

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

PENNSYLVANIA STATE CORRECTIONS :
OFFICERS ASSOCIATION :
 :
v. : CASE NO. PERA-C-24-64-E
 :
COMMONWEALTH OF PENNSYLVANIA :
SCI BENNER TOWNSHIP :

PROPOSED DECISION AND ORDER

On March 25, 2024, the Pennsylvania State Corrections Officers Association (Union or PSCOA) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (Board) alleging that the Commonwealth of Pennsylvania, SCI Benner Township (Commonwealth or Benner) violated Section 1201(a)(1) and (5) of the Public Employee Relations Act (Act or PERA). The Union specifically alleged that the Commonwealth violated an April 25, 2023 grievance settlement agreement (Agreement) by prohibiting more senior officers with the least amount of overtime hours, who signed up for voluntary overtime, from choosing available, desired posts and by filling those posts with less senior officers with more overtime hours. The Union alleged that this occurred on numerous occasions with 6 officers between November 29, 2023, and February 5, 2024.

On April 4, 2024, the Union filed an amended charge that changed the name and address of the Union's law firm. On April 9, 2024, the Secretary of the Board issued a Complaint and Notice of Hearing designating a hearing date of July 29, 2024, in Harrisburg. On April 17, 2024, the Secretary of the Board issued an Amended Complaint and Notice of Hearing designating the same date for the hearing. On July 26, 2024, I continued the hearing *sine die* due to the unavailability of the Union's witness who was on Heart and Lung leave for an undetermined period of time. On September 16, 2024, the Union informed me that the witness returned to duty and requested a new hearing date. In response, I rescheduled the hearing for January 10, 2025. During the hearing on that date, both parties were afforded a full and fair opportunity to present documents and testimony and to cross-examine witnesses.¹ On March 7, 2025, both parties filed separate post-hearing briefs in support of their respective positions.

The examiner, based upon all matters 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)

¹ During the hearing, the Union withdrew claims alleging that the Commonwealth violated the Agreement with respect to Officer Whipple on November 29, 2023, Officer Wilt on December 1, 2023, and Officer Colpetzer on February 13, 2024. The allegations involving the other officers in the charge as well as a different claim for Officer Colpetzer remain. (N.T. 9-10).

2. The Union is an employee organization within the meaning of Section 301(3) of PERA. (N.T. 7)

3. Thomas Stoner is a corrections officer 1 (CO-1) at Benner, and he is the Local Union Vice President at Benner. (N.T. 11)

4. On July 6, 2022, Stoner filed Grievance No. BEN-22-037 (Grievance), pursuant to the parties' collective bargaining agreement (CBA), claiming that "[m]anagement violated the CBA by saving posts for Officers with more equalized hours/less seniority and/or for Officers that are not regular/relief/bid that are on straight time." The Grievance further alleged that the conduct was an ongoing violation of the parties contract. (N.T. 13-15; UX-1)

5. The Grievance relied on Article 18 of the CBA and on a past practice at Benner whereby the most senior officer with the least amount of overtime hours, who signed up for voluntary overtime, could pick from all the available posts. The next person would be able to pick from the remaining available posts minus the post already picked. (N.T. 15-16)

6. Under the practice, the shift lieutenant or other managerial officer would contact officers who had signed up for voluntary overtime and ask them if they would like voluntary overtime and tell them which posts were available. The officer would pick the post most desirable. These posts are not bid posts. The officer can reject the overtime opportunity. Every officer is qualified for every position. (N.T. 16-17, 19-21; UX-2)

7. The parties settled the Grievance by Agreement dated April 25, 2023, which Superintendent Houser signed on April 28, 2023. The Agreement provides, in relevant part, as follows:

1. Management will first complete the regular shift assignments by placing bid holders, relief officers and regular officers into appropriate posts. Management will then assign trainees to posts.
2. Voluntary overtime will then be hired in accordance with Article 18, Section 5 of the Agreement between the Commonwealth and PSCOA.
3. When hiring voluntary overtime, the senior employee with the least amount of hours will have their choice of all available overtime posts.
4. Once a post is filled through this process, that post will not be offered to the next officer on the overtime call list. This process will continue until all overtime posts are filled.
5. Management may, for good reason, deviate from this process for Yard Platform and Gender Specific Posts.²

(N.T. 22-27; UX-3)

² An officer assigned to the Yard Platform is required to have a current rifle qualification, which some officers on the voluntary overtime list may not have at the time. (N.T. 55).

8. In addition to the past practice and the Agreement, Article 18, Section 5(c) of the CBA similarly provides, in relevant part, as follows:

When the need for overtime arises, the Employer shall first seek to obtain volunteers for the performance of overtime beginning with the most senior employee who has the least overtime credit during the one-half calendar year among those employees who have stated a willingness to work overtime on the specific date and shift.

(JX-1)

9. If there are still vacant posts available after contacting all the officers on the voluntary overtime list, the shift commander starts to call officers for overtime paid at double time. If there are vacant posts remaining after contacting officers who would be paid double time, the shift commander then fills the vacancies with mandatory overtime. (N.T. 23-24)

10. Upon entering Benner, near the metal detector, is a book containing sign-up sheets for voluntary overtime for each shift of every day. Officers sign up for voluntary overtime at least 48 hours prior to the beginning of the overtime shift they want to work. (N.T. 39-40; UX-4)

11. Management uses the sign-up sheet for a shift to develop a call sheet that lists the officers in order based on the number of overtime hours they have accumulated within the equalization period and their seniority. Officers with the least amount of overtime hours within the equalization period are considered first, then seniority. If 2 officers have the same amount of overtime hours, seniority dictates. It also identifies the officer as receiving regular overtime, double time, or trainee overtime. The manager then calls down this list. (N.T. 40-43; UX-4)

12. On a daily basis, management provides the daily roster showing which officers worked overtime paid at 1.5 times the officers hourly rate and double time paid at twice the officers hourly rate. On the call sheet, the lieutenant notes the date and time that he/she called an officer soliciting overtime, whether the officer refused or accepted the overtime, or whether the lieutenant left a voicemail message for the officer. (N.T. 30-36; 40-43; UX-4)

13. Regular overtime is paid when the officer works a shift that is not a regularly scheduled shift on the officer's first day off. Double time status occurs when the officer works the first day off at time-and-a-half and then works the second day off at double time. All regular overtime officers are called before double time officers. (N.T. 47-48)

14. Officers on the list who were called and who did not answer could be called again if all the available posts are not filled by the end of the call-down list. Where an officer higher on the list does not answer and a better post is accepted by an officer lower on the list, that post is no longer available and the higher officer cannot bump the lower officer upon call back. (N.T. 56-61)

15. Joshua Colpetzer is a CO-1 who signed up for voluntary overtime for Wednesday, January 17, 2024, on the 10:00 p.m. to 6:00 a.m. (10-6) shift. His regularly scheduled shift is the 6:00 a.m. to 2:00 p.m. (6-2) shift. The call-down sheet for that shift shows that Colpetzer was the ninth officer out

of 10 officers on the list contacted by Lieutenant Miller for overtime. Miller contacted Colpetzer at 11:20 p.m. on January 16, 2024. The daily roster for January 17, 2024, shows that Colpetzer worked voluntary overtime on Housing Unit A in D unit. (N.T. 63-66; UX-4)

16. Lieutenant Miller offered Colpetzer the choice of 2 vacant posts: Alpha Block and Delta Block for the 10-6 shift beginning on January 17, 2024. Colpetzer was not offered any other posts. Colpetzer was not aware that there were vacant posts on the Special Needs Unit (SNU), Restricted Housing Unit (RHU), or the outside hospital post. He accepted the Delta Block post assignment. He would have taken one of the other posts over Delta Block, if he was aware of their availability. (N.T. 67-72; UX-4)

17. When Colpetzer reported for his overtime shift on January 17, 2024, he learned that there were better overtime shifts filled by employees called after him. SNU, RHU, DTU, and outside hospital are better posts than Alpha and Delta Block posts, which were the only 2 posts offered to Colpetzer.³ Officer Burke was on double time which is called after overtime, and he was hired for the SNU on H Block, Pod C. Officer Wagner was on double time, and he was hired for the DTU post. The outside hospital duty posts for inmate Ramos were filled by Dreibelbis and Myers on double time. Officers called after Colpetzer received better post assignments. Miller called Dreibelbis, Burk, Wagner, and Myers on January 16, 2024, at 11:44 p.m., 11:45 p.m., 11:46 p.m., and 11:50 p.m. respectively, which is approximately 25 minutes after he called Colpetzer. (N.T. 71-75; UX-4)

18. Colpetzer is not aware of whether the 4 positions filled by Burke, Wagner, Dreibelbis, and Myers on January 17, 2024, became available after Miller contacted Colpetzer. All 4 posts would have had to become available within 25 minutes after contacting Colpetzer. (N.T. 76-79)

19. Captain Amy Nixon is a shift supervisor, and she supervises lieutenants involved in hiring for voluntary overtime. Nixon shares an office with the lieutenants making overtime calls. Nixon testified that lieutenants are trained to call down the list of officers, who are placed on the list in order of least overtime hours and then most seniority, and to offer the officers whatever positions are available at the time. (N.T. 107-111)

20. From January 2024 to April 2024, Nixon worked the 10-6 shift supervising Lieutenants Myers and Miller. Beginning April 1, 2024, Nixon supervised 4 lieutenants on the 6-2 shift including: Lieutenants Jones, Proudfit, Glessner, and Tyson. (N.T. 120-121)

21. Nixon does not specifically recall what positions that Miller offered to Colpetzer, or whether Miller or Myers made the overtime call to Colpetzer on January 16, 2024. Nixon does not specifically recall the conversation between Miller and Colpetzer. Nixon does not know whether Colpetzer accepted Delta Bravo before Miller was finished offering all the available open posts. Nixon testified that "I know that he would have been offered everything that was available at that time." She also testified that Lieutenants Myers and Miller were both trained how to hire overtime properly, so they would have offered every position. (N.T. 111-113, 122-125)

³ The DTU is in the RHU in Housing Unit J. (N.T. 71, 164; UX-4, 5, 6, 7) The abbreviation "DTU" was not explained on the record.

22. Clint Bodle is a CO-1 at Benner regularly scheduled for the 8:00 a.m. to 4:00 p.m. (8-4) shift assigned to patrol/telemed. Telemed is when inmates see and talk to a psychiatrist on a screen or monitor. Bodle signed up for voluntary overtime for the 10-6 shift on February 5, 2024. He was first on the call-down list, and he was called by Lieutenant Myers at 10:01 p.m., on February 4, 2024, who informed Bodle that G block and Delta Block were available. (N.T. 80-84, 89-90; UX-5)

23. Nixon was in the office with Myers when he made the overtime calls for February 5, 2024. Nixon testified that Myers "would have offered everything [to Bodle] that was available," and that it was her understanding that Myers offered Bodle everything that was available at that time. Nixon also acknowledged that there could be two different lieutenants making overtime calls from different offices and not from the desk next to Nixon. Nixon does not specifically know whether Bodle accepted a post before the lieutenant exhausted the list of available vacancies. (N.T. 113-115, 117-118, 130-132)

24. Myers did not indicate to Bodle that Main Control, the Closed Circuit Television Monitor (CCTV), RHU, or Housing Unit K posts were available. Bodle accepted G Block, but if he had known of the other available posts, he would have chosen to work Main Control or K Block instead of G Block. When Bodle arrived for his overtime shift on February 5, 2024, he learned from the posted shift schedule that an officer with more overtime hours than him was working in Main Control. (N.T. 84-86, 89-90; UX-5)

25. The daily roster for February 5, 2024, 10-6 shift shows Fowler working overtime in Main Control. Bodle knows that Fowler had more overtime hours than Bodle did at the time. Fowler was number 7 on the call-down list. The roster also shows that Grieb was hired for outside hospital on double time. Myers called Grieb at 3:00 a.m. on February 5, 2024, 5 hours after calling Bodle. (N.T. 86-90; UX-5)

26. Bodle testified that the fact that he was first on the list and the fact that there were any other officers working the better posts shows that he was not offered those posts. (N.T. 89-90)

27. Michael Harlow is a Lieutenant at Benner who hires overtime when he is acting as a shift commander. Harlow hired overtime for the January 23, 2024, 2:00 p.m. to 10:00 p.m. (2-10) shift. There were 6 overtime posts available for the shift when he started calling officers. Procedurally, Harlow first asks the officer if he/she wants overtime. The officers then ask Harlow what positions are available, and Harlow proceeds to go down the list of available overtime posts. He does not notify the officers of the number of vacancies and that they should listen to all of them before they pick. (N.T. 135-139)

28. David Turek is a CO-1 at Benner who was regularly scheduled on the 8-4 shift as a utility officer in January 2024. Turek signed up for voluntary overtime on the 2-10 shift on January 23, 2024. Turek was number 5 on the call-down list. Lieutenant Harlow called Turek on January 22, 2024, at 5:14 p.m. The 4 officers called before Turek all accepted overtime. There were only 2 options available by the time Harlow contacted Turek. Before Harlow could inform Turek of the 2 available posts, Turek asked Harlow to place him in an unavailable post in the Programs Building and switch out the programs officer regularly assigned to that post. Harlow refused and then informed Turek about the 2 available posts in East Utility and RHU. Harlow

refused to switch Turek into the Programs Building because it would be offering overtime to Turek that was not offered to the previous 4 officers. (N.T. 92, 94-96, 141-143, 148-149, 165-166, 171-172)

29. Harlow called Edwards 3 minutes later who accepted East Utility. Harlow credibly testified that he does not withhold offering available posts when he calls down the list. He also credibly testified that Turek expressly rejected that post. (N.T. 95-96, 160, 164-165, 168-169; UX-6)

30. Harlow credibly testified that overtime vacancies can become available after he has called down the list. For example, a hospital post may become available after officers higher on the list have already been called and selected a less desirable post or rejected the available posts and overtime. Officers do not get called back if positions become available after the initial phone call. Turek did not accept either East Utility or RHU, and he did not work an overtime post on January 23, 2024. (N.T. 92, 94-96, 144-146, 148-149)

31. Lieutenant Stephen Proudfit is a shift lieutenant who made calls to fill overtime vacancies for the 6-2 shift on December 18, 2023. There were 11 overtime opportunities for that shift. Eight regular overtime employees signed up for the shift and 2 trainees. (N.T. 173-175)

32. Joshua Englert is a CO-1 at Benner regularly scheduled on the 6-2 shift. Englert signed up for voluntary overtime for the 6-2 shift on December 18, 2023, which was his first day off. Englert was number 7 on the call-down list. The first 2 officers accepted overtime. Proudfit left messages for the next 4 officers. Lieutenant Proudfit called Englert on December 17, 2023 at 7:12 a.m. to discuss voluntary overtime vacancies. Englert requested Delta Bravo Housing Unit, which is his own housing unit. Proudfit informed him that the post had already been filled. Englert asked if East Utility was available, and it was, so Proudfit hired Englert for that post. (N.T. 98-101, 173-177)

33. Englert later learned that Sergeant Jackson worked the Delta Bravo post on the 6-2 shift on December 18, 2023, and that he was "working down" as a CO-1, and not on overtime. Jackson was an extra sergeant regularly scheduled for the 6-2 shift, and Proudfit assigned Jackson to cover the CO-1 Delta Bravo vacancy before calling anyone for overtime, thereby removing the post from available overtime. Jackson was working straight time on his regularly scheduled shift. Englert specifically requested East Utility 4 and received that post. (N.T. 101-103, 177-181, 185)

34. A CO-1 normally works Delta Block B pod, and that employee is called a DB officer. The DB officer was off on December 18, 2023, and Sergeant Jackson was assigned to the vacant CO-1 post on regular straight time which removed an overtime opportunity before Proudfit began calling employees on the overtime list. If the DB post was the only vacancy that day, Proudfit would not have had to call anyone for overtime. (N.T. 186-188)

35. The sergeant working down does not get to choose where they work. Proudfit assigned Jackson to Delta Block which is a familiar post for Jackson. (N.T. 182-185)

DISCUSSION

The Union argues that the Commonwealth failed to comply with the April 25, 2023 Agreement, which settled the Grievance, with regard to Colpetzer, Bodle, Turek, and Englert.

In Pennsylvania State Corrections Officers Association v. Commonwealth of Pennsylvania, Department of Corrections, SCI Mercer (Mercer), 56 PPER 20 (PDO, 2024), Hearing Examiner Helmerich properly restated the Board's standard for claims arising from an alleged breach of a grievance settlement agreement. In this context, Examiner Helmerich stated the following:

Where a grievance has been resolved through a settlement, a public employer violates its duty to bargain when it refuses to comply with the grievance settlement agreement. Pennsylvania State Corrections Officers Association v. Commonwealth of Pennsylvania, Department of Corrections, Rockview SCI, 47 PPER 43 (Final Order, 2015). Where there is a settlement agreement, the Board will determine (1) if a meeting of the minds on the settlement actually exists; (2) whether the parties' intent is apparent from the settlement agreement; and (3) whether the party has failed to comply with the agreement's provisions. AFSCME District Council 47 Local 2187 v. City of Philadelphia, 36 PPER 124 (Final Order, 2005). The burden is on the complainant to establish by substantial evidence that the respondent has failed or refused to comply with the terms of the settlement agreement. Rockview SCI, supra.

Mercer, 56 PPER at 88.

In this case, there is no dispute that the Grievance was settled and resolved by the Agreement. The Agreement contains an overtime equalization procedure requiring management at Benner to arrange a list of names of officers, who signed up for voluntary overtime for a given shift, in order by placing the officer with the least amount of overtime within the equalization period before officers with more overtime. The Agreement also requires that management place more senior officers with the same amount of overtime before less senior officers. The Agreement also shows that the parties had a meeting of the minds regarding overtime equalization procedures. The only issue remaining is whether management at Benner properly followed the procedures contained in the Agreement on the 4 occasions that remain disputed in the charge.

Colpetzer signed up for voluntary overtime for the 10-6 shift on January 17, 2024, and there is no dispute that he was properly placed at number 9 on the call-down list. Lieutenant Miller called Colpetzer at 11:20 p.m. on January 16, 2024, and offered him Alpha Block and Delta Block for voluntary overtime. Colpetzer accepted and worked the Delta Block for the overtime shift. Officers Dreibelbis, Burk, Wagner, and Myers were lower on the call-down list. These 4 officers were called approximately 20-25 minutes after Colpetzer, and all 4 officers worked double time for the shift. Dreibelbis and Myers worked outside hospital posts. Wagner worked the DTU, and Burk worked the SNU. All 4 of these overtime posts are more desirable than either Alpha Block or Delta Block, and Colpetzer would have taken either DTU, SNU, or outside hospital if offered to him.

The Commonwealth's defense was hamstrung by its inability to call Lieutenants Miller and Myers to testify about what specifically occurred on January 16, 2024 with Colpetzer, and on February 4, 2024, with Bodle. Rather the Commonwealth offered the testimony of Captain Nixon who testified that she observes the lieutenants making calls for overtime opportunities and that she knows that Miller "would have been offered everything that was available at that time," and that Lieutenants Miller and Meyers were both trained how to hire overtime properly, so they would have offered every position available to Colpetzer and Bodle.

However, Nixon does not specifically recall whether Miller or Myers called Colpetzer; she does not specifically recall the conversation between Miller and Colpetzer; she does not recall what positions were specifically offered to Colpetzer on January 16, 2024, and she does not know whether Colpetzer accepted a position before Miller was finished offering all the available positions to him. Nixon's testimony, that lieutenants are trained to follow the proper procedures under the Agreement, does not establish by a preponderance of the evidence that Colpetzer was offered SNU, DTU or outside hospital when he was called for overtime. Testimony from Lieutenant Harlow, that posts can become available after an officer is called for overtime and accepts a position, does not establish that in fact SNU, DTU and outside hospital all became available for the 10-6 shift on January 17, 2024, within 25 minutes after calling Colpetzer on January 16, 2024. Therefore, on this record, the Commonwealth violated the Agreement by offering Dreibelbis, Burk, Wagner and Myers positions, which they accepted, in outside hospital, SNU, and DTU, before offering those positions to Colpetzer.

The same result obtains regarding the 10-6 overtime shift for Bodle on February 5, 2024. Bodle was properly placed in position number 1 on the call-down list. Lieutenant Myers called him at 10:01 p.m. on February 4, 2024. Bodle accepted the overtime post for G Block on the 10-6 shift on February 5, 2024. Bodle credibly testified that Lieutenant Myers did not offer Main Control, CCTV, RHU, or Housing Unit K and that, if Bodle had been offered those posts, he would have chosen Main Control or K Block. Rapp was number 2 on the list, and he was called at 10:03 p.m., 2 minutes after Bodle. Rapp was offered and accepted DTU, which from the record is more desirable than G Block. Fowler was number 7 on the call-down list, and Myers called him at 10:20 p.m. Fowler worked overtime in Main Control. Watson was number 6 on the call-down list, and Myers called him at 10:19 p.m. on February 4, 2024.

The Commonwealth, without Lieutenant Myers' testimony, was unable to rebut Bodle's testimony. The Commonwealth did not establish either that all those positions were in fact offered to Bodle when he was called and that Bodle accepted G Block despite being offered the other positions or that the more desirable positions became available within 2-20 minutes after calling Bodle. Grieb, however, was called on February 5, 2024, at 3:34 a.m., 5 hours after Myers called Bodle and was offered outside hospital, which he accepted. This evidence does indeed establish that the outside hospital position was not available when Myers called Bodle, Rapp, Fowler, and Watson. In fact, 5 other officers were called between 3:28 a.m. and 3:34 a.m., who did not answer the call, before Myers called Grieb, who accepted the post. Accordingly, on this record, the Commonwealth violated the Agreement when it failed to offer Main Control, CCTV, RHU, or Housing Unit K to Bodle for the overtime 10-6 shift on February 5, 2024. The Commonwealth did not violate the Agreement by not offering outside hospital to Bodle because the post was unavailable at the time.

The Commonwealth did rebut the Union's claims that the Commonwealth violated the Agreement with respect to Turek and Englert. Turek was number 5 on the call-down list for the 2-10 shift on January 23, 2024. Lieutenant Harlow called Turek on January 22, 2024, at 5:14 p.m. The 4 officers called before Turek all accepted overtime. There were only 2 options available by the time Harlow contacted Turek. Before Harlow could inform Turek of the 2 available posts, Turek asked Harlow to place him in an unavailable post in the Programs Building. Turek requested that Harlow switch out the programs officer regularly assigned to that post. Harlow refused and then informed Turek about the 2 available posts in East Utility and RHU. Harlow refused to switch Turek into the Programs Building because it would be offering overtime to Turek that was not offered to the previous 4 officers. Harlow called Edwards 3 minutes later who accepted East Utility. Harlow credibly testified that he does not withhold offering available posts when he calls down the list. He also credibly testified that Turek expressly rejected the East Utility post and the RHU post, contrary to Turek's testimony. Accordingly, the Commonwealth did not violate the Agreement when Turek expressly rejected both available overtime posts when Harlow called him on January 22, 2024, for the 2-10 overtime shift on January 23, 2024.

The Commonwealth also rebutted the Union's claims with regard to Officer Englert. Englert was number 7 on the call-down list for the 6-2 shift on December 18, 2023. The first 2 officers accepted overtime. Proudfit left messages for the next 4 officers. Lieutenant Proudfit called Englert on December 17, 2023 at 7:12 a.m. to discuss voluntary overtime vacancies. Englert requested Delta Bravo Housing Unit, which is his own housing unit. Proudfit informed him that the post had already been filled. Englert asked if the East Utility was available, and it was, so Proudfit hired Englert for overtime on that post.

Englert later learned that Sergeant Jackson worked the Delta Bravo post on the 6-2 shift on December 18, 2023, and that he was "working down" as a CO-1, and not on overtime. Jackson was an extra sergeant regularly scheduled for the 6-2 shift, and Proudfit assigned Jackson to cover the CO-1 vacancy before calling anyone for overtime, thereby removing the post from available overtime. Jackson was not working overtime and his assignment was not an overtime vacancy at the time that Proudfit called Englert. Proudfit assigned Jackson to Delta Block because Jackson was already familiar with the post.

The Union contends that the Commonwealth violated the Agreement with regard to Englert because a CO-1 normally works Delta Block B pod, and that employee is called a DB officer. The Union argues that the Agreement requires management at Benner to leave vacant CO-1 posts for the CO-1s on the voluntary overtime list. The Union's interpretation of the Agreement is not reasonable for 2 reasons.

First, the Agreement explicitly provides that "[m]anagement will first complete the regular shift assignments by placing bid holders, relief officers and regular officers into appropriate posts. Management will then assign trainees to posts." The Agreement next provides that "[v]oluntary overtime will then be hired in accordance with Article 18, Section 5 of the [CBA]." Under the plain language of the Agreement, management has the right to assign all regularly scheduled officers before filling vacant posts with overtime.

Sergeant Jackson was an extra regularly scheduled sergeant who had to be assigned to a vacant post before Proudfit could start calling for officers

to work voluntary overtime to fill vacancies for the 6-2 shift on December 18, 2023. As Proudfit testified, if the DB post was the only vacancy, he would not have had to call any officers for voluntary overtime. Management has the right to build and complete the schedule before calling for overtime to fill any left over vacancies. Thus, Proudfit had the right to assign Jackson to work down into a vacant post with which Jackson was familiar. The Commonwealth's interpretation of the Agreement is reasonable, and the Commonwealth therefore had a contractual privilege to assign Sergeant Jackson to the vacant DB post working down as a CO-1. Indeed, in its Grievance, the Union recognized this interpretation by stating that "[m]anagement violated the CBA by saving posts for Officers with more equalized hours/less seniority and/or for Officers that are not regular/relief/bid that are on straight time." (emphasis added). The Grievance demonstrates that the Union understands that management can assign vacant posts to regularly scheduled officers on straight time before hiring for voluntary overtime.

Also, as the Commonwealth argues in its brief, if management were to reverse the process of filling vacancies and call for overtime to fill available vacancies before building the schedule with regularly scheduled officers, the overtime officers could bump out a regularly scheduled officer and leave the regularly scheduled officer with no post. (Commonwealth Brief at 15). Clearly, this would be an unreasonable situation and it is an unreasonable interpretation of the Agreement, especially when voluntary overtime is not guaranteed.

Accordingly, the Commonwealth violated the Agreement with respect to filling overtime vacancies regarding Colpetzer for the 10-6 shift on January 17, 2024, and regarding Bodle for the 10-6 shift on February 5, 2024. The Commonwealth did not violate the Agreement with respect to offering and filling overtime vacancies regarding Turek for the 2-10 shift on January 23, 2024, or regarding Englert for the 6-2 shift on December 18, 2023.

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 by violating the overtime equalization Agreement regarding the offering of voluntary overtime to Colpetzer for January 17, 2024, and Bodle for February 5, 2024.
5. The Commonwealth has not committed unfair practices in violation of Section 1201(a)(1) or (5) of PERA, and did not violate the overtime equalization Agreement, regarding the offering of voluntary overtime to Turek for January 23, 2024, or to Englert for December 18, 2023.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the hearing examiner

HEREBY ORDERS AND DIRECTS

that the Commonwealth of Pennsylvania, SCI Benner 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 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 PERA:

(a) Immediately cease and desist from violating the Agreement;

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

(c) 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 decision and order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this twenty-fifth day of March 2025.

PENNSYLVANIA LABOR RELATIONS BOARD

JACK E. MARINO/S

JACK E. MARINO, Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

PENNSYLVANIA STATE CORRECTIONS	:	
OFFICERS ASSOCIATION	:	
	:	
v.	:	CASE NO. PERA-C-24-64-E
	:	
COMMONWEALTH OF PENNSYLVANIA	:	
SCI BENNER TOWNSHIP	:	

AFFIDAVIT OF COMPLIANCE

The Commonwealth, SCI Benner Township hereby certifies that it has ceased and desisted from violating Section 1201(a)(1) and (5) of PERA; that it has ceased and desisted from violating the voluntary overtime equalization Agreement; that it has posted a copy of this decision and order in the manner directed 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