

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

PA STATE CORRECTIONS OFFICERS ASSOCIATION :
:
v. : Case No. PERA-C-25-43-E
:
COMMONWEALTH OF PA :

PROPOSED DECISION AND ORDER

On February 19, 2025, the Pennsylvania State Corrections Officers Association (PSCOA or Union) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (Board) against the Commonwealth of Pennsylvania (Commonwealth or Employer), alleging that the Commonwealth violated Section 1201(a)(1) and (5) of the Public Employee Relations Act (PERA or Act) by refusing to provide information with regard to requests made on December 27, 2024, and January 6, 2025, which were related to an alleged incident from October 31, 2024 at the Phoenix State Correctional Institution (Phoenix SCI), and which were necessary for the processing and evaluation of grievances.

On March 10, 2025, the Board Secretary issued a Complaint and Notice of Hearing, assigning the charge to conciliation, and directing a hearing on May 1, 2025, if necessary. The hearing ensued, as scheduled on May 1, 2025, at which time the parties were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. The Commonwealth filed a post-hearing brief in support of its position on August 5, 2025. The Union filed a post-hearing brief in support of its position on August 8, 2025.

The Hearing Examiner, on the basis of the testimony presented at the hearing and from all other matters and documents of record, makes the following:

FINDINGS OF FACT

1. The Commonwealth is a public employer within the meaning of Section 301(1) of PERA. (N.T. 7)
2. The Union is an employe organization within the meaning of Section 301(3) of PERA. (N.T. 7)
3. The Union is the exclusive bargaining representative for a unit of corrections employes at the Commonwealth. (Joint Exhibit 1)
4. The Union and the Commonwealth are parties to a collective bargaining agreement (CBA) effective July 1, 2024 to June 30, 2028. (Joint Exhibit 1)
5. On October 31, 2024, there was an alleged incident at Phoenix SCI that resulted in the death of an inmate in the restricted housing unit (RHU), which was being treated as a potential homicide. (N.T. 17-18; Union Exhibits 1, 2, 3)

6. Corrections Officers Refeeq Jaynes, Rasool Sydnor, and Michael Wilson were all working the 10:00 to 6:00 shift in the RHU on that date. (N.T. 17-19; Union Exhibits 1, 2, 3)

7. By letter dated November 1, 2024, the Commonwealth notified Corrections Officer Jaynes that he was suspended pending an investigation effective November 2, 2024, as a result of the alleged October 31, 2024 incident. Specifically, the Commonwealth alleged that Jaynes was inattentive, failed to complete the number of required rounds throughout his shift, and failed to properly respond to the incident. (N.T. 21-23; Union Exhibit 1)

8. Local Union President and Corrections Sergeant Edward Bogan testified that a suspension pending investigation (SPI) occurs when management suspends an employe pending the outcome of their investigation. He described how the employes subject to an SPI are suspended without pay and that SPIs are considered discipline. He explained that the Union has grieved SPIs in the past, which were processed through the customary grievance procedure. (N.T. 15-17)

9. By letter dated November 6, 2024, the Commonwealth notified Corrections Officer Sydnor that he was suspended pending an investigation effective November 6, 2024, as a result of the alleged October 31, 2024 incident. Like Jaynes, the Commonwealth alleged that Sydnor was inattentive, failed to complete the number of required rounds throughout his shift, and failed to render aid to an inmate during the incident. (N.T. 22-23; Union Exhibit 2)

10. By letter dated November 6, 2024, the Commonwealth notified Corrections Officer Wilson that he was suspended pending an investigation effective November 6, 2024, as a result of the alleged October 31, 2024 incident. With Wilson, the Commonwealth alleged only that he failed to render aid in a timely manner to an inmate in distress. (N.T. 22-23; Union Exhibit 3)

11. On November 7, 2024, the Union filed two separate grievances alleging that the Commonwealth violated the CBA by suspending (SPI) Corrections Officers Sydnor and Wilson without just cause. The Union filed a third grievance on November 12, 2024, alleging that Corrections Officer Jaynes' SPI was similarly without just cause. The Union further alleged in each of the grievances that the Commonwealth violated various other contractual provisions related to bid removals and missed overtime, as well as the statewide SPI side letter. (N.T. 24-26; Union Exhibits 4, 5, 6)

12. Union President Bogan testified that every post at Phoenix SCI is assigned a logbook, which keeps a running log of daily events that occur, such as what personnel are assigned there, meal release, etc. He described how the logbook tracks every shift of every day, 365 days per year. He indicated that the logbook would show who was working in a particular area on a particular shift and that the logbook is maintained in the ordinary course of business at Phoenix SCI. He explained that the logbooks are maintained at Phoenix SCI regardless of whether there is an incident on a particular unit. He testified that the logbook would reflect whether or not rounds were completed in that unit by the corrections officers. (N.T. 26-27, 29-30)

13. By email dated December 27, 2024, Union Business Agent Brian Scott indicated the following, in relevant part, to Phoenix SCI Field Human Resources Officer (FHRO) Jason Hadley:

Jason,

I wanted to formally request the log books from [the RHU] for October 31, 2024. The log books would show who was working what wings [of] the unit...

(N.T. 45-46; Union Exhibit 7)

14. By email dated January 3, 2025, FHRO Hadley replied, in relevant part, that "[w]e cannot release the log books as it is investigative material. Since this is still an open investigation we cannot release it at this point." (N.T. 46; Union Exhibit 7)

15. By emailed dated January 6, 2025, Business Agent Scott indicated to FHRO Hadley the following: "Jason[,] the attached formal [request for information (RFI)] for the log books. Please respond." The attached RFI stated: "PSCOA...is requesting the following information for the possible filing of, and/or the investigation of a grievance...Log books from [the RHU] for 10-31-24." (N.T. 47; Union Exhibits 8, 9)

16. By email dated January 9, 2025, FHRO Hadley replied, in relevant part, that "[t]his is currently an open investigation and [the Commonwealth] cannot release investigative materials." (N.T. 47; Union Exhibit 8)

17. Business Agent Scott testified that he did not have the logbooks for the step 2 presentation of the SPI grievances, which occurred in January or February 2025. He described how this was extremely problematic for the Union because he did not believe the corrections officers were responsible for that side of the housing unit, but he did not have the evidence he needed to argue the case or to demonstrate to the panel whether or not the officers were actually working in that area when the alleged incident occurred. (N.T. 48-50)

18. Corrections Officers Wilson and Jaynes eventually both returned to work from their respective SPIs on January 15, 2025. (N.T. 64-65, 68; Commonwealth Exhibit 1)

19. By letter dated February 26, 2025, the Commonwealth dismissed Corrections Officer Sydnor from his position. (N.T. 65; Commonwealth Exhibit 2)

20. On February 27, 2025, the Union filed a grievance challenging the Commonwealth's dismissal of Corrections Officer Sydnor and alleging that the termination lacked just cause. As part of the grievance, the Union included an RFI for a number of documents in connection with the same. (N.T. 66-67; Commonwealth Exhibit 3)

21. Rita Mack, the Commonwealth's Human Resources Analyst at Phoenix SCI, testified that the Commonwealth provided those requested documents to the Union by email dated March 5, 2025. The attachments to the email included the logbook for the RHU from October 31, 2024. (N.T. 66-68, 73-74; Commonwealth Exhibit 4)

22. By letter dated March 7, 2025, the Commonwealth notified Corrections Officer Wilson that he was being suspended without pay from his position for a period of three days, November 7, 2024 through November 9, 2024. The Commonwealth also advised Wilson that the period of suspension had already been served as a result of his SPI. As such, the Commonwealth indicated that Wilson would receive backpay and seniority credit for the period of November 10, 2024 through January 14, 2025. (N.T. 69-70; Commonwealth Exhibit 5)

23. By letter dated March 7, 2025, the Commonwealth notified Corrections Officer Jaynes that he was being suspended without pay from his position for a period of ten days, November 2, 2024 through November 13, 2024. The Commonwealth also advised Jaynes that the period of suspension had already been served as a result of his SPI. As such, the Commonwealth indicated that Jaynes would receive backpay and seniority credit for the period of November 16, 2024 through January 14, 2025. (N.T. 71; Commonwealth Exhibit 6)

24. Harold Kertes is the Deputy Superintendent for Internal Security at Phoenix SCI and Chester SCI. He participated in an investigation into the alleged October 31, 2024 incident at Phoenix SCI and compiled a final report. He described how management reviewed video footage at the outset and determined that SPIs were indicated. He explained that, although the Pennsylvania State Police conducted a criminal investigation into the alleged incident, his administrative investigation remained separate from that criminal investigation. (N.T. 79, 85-88)

25. Deputy Superintendent Kertes testified that the RHU logbook from October 31, 2024 was part of the investigation. He described how one of the issues in question was whether the staff completed their security rounds for the unit and whether there were any issues with the inmates. He explained how he would have had concerns if the logbook had been provided to the Union during the investigation. He indicated that he wants to ensure the integrity of the investigation, such that the investigation does not become compromised. He stated that he wants staff to have genuine responses to questions and to ensure that their responses are not preplanned. He later admitted on cross-examination that the logbook existed before the events that gave rise to the investigation and that he was not involved with the decision to withhold the logbook in this case. (N.T. 88-90, 94-95, 106-107)

DISCUSSION

The Union has alleged that the Commonwealth violated Section 1201(a) (1) and (5) of the Act¹ by refusing to provide the RHU logbook from October 31, 2024 at Phoenix SCI, which was necessary for the processing and evaluation of grievances. The Commonwealth, on the other hand, argues that the charge should be dismissed because: (1) the logbooks were not relevant to the underlying SPI grievances; (2) the logbooks were integral to the

¹ Section 1201(a) of PERA provides that "[p]ublic employers, their agents or representatives are prohibited from: (1) Interfering, restraining or coercing employes in the exercise of the rights guaranteed in Article IV of this act...(5) 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. 43 P.S. § 1101.1201.

Commonwealth's then-pending administrative investigation into an inmate homicide; and (3) the RFI was premature, as the request occurred prior to the discipline issued to the three corrections officers for the alleged October 31, 2024 incident.

It is well settled that an employer has a duty to provide requested information to the union, which is relevant to the union's policing of the collective bargaining agreement, even where no grievance is pending. Bristol Township, 27 PPER ¶ 27046 (Proposed Decision and Order, 1996). The standard for relevance is a liberal discovery type standard that allows the union to obtain a broad range of potentially useful information. Commonwealth of Pennsylvania v. PLRB, 527 A.2d 1097 (Pa. Cmwlth. 1987). Under the standard of relevancy, it is sufficient that the union's request for information be supported by a showing of probable or potential relevance. United Steelworkers of America v. Ford City Borough, 37 PPER 11 (Final Order, 2006) (citing Commonwealth of Pennsylvania, Dept. of Corrections (SCI Muncy) v. PLRB, 541 A.2d 1168 (Pa. Cmwlth. 1988)).

In Ford City Borough, the Board opined as follows:

The duty to provide information emanates from the statutory duty to bargain in good faith. A public employer's duty to provide requested information to a Union is based on the premise that a Union would be unable to fulfill its statutory obligation as exclusive employe representative in bargaining and other matters without that information. Consequently, no meaningful bargaining would occur. An unreasonable or inexcusable delay in providing relevant information is a violation of an employer's statutory obligation to bargain in good faith.

(Citations omitted).

In this case, the Union has sustained its burden of proving that the Commonwealth violated the Act. First of all, the Union's RFI requests on December 27, 2024, and January 6, 2025, were clearly relevant to the Union's duty to police the CBA. In its RFIs from those dates, the Union requested the logbooks for October 31, 2024 for the RHU at Phoenix SCI. In the December 27, 2024 email, Union Business Agent Brian Scott advised the Commonwealth's FHRO Jason Hadley that the logbooks would show which corrections officers were working what wings of the jail for the date in question. Of course, by this point, the Union had already filed three separate grievances for each of the SPIs of the three corrections officers, alleging that the SPIs lacked just cause. Then, on January 6, 2025, the Union once again requested the logbooks from October 31, 2024 at Phoenix SCI "for the possible filing of, and/or the investigation of a grievance."

The Commonwealth contends in its post-hearing brief that the logbooks from October 31, 2024 for the RHU at Phoenix SCI were not relevant to the underlying SPI grievances because Deputy Superintendent Kertes testified at the hearing that management's decision to implement the SPIs was based solely on its review of video footage of the RHU on October 31, 2024, along with statements by the corrections officers at their pre-suspension meetings. Leaving aside the questionable nature of this testimony,² it is of no

² This assertion by Kertes is hardly dispositive. The record shows that the logbooks could have potentially exonerated the corrections officers from any potential wrongdoing or at least mitigated their culpability in some way.

consequence whether or not the Commonwealth reviewed the logbooks when it made the decision to impose the SPIs. The Commonwealth, in advancing such an argument, would have the Board adopt a rule that the relevancy standard is limited to evidence and documents, which the employer actually reviewed and considered in making its decision to impose discipline. But that is clearly not the Board's standard, as set forth above. The record shows that the logbook would reflect who was working in a particular area on a particular shift; that the logbook is maintained in the ordinary course of business at Phoenix SCI, regardless of whether there is an incident on a specific unit; and that the logbook would reflect whether or not rounds were completed in that unit by the corrections officers. It is beyond dispute that this information would be "potentially useful," and therefore, relevant under the Board's liberal discovery type standard to the Union's processing of the three SPI grievances. To conclude otherwise would prohibit the Union's access to other obviously relevant information, which the Commonwealth allegedly did not utilize in rendering its decision to impose discipline. This would not only frustrate the Act's requirement that arbitration of disputes or grievances is mandatory, but also provide the employer with a simple method to hamstring the Union's effectiveness in prosecuting such grievances by selectively controlling the Union's access to potentially useful documents. Accordingly, the Commonwealth's argument in this regard has been rejected, and the logbook from October 31, 2024 for the RHU at Phoenix SCI is deemed relevant under the Board's appropriate standard.

The Commonwealth's next contention, that the logbooks were integral to its' then-pending administrative investigation into an inmate homicide, is similarly unavailing. The Commonwealth relies on PSCOA v. Commonwealth of Pennsylvania, Dept. of Corrections, SCI Greene (SCI Greene), 34 PPER ¶ 52 (Final Order, 2003), for the proposition that the Commonwealth was entitled to withhold the logbooks as part of its ongoing investigation. However, the Commonwealth has misread SCI Greene. There, the Board affirmed the hearing examiner's determination that the union was not entitled to requested information during a pre-disciplinary conference (PDC) for an employe accused of misconduct because the PDC was investigatory in nature, no discipline had been imposed yet, and the union failed to cite a contractual provision to which the information allegedly related. Those facts, however, are readily distinguishable from the instant matter because the Commonwealth here had already imposed discipline in early November 2024 when it issued the SPIs, which was well before the Union requested the logbooks in late December 2024, and then again in early January 2025.³ In fact, as previously set forth

The failure to at least review them prior to issuing the SPIs seems particularly ill-advised and almost surely capable of supporting an inference of unlawful motive if that were a relevant consideration in this proceeding. Minimally, the Commonwealth's failure to examine the logbooks could also support an arbitrator's finding that the Commonwealth lacked "requisite cause" to suspend, as required by the SPI agreement. See PSCOA v. Commonwealth of Pennsylvania, Dept. of Corrections, Somerset SCI (Somerset SCI), 55 PPER 56 (Proposed Decision and Order, 2024).

³ For at least ten years now, the Board's hearing examiners, with Board approval, have repeatedly and consistently recognized that any written documentation designed to correct an employe's conduct constitutes discipline. East Allegheny Education Ass'n, PSEA/NEA v. East Allegheny School District, 47 PPER 55 (Proposed Decision and Order, 2015); FOTP Lodge 109 v. SEPTA, PERA-C-18-132-E (Proposed Decision and Order, 2020); FOP PA Conservation Police Officers Lodge 114 v. Commonwealth of Pennsylvania, 55 PPER 20 (Proposed Decision and Order, 2023), *aff'd*, 55 PPER 60 (Final Order,

above, the Union here had also already filed three grievances in early to mid November 2024, challenging each of the SPIs. Thus, the Union's RFIs were plainly relevant to its duty to police the contract and were not premature, as alleged by the Commonwealth in its post-hearing brief. If the Commonwealth wishes to continue issuing discipline in the nature of these SPIs, where, by its own terms the investigation has not yet been completed, then it cannot be heard to complain that it must also comply with its good faith bargaining obligation to the Union of providing relevant information in connection with the same. To be sure, at least one other Board hearing examiner has reached the same result.

As the Union points out, Hearing Examiner Jack Marino found that the Commonwealth violated Section 1201(a)(1) and (5) of the Act when it failed to timely comply with the union's November 9, 2020 RFI in connection with a September 25, 2020 grievance challenging an SPI in PSCOA v. Commonwealth of Pennsylvania, Dept. of Corrections, Somerset SCI (Somerset SCI), 55 PPER 56 (Proposed Decision and Order, 2024). In that case, Hearing Examiner Marino recognized that the parties negotiated an SPI settlement agreement dated June 26, 2020, which incorporated the Secretary of Corrections' May 22, 2020 Memorandum as part thereof, and which contained a number of various provisions related to SPIs. In this case, the Union has similarly alleged that the Commonwealth not only violated the CBA, but also the statewide SPI side letter in its November 2024 SPI grievances. The record here also shows that the Union only has 15 days from the occurrence to file a grievance at Step 1 of the process, as outlined in Article 35 of the CBA. (Joint Exhibit 1). The record further shows that the Union was severely disadvantaged at Step 2 of the contractual grievance procedure in January or February of 2025 because the Union still did not have the evidence it needed to argue the case or to demonstrate to the panel whether or not the three corrections officers were actually working in that specific area of the jail on October 31, 2024 when the alleged incident occurred. As a result, the Commonwealth's eventual disclosure of the logbooks to the Union on March 5, 2025 was an unfair practice.

In North Hills Education Ass'n, PSEA/NEA v. North Hills School District, 29 PPER ¶ 29063 (Final Order, 1998), the Board addressed the employer's contention that it eventually provided the information to the employe representative and opined as follows:

...even if the record supported the [employer's] claim that it made a belated disclosure of all the information sought by the [union], the Board has held that unreasonable delay in providing the employe bargaining representative with relevant information, in and of itself, violates the employer's statutory collective bargaining obligation. City of Williamsport, 2 PPER 163 (1972). Thus, if the [union] was entitled to the information at issue as the hearing examiner found, the [employer's] unreasonable six month delay in providing some of that information would itself constitute an unfair practice. *Id...*

2024). Under this standard, the November 2024 SPIs easily meet the definition of discipline, given that they are written documentation allegedly designed to correct or improve performance. For the Commonwealth to argue that the indefinite suspension of these employes for several months, without pay, does not constitute discipline, borders on the absurd.

The requested information is relevant to the [union's] attempt to determine whether the [employer] is complying with the contractual provisions regarding implementation of improvement plans. Without being aware of the identity of employees who are on such plans, the [union] has no way of determining whether the plans are being implemented consistent with the contract. We do not accept the [employer's] argument that its belated partial disclosure of the requested information demonstrates lack of impact on the [union's] ability to police the collective bargaining agreement. First, the information that was not provided may demonstrate a contractual violation. Second, by delaying provision of the requested information until several months after completion of the school year in which employees are placed on improvement plans, as occurred here, the [employer] may prevent the [union] from filing a timely grievance. In order to facilitate effective policing of the collective bargaining agreement by the employe bargaining representative, the employer must **promptly** respond to its requests for relevant information.

(*Id.* Emphasis added).

Here, the Commonwealth likewise had an obligation to promptly respond to the Union's requests for information in December 2024 and January 2025, and its eventual belated disclosure of the logbooks has frustrated the Union's ability to police the CBA and prosecute these alleged contractual violations. The requested information is relevant to determining whether the Commonwealth is complying with the various CBA provisions at issue, as well as the statewide SPI side letter. However, the Union has not been able to timely discern violations of the CBA and process these three SPI grievances as a direct result of the Commonwealth's unreasonable two-month delay. The Commonwealth should have promptly provided the requested logbooks shortly following the requests so the Union could have properly prepared for the Step 2 grievance meeting, which could have shortened the suspension periods. As such, the Commonwealth clearly acted in violation of the Act and will be directed to immediately cease and desist from such dilatory conduct in the future, along with the Board's usual posting requirements.

CONCLUSIONS

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

1. The Commonwealth is a public employer within the meaning of Section 301(1) of PERA.
2. The Union is an employe organization within the meaning of Section 301(3) of PERA.
3. The Board has jurisdiction over the parties hereto.
4. The Commonwealth has committed unfair practices in violation of Section 1201(a) (1) and (5) of PERA.

ORDER

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

HEREBY ORDERS AND DIRECTS

That the Commonwealth shall:

1. Cease and desist from interfering, restraining or coercing employes in the exercise of the rights guaranteed in Article IV of the Act.

2. Cease and desist from refusing to bargain collectively in good faith with the employe organization which is the exclusive representative of employes in the appropriate unit, including but not limited to discussing of grievances with the exclusive representative.

3. Take the following affirmative action which the examiner finds necessary to effectuate the policies of PERA:

(a) 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 employes, and have the same remain so posted for a period of ten (10) consecutive days;

(b) 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; and

(c) Serve a copy of the attached Affidavit of Compliance upon the Union.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this decision and order shall become and be absolute and final.

SIGNED, DATED AND MAILED from Harrisburg, Pennsylvania this 23rd day of December, 2025.

PENNSYLVANIA LABOR RELATIONS BOARD

/s/ John Pozniak
John Pozniak, Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

PA STATE CORRECTIONS OFFICERS ASSOCIATION :
v. : Case No. PERA-C-25-43-E
COMMONWEALTH OF PA :

AFFIDAVIT OF COMPLIANCE

The Commonwealth hereby certifies that it has ceased and desisted from its violations of Section 1201(a) (1) and (5) of the Public Employe Relations Act; that it has complied with the Proposed Decision and Order by immediately posting 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