)(a) and (e) of the Pennsylvania Labor Relations Act (PLRA), as read with Act 111. The Union specifically alleged that the City refused to comply with a binding Act 111 grievance arbitration award directing the City to reinstate and make whole Sergeant Joseph Przepiorka.

On March 15, 2024, the Secretary of the Board issued a Complaint and Notice of Hearing designating a hearing date of Wednesday, May 8, 2024, in Harrisburg. After several continuances at the request of the parties, the hearing was held via Microsoft TEAMS on June 11, 2025. During the video hearing on that date, both parties were afforded a full and fair opportunity to present documents and testimony and to cross-examine witnesses. The Union filed its post-hearing brief on September 12, 2025. The City filed its post-hearing brief on November 7, 2025.

The examiner, based upon all matters of record, makes following:

FINDINGS OF FACT

1. The City is a public employer and political subdivision within the meaning of Act 111, as read with the PLRA. (UX-1; UX-10)
2. The Union is a labor organization within the meaning of Act 111, as read with the PLRA. (UX-1; UX-10)
3. Sergeant Joseph Przepiorka has been an officer with the Philadelphia Police Department (PPD or Department) since April 17, 1989. The City terminated Sgt. Przepiorka on or about July 25, 2019. At the time of his termination, he was a sergeant in the PPD's Marine Unit. He was assigned to the Marine Unit on December 3, 2018. Sergeant Przepiorka did not receive premium pay for his position in the Marine Unit. The FOP grieved Sgt. Przepiorka's termination on July 25, 2019. Sgt. Przepiorka retired August 6, 2019. On November 27, 2023, Arbitrator Robert C. Gifford, Esquire, issued an arbitration award. (Award or Gifford Award). (N.T. 12-15, 22, 25, 74-76, 85-86, 95-96, 122-123; UX-1)
4. When the City terminated Sgt. Przepiorka, there were 4 sergeants, 16 officers, and 1 lieutenant in the Marine Unit. Now there are 2 sergeants, 8 officers, and 1 lieutenant in the Marine Unit. The Marine Unit requires 4 officers per shift, and officers are required to work double shifts. There are "tons" of overtime opportunities for sergeants in the Marine Unit. (N.T. 11, 49-50, 141)

5. On May 18, 2020, approximately 9 months after his August 6, 2019 retirement, the City issued Sgt. Przepiorka his terminal leave payout. The City paid Sgt. Przepiorka 50% of his accrued sick leave after he retired, and Sgt. Przepiorka forfeited the other 50% of his 1,513 hours of sick leave, which was 756.5 hours. (N.T. 57, 62-63, 74-77, 98-99, 164)

6. In the Award, Arbitrator Gifford concluded and directed the following:

The City had just cause to discipline but not to dismiss the Grievant. The Grievant's termination shall be reduced to a 30-day suspension without pay, and he shall receive retraining as deemed appropriate by the City. The Grievant shall be reinstated to his position as a police officer and made whole in all other respects.

(UX-1)

7. On January 11, 2024, Sgt. Przepiorka delivered his offset documents to Police Finance. Sgt. Przepiorka did not have as many offset documents as other reinstated officers.¹ (N.T. 16-17)

8. On February 5, 2024, the City reinstated Sgt. Przepiorka. He was not assigned to his former position in the Marine Unit; he was assigned to a regular patrol unit, and then transferred to another patrol unit, with the same base pay. He remains a sergeant. The Marine Unit officers patrol the Delaware and Schuylkill rivers, search for bodies, patrol fishing and boating activities, patrol under the bridges for suspicious activities when dignitaries are in the City, and they respond to car accidents involving the rivers. The Marine Unit is now down to approximately 11 officers, including sergeants and a lieutenant. (N.T. 22-23, 49-50, 85-86, 122-123, 173-174)

9. On February 26, 2024, Sgt. Przepiorka emailed Melissa Lumpkin in Police Finance requesting a full breakdown of salary, overtime, clothing, bonuses, and retention pay for part of 2019, all of 2020, 2021, 2022, 2023, and part of 2024. In the email, Sgt. Przepiorka also requested that the City deduct \$46,000 from his gross backpay salary to be transferred to his deferred compensation account. The City never requested any more documentation from Sgt. Przepiorka. (N.T. 16-17, 39; UX-2)

10. Currently, the PPD is down approximately 2,300 officers. Special units, like the Marine Unit, are significantly down. The PPD needs more manpower on the streets of the City. The patrol districts are more important to the Commissioner than the specialty units. The Commissioner determined that Sgt. Przepiorka was more needed as a sergeant in patrol. FOP Vice

¹ Although not part of the record in this case, on March 28, 2023, the parties entered into a Memorandum of Agreement (MOA) providing, in relevant part, as follows: "the City shall have ninety (90) days from the date that all required documentation is received from the affected FOP member(s) to pay backpay and other financial damages arising from an arbitration award or settlement agreement. The FOP agrees that no penalties or delay damages will accrue before the ninety-first (91st) day after all required documentation was received from the affected FOP member(s)." FOP v. City of Philadelphia, 56 PPER 52 (PDO, 2025).

President John McGrody contacted command staff and attempted to have Sgt. Przepiorka transferred back to the Marine Unit after he was reinstated to a patrol district. Those attempts were unsuccessful. (N.T. 123, 173-176)

11. Upon his reinstatement on February 5, 2024, Sgt. Przepiorka began accruing leave. The City did not reinstate the forfeited 50% of his sick leave. Had the City not terminated Sgt. Przepiorka, he would have retained 100% of his sick leave. The City gives officers 4 days of Administrative Leave (AL) every fiscal year from July 1st through the following June 30th which goes into their vacation leave bank. Any personal or vacation leave used during that time is first deducted from their 4 AL days. Any unused AL time by June 30th is forfeited. Although reinstated in February 2024, the City did not give Sgt. Przepiorka his 4 AL days for the 2023-2024 fiscal year. (N.T. 62-66, 85-86, 100-104, 109, 159-160, 163-164)

12. Near the end of June 2024, Sgt Przepiorka took 2 days off. The City took 16 hours from his accrued vacation leave bank because it had not given him his 4 AL days for 2023-2024 upon reinstatement or thereafter. Sgt. Przepiorka could not use any AL days. He had to use the vacation time that he accrued since February 5, 2024. He would have used the AL time before it expired on June 30, 2024. Sgt. Przepiorka would have 2 more vacation days because he would have used his AL days. (N.T. 62-66, 101-104; UX-9)

13. Sgt. Przepiorka received a first payment from the City on July 12, 2024, in the amount of \$569,756.09. In that payment, the City had not deducted \$46,000 from his gross backpay and had not transferred it to the Sergeant's deferred compensation account, which he asked for many times. Sgt. Przepiorka could not contribute to his deferred compensation account while he was separated from City employment. After receiving this payment, Sgt. Przepiorka called Police Finance and requested documents to substantiate his backpayment. The City's contact person denied this request and asserted that he would only receive the check. (N.T. 18-20, 86-87, 93-94)

14. The FOP and Sgt. Przepiorka repeatedly requested from the City a breakdown of the backpay calculations. Sgt. Przepiorka did not receive any documents from the City until May 9, 2025, and he has not received a breakdown of salary, bonuses, clothing, overtime, or interest calculations. The City's exhibit showing the retro base salary calculations was printed on May 22, 2024. (N.T. 18-20, 35-36, 42, 87; CX-1)

15. As of July 25, 2024, Sgt. Przepiorka had not received \$46,000 in his deferred compensation account after contacting City financial personnel several times about it. (N.T. 21-22, 35-36; UX-3)

16. On September 15, 2024, Sgt. Przepiorka received his 4 AL days for the 2024-2025 fiscal year. The City, at this time, also reinstated the vacation and sick leave that accrued during the backpay period. The City restored almost 900 hours of accrued backpay-period vacation leave. Sgt. Przepiorka used the hours that exceeded the rollover cap by April 1, 2025. He did not receive any AL time for the 2023-2024 fiscal cycle, and he did not receive any AL days for the fiscal years that covered the backpay period. He did not receive the 756.5 hours of sick leave that he forfeited. Sgt. Przepiorka also purchased 2.5 years of medical coverage during the backpay period at a conversion rate of 105 hours of sick leave per year, which the City restored. (N.T. 64-66, 72, 74-77, 80-81, 100-101, 110-112; UX-9)

17. The FOP and the PPD Labor Relations Unit have an understanding that overtime calculations for a backpay period is an average of the overtime of similarly situated officers. The City calculated Sgt. Przepiorka's overtime for the backpay period by taking the average overtime for the 3 sergeants in the Marine Unit. The City added together all the Marine Unit sergeants' overtime income and then dividing it by 3. The City provided Sgt. Przepiorka an overtime payment of \$103,009.90 from the day Sgt. Przepiorka retired until the date of his reinstatement. The City used dollar amounts for the other sergeants' overtime averages and not hours. (N.T. 27-36, 127-129, 172-173, 176)

18. The City did not provide Sgt. Przepiorka with the requested breakdown of his overtime calculation. He does not know whether his clothing allowance was included in the overtime payment. Sgt. Przepiorka calculated his clothing allowance for 2019 through 2022 to be \$5,400. The City usually gives officers their clothing allowance on September 15th of each year. (N.T. 54-56, 129; UX-8)

19. Sgt. Przepiorka examined the Daily Attendance Reports (DAR) for the Marine Unit for 2019 through 2024 and looked at the average overtime of other sergeants in the Marine Unit. Sgt. Przepiorka determined that the City's overtime calculation for his backpay on July 12, 2024, was significantly less than what he was owed. He also figured that the City owed him clothing money in the amount of \$5,400. Prior to his transfer to the Marine Unit, Sergeant Przepiorka averaged between 250 and 300 hours of overtime annually. (N.T. 26-31, 36, 42, 51-52, 98-99; UX-6; UX-7; UX-8)

20. Sgt. Przepiorka's overtime calculation for Sergeants Komada, Caputo, and Singleton resulted in an average of 136 overtime hours from June through December 2019, when Sgt. Przepiorka would have received overtime that year. He arrived at an average of 399 hours for those three sergeants for 2020. The average overtime hours for Komada and Caputo during 2021 was 492 average overtime hours. Sgt. Przepiorka calculated the average overtime hours for three sergeants during 2022 at 359 overtime hours. In 2023, the average overtime for the 3 sergeants was 389 overtime hours. Sgt. Przepiorka calculated the Marine Unit sergeants' average overtime hours from January 1, 2024, through February 4, 2024, arriving at an average of 53 overtime hours. (N.T. 46-47; UX-6; UX-7)

21. Sgt. Przepiorka calculated his overtime backpay by multiplying the average sergeant overtime hours by his overtime rate of pay during the period, estimating his overtime pay at \$138,424.61. (N.T. 47-48; UX-6; UX-7)

22. The City withheld \$3,204.53 in Union dues from the July 12, 2024 payment. Sgt. Przepiorka had been paying his Union dues throughout the backpay period. The City remitted to the Union the \$3,204.53 in Union dues it withheld from Sgt. Przepiorka in its July 12, 2024 backpayment to him. The same day, the Union issued a check in the same amount to Sgt. Przepiorka because he was up to date on his Union dues. Sgt. Przepiorka was away at the time, and he retrieved the check on July 15, 2024. (N.T. 26-31, 87-88, 125-126)

23. On August 22, 2024, the City took back all of the July 12, 2024 backpayment. On August 23, 2024, the City reissued payment including Sgt. Przepiorka's bonuses and deducted his deferred compensation payment. The City again deducted \$3,204.53 in Union dues. The City never remitted the second

dues deduction to the Union or Sgt. Przepiorka. (N.T. 35-36, 89-91, 93-94, 125-127, 135)

DISCUSSION

The Union argues that the City failed to comply with the Award in the following ways: (1) the City failed to restore Sgt. Przepiorka's sick leave that he forfeited upon his termination and retirement; (2) the City refused to return Sgt. Przepiorka as a sergeant in the Marine Unit; (3) the City refused to timely provide requested information to verify its calculation methods for various categories of backpay to ensure that Sgt. Przepiorka was properly compensated; (4) the City's 7 month delay in restoring Sgt. Przepiorka's vacation leave forced him to take the excess leave over the carry-over cap within 6 months instead of over a longer period; (5) the City improperly deducted Union dues from Sgt. Przepiorka's backpay and refused to return the money to him; and (6) the City unreasonably delayed payments and leave restorations to Sgt. Przepiorka.

Where the refusal to comply with an arbitration award is alleged, the Board's inquiry is limited to determining whether an award exists; whether the appeal period has expired; and whether the respondent failed to comply with the provisions of the arbitration award. City of Philadelphia v. PLRB, 759 A.2d 40 (Pa. Cmwlth. 2000). In this case, there is no dispute that the Gifford Award exists and that it became final and binding when the appeal period lapsed without appeal.

The Board has long held that the failure to comply with the terms of a grievance arbitration award occurs after a reasonable or bargained-for period of time for compliance. Fraternal Order of Police, Lodge 5 v. City of Philadelphia, 41 PPER 124 (PDO, 2010). To determine whether the time lapse is reasonable, the Board considers the following factors: (1) the nature and complexity of the relief directed by the award; (2) the length of time before compliance occurred; (3) the steps taken by the employer toward compliance; (4) legitimate obstacles interfering with compliance; and (5) the employer's explanation or lack thereof for the delay. Id. (citing City of Philadelphia, 19 PPER ¶ 19069 at 185 (Final Order, 1988); Commonwealth of Pennsylvania (Department of Community Affairs), 19 PPER ¶ 19165 (Proposed Decision and Order, 1998); Commonwealth of Pennsylvania (Office of Administration), 17 PPER ¶ 17151 (Proposed Decision and Order, 1986)).

Arbitrator Gifford directed that Sgt. Przepiorka shall be reinstated to "his position as a police officer and made whole in all other respects." Make-whole relief includes base salary and all benefits and emoluments of employment for the backpay period including overtime. The goal is to be fair and reasonable in determining make-whole remedies with the understanding that complete accuracy may not be attainable. Teamsters Local Union No. 776 v. Borough of Gettysburg, 54 PPER 17 (PDO, 2022).

Pursuant to the MOA between the City and the FOP, which has not been introduced into the record in this case, the City had 91 days from the date it received the grievant's offset documents to pay Sgt. Przepiorka backpay and other financial damages arising from the unlawful termination. Sgt. Przepiorka submitted his offset documents to the City on January 11, 2024. Although the City cannot close the backpay period until reinstatement, the MOA starts the compliance clock upon document submission. The 91-day clock started on January 11, 2024. The 91st day would have been on or about April 11, 2024.

The City, without explanation or the demonstration of reasonable obstacles or complications, refused to respond to Sgt. Przepiorka's repeated attempts to obtain a breakdown of his backpay including base salary, leave, clothing, bonuses, and overtime. Additionally, the City did not make any payments to Sgt. Przepiorka until July 12, 2024, and that payment was not correct. The City took that payment back on August 22, 2024, and repaid Sgt. Przepiorka on August 23, 2024, over 7 months after he delivered his offset documents and over 6 months after his reinstatement. In the August 23, 2024 payment, the City diverted \$46,000 to Sgt. Przepiorka's deferred compensation account. The City did not restore Sgt. Przepiorka's leave balances until September 15, 2024. Therefore, the City engaged in unfair labor practices by unreasonably delaying Sgt. Przepiorka's make-whole relief and by delaying the transfer of \$46,000 of backpay into Sgt. Przepiorka's deferred compensation account causing him to lose earned interest on having that money in the account.²

Additionally, the City had a bargaining obligation to provide requested information concerning the manner and method of calculating each and every separate category of make-whole relief. "It is well settled that a public employer's duty to bargain includes an inherent obligation to verify its backpay calculations arising from the adjustment of grievances and the grievance arbitration process to the employe representative, so that the employe representative can confirm that the calculations are accurate." FOP, Lodge 5 v. City of Philadelphia, PF-C-24-45-E (PDO, 2025).

In this case, the City did not provide documentation demonstrating its methods, calculations, or amounts for base salary, clothing, bonuses, overtime, longevity, and pension, as adjusted by contractual increases for the period. The Union has a right to verify the amount of make-whole compensation the City provides to a reinstated officer. Otherwise, the City could mistakenly underpay the grievant. Also, when one of the City's employes told Sgt. Przepiorka that all he would get was his check when he requested a breakdown, the City unilaterally took a take-it-or-leave-it position in violation of its bargaining obligation.

The City has provided delayed payments to Sgt. Przepiorka. But Sgt. Przepiorka and the FOP requested on multiple occasions breakdowns of his backpay calculations since his reinstatement in February 2024. The City had in its possession a document showing back wages, dated May 22, 2024, but the City did not provide that document to Sgt. Przepiorka until May 9, 2025, approximately 1 year later. Moreover, the FOP is still unable to verify the accuracy of the payments or whether certain make-whole payments were included in the payments. Accordingly, the City engaged in unfair practices by refusing to provide the requested breakdown and verifications of its calculations. Thus, the City will be directed to provide complete breakdowns in document form to the Union for each separate category of Sgt. Przepiorka's make-whole backpay, as requested by the Union and Sgt. Przepiorka, on multiple occasions, including all overtime calculations.

At the time of his termination, Sgt. Przepiorka had accumulated 1,513 hours of sick leave. However, due to his termination and forced retirement, the City paid him for half those hours, i.e., 756.5 hours, and he forfeited

² The FOP is not seeking the lost interest on the delayed deferred compensation payment from April to August 2024.

the remaining 756.5 hours, as required by the CBA. Had the City not wrongfully terminated Sgt. Przepiorka, he would not have lost 756.5 hours of sick leave, which would have remained in his sick-leave bank. Also, the City never restored the 756.5 hours of forfeited leave since his reinstatement. Accordingly, to make Sgt. Przepiorka whole, the City must restore 756.5 hours of sick leave to Sgt. Przepiorka's sick-leave bank in addition to the sick-leave hours that the City gave Sgt. Przepiorka that accrued during the backpay period.

During the hearing, the Union established that the City did not give Sgt. Przepiorka any AL time for the backpay period. The FOP did not address this issue in its brief. However, the City did address the matter of AL days in its brief. The City takes the position that AL hours are lost if unused by June 30th of every year and, because Sgt. Przepiorka could not (and did not) use them, they were lost forever every June 30th during the backpay period. The 4 AL days given each fiscal year is a financial benefit, i.e., paid time off. The entire point of make-whole is to place Sgt. Przepiorka in the same position that he would have been in had the City not unlawfully terminated him. But for his termination, Sgt. Przepiorka would have received 4 AL days each and every year during the backpay period, in addition to accrued vacation time.

At the same time, however, the annual benefit of AL days does not continue to accrue, vest, and remain like vacation leave. Officers have no right to keep and accumulate AL days after June 30th of each year, and officers will never receive more than 4 AL days in a fiscal year. Unlike accrued vacation time, the City cannot buyout unused AL time because it does not exist if the officer does not, or cannot, use it. Also, giving Sgt. Przepiorka a lump sum of 4 unused AL days for each year in the backpay period, when those days have already expired and do not exist, would result in giving him a windfall of approximately 20-plus AL days in 1 fiscal year, which he would have not received.

Moreover, the purpose of AL days is to help officers keep more vacation time by giving them additional hours up front that they can use before using their vacation time. Sgt. Przepiorka could not take time off and use vacation time during his separation. He therefore did not need the AL days to protect his vacation leave, which was restored in its entirety by the City in September 2024. In other words, because he was not working, he could not take any time off. This resulted in the restoration of full vacation accrual during the period with no loss of vacation time for taking leave. It is for this reason that unused AL days are forfeited every year because having unused AL days means that the officer did not dip into his/her vacation leave bank, thereby preserving all of his/her accrued vacation leave.

The AL days are meant to provide a protective buffer for vacation leave banks. In a reinstatement scenario, the separated officer receives all accrued vacation leave during the backpay period without diminishment. The officer is thereby made whole because he is left with exactly what he would have been left with had he been working and used 4 or less AL days by June 30th each year and forfeited unused AL days. As long as the officer receives his fully accrued vacation leave, without having used it during separation, he is whole, and he forfeits AL time as if he took no time off every fiscal year, which is what happens in a reinstatement after separation situation. Because no AL days were used and no vacation time was used, all 4 AL days for each year during the period must vanish. In other words, Sgt. Przepiorka is made whole by receiving full restoration of unused accrued vacation time

which is what AL days are designed to protect when an officer is actually working and needs leave. Since Sgt. Przepiorka did not need to use leave, he did not need the protection of AL days, and that time properly expired each year. Make whole means placing the grievant in the same financial position as if he had not been unlawfully terminated. Placing Sgt. Przepiorka in the position of working and not using any leave results in his losing 4 AL days every year during the backpay period. Accordingly, the City was correct in denying the restoration of any AL days to Sgt. Przepiorka for the fiscal cycles between July 1, 2019 and June 30, 2023, because he could not use any leave, and those days had to expire.

However, because the City refused to give Sgt. Przepiorka his 4 AL days for the 2023-2024 fiscal cycle upon his February 5, 2024 reinstatement or soon thereafter, he was forced to use, and lose, 2 days of accrued vacation time in June 2024. The City never gave Sgt. Przepiorka any AL time for 2023-2024. The City's failure to timely give Sgt. Przepiorka his 2023-2024 AL days upon his reinstatement cost Sgt. Przepiorka 2 vacation days near the end of June 2024. Accordingly, the City will owe Sgt. Przepiorka those 2 vacation days even if it does not presently owe him the 4 AL days for 2023-2024 or any years prior.

Additionally, the record shows that the City improperly took Union dues from Sgt. Przepiorka for the backpay period when he had been paying his Union dues during his separation from City employment. The City deducted \$3,204.53 from Sgt. Przepiorka's initial backpayment on July 12, 2024. The City remitted that amount to the Union. The FOP reimbursed Sgt. Przepiorka the \$3,204.53, when the City sent that money to the FOP. However, the City again withheld that amount in the August 23, 2024 payment. The FOP could not reimburse Sgt. Przepiorka the second time because the City never remitted the second withholding of the Union dues to the FOP. At this point, Sgt. Przepiorka is improperly short \$3,204.53, which the City now owes him.

The City failed to provide a breakdown of the overtime calculation to the Union or Sgt. Przepiorka. The City based its overtime calculations on an average of the overtime money earned by 3 sergeants in the Marine Unit. However, averaging the overtime money earned by those sergeants, as the City did here, is not proper. Sgt. Przepiorka has 36 years with the PPD. Although not in the record, Sgt. Przepiorka's overtime rate of pay may very well be higher than the overtime rates for the other sergeants who may have less years of service with the PPD. The fair and proper method of calculating the average overtime for Sgt. Przepiorka would be to take the average hours that the sergeants in the Marine Unit worked and to multiply those average hours by Sgt. Przepiorka's overtime rate of pay during the period.³

The Union also contends that the City failed to comply with the Award because it did not return Sgt. Przepiorka to the Marine Unit. The FOP relies on the language in the Award stating that the City was required to return Sgt. Przepiorka to "his position," with "retraining as deemed appropriate." The FOP argues that this language requires the City to return Sgt. Przepiorka to his prior position in the Marine Unit, which also requires special training and skills, instead of assigning him to a sergeant position in Fifth-District patrol. The Union recognizes that the Board has held that generally reinstatement pursuant to a grievance arbitration award only

³ It would also be improper to use those sergeant's overtime earnings if their overtime rates were higher than Sgt. Przepiorka's.

requires reinstatement to the Department in a similar position with the same pay and benefits and not necessarily to the grievant's specific, prior assignment. However, the Union contends that the unique facts and circumstances of this case require a different outcome.

In cases where the Board has held that the language in an arbitration award requires reinstatement to the specific position previously held by the grievant, the award specifically states "prior" or "former" position and not a general reinstatement as a police officer. PSTA v. Commonwealth, 40 PPER 117 (PDO, 2009). In McKeesport Area School District, 39 PPER 75 (Final Order 2008), the Board relied on the NLRB Compliance Manual which provides that, when reinstatement to an employee's "former" position is directed, the employer must reinstate that employee to the specific position he/she held upon separation from employment, where the position is well-defined and still exists, notwithstanding whether another employee has been assigned to the position and will be displaced. The Board, in McKeesport, held that the employer had refused to comply with the terms of an award that directed the reinstatement of a discharged employee to his "former" position. Absent such specific language, the employer is only required to reinstate the grievant to a position that is equivalent in income, rank, duties, overtime, and conditions of employment.

Similarly, in City of Philadelphia v. PLRB, 759 A.2d 40 (Pa. Cmwlth. 2000), the Commonwealth Court held that, where the language of an award does not require that the police officer grievants be reinstated to their former police assignments, an employer's obligation is to reinstate them to a position at their previous rank with their guns and badges on normal police employment track including opportunities for overtime, career advancement, and promotion. Id. at 43.

The language in the Gifford Award is ambiguous on this point. The Award provides that Sgt. Przepiorka "shall receive retraining as deemed appropriate by the City" and that "the Grievant shall be reinstated to his position as a police officer and made whole in all other respects." The use of the phrases "his position" and "shall receive retraining" are subject to 2 interpretations. I am unable to determine whether this language means his position as a sergeant in the PPD, with retraining and re-certification as a sergeant generally after over 4 years of separation, or whether it means his prior assignment as a sergeant in the Marine Unit, with retraining in the special duties required of a sergeant in that Unit.⁴ Therefore, the City's placing of Sgt. Przepiorka in a sergeant position in the Fifth District cannot be said to violate the language of the Award.

Determining whether the City complied with the Gifford Award by assigning Sgt. Przepiorka to a patrol district, instead of the Marine Unit, upon reinstatement requires a comparison of the 2 assignments and the balancing of the City's and Sgt. Przepiorka's interests under the circumstances of this case. The Marine Unit is a specialty unit requiring unique duties and responsibilities as compared to the work in regular patrol districts. Sgt. Przepiorka endured an extensive interview and qualification process before receiving an appointment to the Marine Unit. He also underwent extensive training on various boats, patrolling waterways, and the

⁴ Given the specialty nature of the Marine Unit, it seems more likely that Arbitrator Gifford would have explicitly directed the City to reinstate Sgt. Przepiorka to his former position in the Marine Unit if that were his intent.

supervision of divers. Sergeant Przepiorka has an identifiable interest in returning to the specialized duties and conditions of employment on patrol boats in the Marine Unit. However, although the conditions and duties in patrol may not be identical to the conditions and duties in the Marine Unit, the supervisory work of a sergeant in both assignments is similar enough to meet the general reinstatement requirements of the Award. Also, while Sgt. Przepiorka has an identifiable interest in the "tons" of overtime available for Marine-Unit sergeants, he did not ever work Marine-Unit levels of overtime, although he would have worked those overtime hours had he not been terminated. Placing him back in patrol does not diminish the overtime income to which he was accustomed before his termination or result in a reduction in pay as compared to his pre-termination overtime income.

The City on the other hand has a managerial interest in providing sufficient police and security services to the community by ensuring enough police officers are patrolling the City streets. The PPD is down approximately 2,300 officers creating challenges for the PPD to fulfill its mission. As a result, the Commissioner has prioritized patrol units and determined that Sgt. Przepiorka would better serve the PPD as a sergeant in a patrol district. I find that the City's need to increase the complement of officers in patrol units outweighs Sgt. Przepiorka's interests in returning to the specialized duties and experiences in the Marine Unit. Although the conditions of employment in the Marine Unit are somewhat different than those in patrol, Sgt. Przepiorka was reinstated to an equivalent sergeant position in Fifth District patrol, in compliance with the Award, where he is performing a similar range of police sergeant/supervisory duties with opportunities for overtime. City of Philadelphia, supra.

The City delayed restoring Sgt. Przepiorka's accrued vacation leave for the backpay period until September 15, 2024, after he was reinstated 7 months earlier. The amount of vacation leave hours exceeded the carry-over leave cap by almost 300 hours. The delay forced Sgt. Przepiorka to use almost 300 hours of leave between September 2024 and March 31, 2025, so that he would not lose those hours. He was permitted to use up those excess leave hours before they expired, and he did not lose them. Also, the Gifford Award was issued November 27, 2023. Had the City immediately restored Sgt. Przepiorka's vacation leave upon his reinstatement in early 2024, he would have had much less time (i.e., about 1-2 months) to use his excess leave before losing it on March 31, 2024. Either way, there is no discrete, affirmative remedy for the fact that the delay in restoring Sgt. Przepiorka's vacation leave, 7 months after his reinstatement, truncated the amount of time that he had to use his excess leave.

Accordingly, the City has violated Section 6(1)(a) and (e) of the PLRA, as read with Act 111, by failing to timely comply with the Gifford Award. Specifically, the City failed to timely restore all leave accrued during the backpay period; it failed to restore 756.5 hours of sick leave; it failed to timely divert \$46,000 of backpay to Sgt. Przepiorka's deferred compensation account; it failed to provide requested information verifying and identify its calculations for overtime, base wages, with wage increases and longevity, as well as clothing and bonuses. The City also wrongfully withheld \$3,204.53 in Union dues. The City will pay interest at the rate of 6% per year on all monetary gross backpay amounts (i.e., before taxes, deductions, and contributions) from April 11, 2024, until those amounts were paid, and on any outstanding gross monetary amounts that have not yet been paid from April 11, 2024, until the date they are paid.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. The City is a public employer and a political subdivision within the meaning of the PLRA as read with Act 111.
2. The Union is a labor organization within the meaning of the PLRA as read with Act 111.
3. The Board has jurisdiction over the parties hereto.
4. The City has violated Section 6(1)(a) and (e) of the PLRA, as read with Act 111.

ORDER

In view of the foregoing and in order to effectuate the policies of the PLRA and Act 111, the hearing examiner

HEREBY ORDERS AND DIRECTS

that the City shall:

1. Cease and desist from interfering, restraining or coercing employes in the exercise of the rights guaranteed in the PLRA and Act 111;
2. Cease and desist from refusing to bargain collectively in good faith with an employe representative which is the exclusive representative of employes in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.
3. Take the following affirmative action, which the hearing examiner finds necessary to effectuate the policies of Act 111, as read with the PLRA:
 - (a) Cease and desist from delaying, identifying, and verifying backpay leave restoration, backpay wages, backpay bonuses, backpay clothing, backpay pension contributions and credit, backpay overtime, backpay wage and longevity increases, and deferred compensation remittances;
 - (b) Immediately restore 756.5 hours of forfeited sick leave to Sgt. Przepiorka's sick leave bank;
 - (c) Immediately provide requested documentation demonstrating and identifying the breakdown of calculations by the City for all categories of backpay;
 - (d) Immediately restore to Sgt. Przepiorka's vacation leave bank 2 vacation days wrongfully taken because the City did not give him 4 AL days

for the 2023-2024 fiscal cycle when he was reinstated on February 5, 2024 or soon thereafter.

(e) Immediately recalculate, identify, and pay overtime to Sgt. Przepiorka for the backpay period based on the average overtime hours of the three sergeants in the Marine Unit during the backpay period and multiplying those average hours by Sgt. Przepiorka's overtime rate of pay, as increased throughout the backpay period.

(f) Immediately return to Sgt. Przepiorka \$3,204.53 in wrongfully withheld Union dues;

(g) Immediately pay Sgt. Przepiorka interest at the rate of 6% per annum on any and all net gross backpay from April 11, 2024, until the date paid by the City for amounts already paid, and from April 11, 2024, until the date paid for amounts yet to be paid;

(h) Post a copy of this decision and order within five (5) days from the effective date hereof in a conspicuous place readily accessible to its employees and have the same remain so posted for a period of ten (10) consecutive days; and

(i) Furnish to the Board within twenty (20) days of the date hereof satisfactory evidence of compliance with this decision and order by completion and filing of the attached affidavit of compliance.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this order shall be and become final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this seventeenth day of November, 2025.

PENNSYLVANIA LABOR RELATIONS BOARD

/S/Jack E. Marino

JACK E. MARINO
Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA

Pennsylvania Labor Relations Board

| | | |
|---------------------------|---|----------------------|
| FRATERNAL ORDER OF POLICE | : | |
| LODGE NO. 5 | : | |
| | : | |
| v. | : | CASE NO. PF-C-24-7-E |
| | : | |
| CITY OF PHILADELPHIA | : | |

AFFIDAVIT OF COMPLIANCE

The City of Philadelphia hereby certifies that it has ceased and desisted from its violations of Section 6(1)(a) and (e) of the Pennsylvania Labor Relations Act, as read with Act 111; that it has ceased and desisted from delaying backpay leave restoration, backpay wages, backpay bonuses, backpay clothing, backpay pension contributions, backpay overtime, backpay wage and longevity increases, and deferred compensation remittances; that it has restored 756.5 hours of forfeited sick leave to Sgt. Przepiorka's sick-leave bank; that it has provided requested documentation demonstrating and identifying the breakdown of calculations by the City for all categories of backpay; that it has recalculated, identified, and paid overtime to Sgt. Przepiorka for the backpay period based on the average overtime hours of the three sergeants in the Marine Unit and multiplying those average hours by Sgt. Przepiorka's overtime rate of pay as increased each year during the backpay period; that it has returned to Sgt. Przepiorka \$3,204.53 in wrongfully withheld Union dues; that it has paid Sgt. Przepiorka interest at the rate of 6% per annum on any and all net gross backpay from April 11, 2024, until paid by the City including amounts paid and amounts remaining outstanding; that it has posted a copy of the proposed decision and order in the manner prescribed therein; and that it has served a copy of this affidavit on the Union at its principal place of business.

Signature/Date

Title

SWORN AND SUBSCRIBED TO before me
the day and year first aforesaid.

Signature of Notary Public