

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

PA STATE CORRECTIONS OFFICERS :
ASSOCIATION :
 :
v. : Case No. PERA-C-26-48-E
 :
COMMONWEALTH OF PA :

PROPOSED DECISION AND ORDER

On January 30, 2026, the Pennsylvania State Corrections Officers Association (PSCOA or Union) filed a charge of unfair practices, as amended, 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 violating the terms of a settlement agreement between the parties on October 16, 2025.¹

On March 23, 2026, the Board Secretary issued a Complaint and Notice of Hearing, assigning the charge to conciliation, and directing a hearing on May 26, 2026, if necessary. The hearing ensued, as scheduled, on May 26, 2026, 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 20, 2026. The Union filed a post-hearing brief in support of its position on August 21, 2026.

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 employee 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 employees working at various Department of Corrections (DOC), State Correctional Institutions (SCIs) throughout the Commonwealth. (CX-2; PERA-C-24-196-E)
4. The Union and the Commonwealth are parties to a collective bargaining agreement (CBA) effective July 1, 2024, to June 30, 2028. (CX-2; PERA-C-25-43-E)
5. On April 11, 2025, the Union filed a prior charge of unfair practices against the Commonwealth, alleging that the Commonwealth violated the Act by refusing to comply with a grievance settlement agreement on March 1, 2025. The Union alleged in this prior charge that the grievances were

¹ The charge was amended on May 18, 2026, and then again on May 26, 2026.

based on an assertion that the Commonwealth was improperly pulling relief bid officers from their posts at SCI Benner in violation of the CBA. The Board docketed the charge at PERA-C-25-82-E. (UX-3; PERA-C-25-82-E)

6. On August 8, 2025, the parties entered into a settlement agreement resolving the prior pending charge at PERA-C-25-82-E. (N.T. 21-22; UX-3)

7. The August 8, 2025 settlement agreement provides, in relevant part, as follows:

The bid relief will not be pulled if:

- i. The Corrections Officer Trainee's (COT) academic objectives have been completed for the applicable post; and
- ii. The COT has worked the post at least two (2) times per shift, subject to the existence of a documented performance issue related to the COT's performance on the post.

Prior to assigning a COT to a post for a third time on the same shift due to the existence of a documented performance issue, the Department will notify the local president or vice president of PCSOA of its intentions and will make available for viewing the documentation regarding the COT's performance...

(N.T. 22; UX-3)

8. Local Union Vice President Zachary Hammers explained that, where there is a seven-day post at the jail, there is a regular bid holder and a relief bid holder to cover the seven days. He testified that the settlement agreement allows the Commonwealth to remove a relief bid holder from his or her post if there is a COT, who needs to be trained on that post. But he asserted that the settlement agreement limits the number of times that the Commonwealth can remove a bid relief holder from his or her post in order to complete the training for a COT. (N.T. 22-23)

9. Corrections Officer Caleb Rhodes testified that he held the canopy relief bid post for the 2:00 p.m. to 10:00 p.m. shift at SCI Benner on October 16, 2025. He acknowledged that he never submitted a bid for the canopy relief post. But he identified a July 8, 2025 Memo from SCI Benner Major of the Guard Robert Bookheimer, which assigned him to the canopy relief bid post effective July 13, 2025. (N.T. 11-13; UX-1)

10. On October 16, 2025, Corrections Officer Rhodes did not work the canopy relief post at the jail. Instead, he worked the east utility one post, while COT R. Baker worked the canopy relief post that day. (N.T. 15-16; UX-2)

11. Local Union Vice President Hammers testified that COT Baker was in phase three of her training during September of 2025. He described how the canopy relief bid post is a phase three post. He asserted that Baker had already been assigned to the canopy relief bid post several times prior to October 16, 2025. He maintained that Baker had already completed her academic training objectives for the post in July 2025 and did not exhibit any kind of deficiency when she worked the post four times in September 2025. He testified that Baker did a great job in the post. (N.T. 24-26, 35-38; UX-4, UX-5, UX-6, UX-7, UX-8)

12. Local Union Vice President Hammers testified that Corrections Officer Rhodes was the bid holder for the canopy relief bid post for October 16, 2025, regardless of whether he ever submitted a bid for the post. He explained how there was a practice at SCI Benner where the Commonwealth would assign the least senior corrections officer to a post in cases where the bid was left vacant. He claimed that the least senior corrections officer would then hold that bid so that there was a regular person assigned to the post until someone else bid on the post in subsequent bid offerings, at which point that new individual would then become the bid holder. (N.T. 26-28)

13. Local Union President Hammers testified that the Union filed a grievance on September 2, 2025, alleging that the Commonwealth violated the CBA by improperly mandating that Corrections Officer Rhodes be assigned to the canopy relief bid post. He described how the Union believed that Rhodes was no longer the most junior corrections officer by that time, and that, as a result, the Commonwealth should have assigned the bid to somebody else who had less seniority than Rhodes. The grievance deadlocked at step 2 of the process, at which point the Union chose not to process it any further. (N.T. 30-31; CX-1)

14. Robert Bookheimer has been the Major of the Guard at SCI Benner since December 2023. He testified that there is nothing in Article 33, Section 18 of the CBA, which requires the Commonwealth to mandate the least senior corrections officer to a vacant bid post. He asserted that the Commonwealth has the authority under the Management Rights provision in Article 2 of the CBA to direct the workforce. He explained that the current process for situations where there is a vacant bid post is that the Commonwealth continues to put the bid up until someone eventually bids on it. In the meantime, the Commonwealth's shift commander assigns whoever he or she sees fit until the bid is filled. (N.T. 47-49; CX-2)

15. Major Bookheimer acknowledged that there was a time when the Commonwealth would mandate the least senior corrections officer to positions that were not filled. He described how, shortly after he became Major of the Guard, he notified the Union that the Commonwealth was going to discontinue such a practice. He reasoned that the CBA only provides for the most senior corrections officer to get a post, and that the CBA says nothing about the least senior employee. He also emphasized his preference for newly minted corrections officers to learn as many jobs as possible throughout the jail and to meet the staff. (N.T. 50-51)

16. On cross-examination, Major Bookheimer admitted that Corrections Officer Rhodes was assigned the canopy relief bid on July 8, 2025. He explained that the assignment in this regard was an error by the lieutenant who was filling in for the regular shift commander at the time, who was still under the impression that the Commonwealth was mandating the least senior corrections officer in situations where the bid is left vacant. He testified that the Commonwealth immediately thereafter rectified the error by reopening the bid. He identified the August 5, 2025 and September 2, 2025 shift bid awards, which show that no bid was put in for the canopy relief post on the 2:00-10:00 shift. (N.T. 60-62; CX-4)

17. On cross-examination, Major Bookheimer acknowledged that Corrections Officer M. Beck eventually bid on the 2:00-10:00 canopy relief post, which the Commonwealth awarded to him on September 30, 2025. The bid

was not effective until October 19, 2025, at which point Beck began working those two relief days on a regular weekly basis. (N.T. 62; CX-4)

18. William Tyson has been the Training Lieutenant at SCI Benner since February 2025. In this role, he is responsible for assigning the bid posts, which includes meeting with a Union representative at the bid box two weeks after the bids go out, unlocking the box, and then sorting the bids by seniority before the awards are made. He testified that the bid for the canopy relief post on the 2:00-10:00 shift was initially posted on June 10, 2025, after which the parties pulled the bids on June 24, 2025. There were no bids for the post at that time. (N.T. 69-71; CX-4)

19. Lieutenant Tyson was away from the jail for training when the bids were pulled on July 8, 2025. Captain Stavola filled in for Lieutenant Tyson and was under the impression that the Commonwealth was still mandating the least senior corrections officer for posts that were left vacant in the bidding process. Captain Stavola mandated Corrections Officer Rhodes to the canopy relief bid post for the 2:00-10:00 shift on July 8, 2025 because nobody bid on the post. Captain Stavola also did not open the canopy relief bid post for the following two-week period because he had assigned Rhodes to the post. When Lieutenant Tyson returned to the jail following his training, he reopened the bid post for the canopy relief position on the 2:00-10:00 shift, but no bids were put in on August 5, 2025 and September 16, 2025, until eventually Corrections Officer Beck finally bid on the post on September 30, 2025. (N.T. 72-75; CX-4).²

DISCUSSION

The Union has charged the Commonwealth with violating Section 1201(a)(1) and (5) of the Act³ by failing to comply with the terms of the August 8, 2025 settlement agreement between the parties on October 16, 2025. Specifically, the Union contends that Corrections Officer Rhodes held the canopy relief bid post for the 2:00-10:00 shift on October 16, 2025, pursuant to the July 8, 2025 Memo of Major Bookheimer. The Union submits that the Commonwealth violated the settlement agreement by pulling Rhodes off of his canopy relief bid post on October 16, 2025, and then assigning COT Baker to work that post after Baker had already achieved her academic objectives for the post in July 2025, and subsequently worked the post four times in September 2025, without any documented performance deficiencies.

The Commonwealth, for its part, maintains that the charge should be dismissed as untimely since the method of filling bid posts with the least senior corrections officer allegedly ended in December 2023. In this regard, the Commonwealth also relies on the shift bid awards from June 24, 2025, July 22, 2025, and September 16, 2025, indicating that nobody had bid on or was mandated to the canopy relief bid post. Likewise, the Commonwealth asserts

² The transcript identifies Captain Stavola as "Captain Stabollin." (N.T. 72). In its post-hearing brief, the Commonwealth maintains that the correct spelling is "Stavola," which has been adopted.

³ Section 1201(a) of the Act provides that "[p]ublic employers, their agents or representatives are prohibited from: (1) Interfering, restraining or coercing employees in the exercise of the rights guaranteed in Article IV of this act...(5) Refusing to bargain collectively in good faith with an employee representative which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative." 43 P.S. § 1101.1201.

that the charge should be dismissed because the August 8, 2025 settlement agreement is inapplicable to the October 16, 2025 assignment of COT Baker to the canopy relief bid post. The Commonwealth insists that Corrections Officer Rhodes did not actually hold the canopy relief bid post at that time, and therefore, the Commonwealth was free to assign any employee it sees fit to the position, pursuant to its managerial prerogative to select and direct its personnel and pursuant to a contractual privilege to the same effect in the managements rights clause of the CBA.

Section 1505 of PERA provides that "[n]o petition or charge shall be entertained which relates to acts which occurred or statements which were made more than four months prior to the filing of the petition or charge." 43 P.S. § 1101.1505. As a general matter, the nature of the unfair practice claim alleged frames the limitations period for that cause of action. Upper Gwynedd Township Police Dept. v. Upper Gwynedd Township, 32 PPER § 32101 (Final Order, 2001). A charge will be considered timely if it is filed within four months of when the charging party knew or should have known that an unfair practice was committed. Community College of Beaver County Society of Faculty, PSEA/NEA v. Beaver County Community College, 35 PPER 24 (Final Order, 2004).

The Commonwealth's argument that the charge is untimely is without merit. In its January 30, 2026 charge, the Union alleged that the Commonwealth violated the Act by failing to comply with the settlement agreement on October 16, 2025. This timeline easily falls within the Act's four-month limitations period. In making this timeliness argument, the Commonwealth relies on alleged statements by Major Bookheimer to the Union in December 2023, indicating that the Commonwealth was going to discontinue the practice of mandating the least senior corrections officer to positions that were not filled. The Commonwealth also relies on the shift bid awards from June and July 2025, which purportedly show that nobody bid on or was mandated to the canopy relief bid post. However, these events all predated the August 8, 2025 settlement agreement between the parties, and therefore, the four-month limitations period for a failure to comply with the settlement agreement cannot possibly have started to run at any of those points. Similarly, the crux of the charge does not lie in the Commonwealth seeking to discontinue the practice of mandating the least senior employee to a vacant bid post, but rather on the Commonwealth allegedly pulling a bid relief post improperly from a corrections officer in favor of a COT. The Commonwealth admits in its post-hearing brief that bids are generally awarded based on who has the most seniority under Article 33, Section 18 of the CBA. As such, the question of whether the Commonwealth violated the August 8, 2025 settlement agreement on October 16, 2025, does not necessarily depend on the continued existence of this alleged practice.

Furthermore, the Union has not charged the Commonwealth with violating the Act for any of the alleged incidents during which COT Baker worked the canopy relief bid post in September 2025. Thus, those alleged dates are of no consequence regarding the timeliness of the instant charge, which of course includes only the averment that the Commonwealth violated the settlement agreement on October 16, 2025. What the Commonwealth overlooks is that, by nature of the unfair practice claim, each new date in which the Commonwealth allegedly permits a trainee to work a bid relief post in excess of what the settlement agreement allows represents a separate violation of the agreement and a discrete new cause of action for a refusal to bargain under Section 1201(a)(5) of the Act. That the Commonwealth may have also potentially violated the settlement agreement on multiple dates prior to the

date alleged in the charge matters not. On this point, there is no evidence that the Commonwealth ever implemented a policy or notified the Union that it was repudiating the terms of the settlement agreement and would not comply with it anymore.⁴ Indeed, if the Commonwealth's theory on the timeliness of the charge is taken to its logical conclusion, then the Union would forever be precluded from enforcing the settlement agreement now, even in cases where entirely different employees, on different shifts, and working in different bid relief posts within the jail are involved. But the Board has long rejected such a contention and instead recognized the well-settled rule that a union's previous acquiescence to an employer's contractual violations does not operate as a waiver to contest future, similar unfair practices. AFSCME DC 85 v. Erie County & Bob Merski, Sheriff, 36 PPER 5 (Final Order, 2005) *rev'd on other grounds* Erie County v. PLRB, 908 A.2d 369 (Pa. Cmwlth. 2006); CASA, Teamsters Local 502 v. School District of Philadelphia, 55 PPER 9 (Proposed Decision and Order, 2023) (the union does not forever waive its right to enforce the disciplinary provisions of the contract simply because it has not always done so in the past). Accordingly, it must be concluded that the January 30, 2026 charge was timely filed within the Act's four-month limitations period for the alleged failure to comply on October 16, 2025.

On the merits, however, the charge must nevertheless be dismissed because the Union has not sustained its burden of proving that the Commonwealth violated the settlement agreement. There is fundamentally no difference, for purposes of assessing an unfair labor practice, between the enforcement of a grievance settlement or the enforcement of a settlement of an unfair labor practice charge. FOP Lodge 27 Delaware v. Springfield Twp., 42 PPER 20 (Final Order, 2011). An employer fails to bargain in good faith when it declines to abide by the terms of a settlement agreement in either a grievance matter, AFSCME DC 47 Local 2187 v. City of Philadelphia, 36 PPER 124 (Final Order, 2005), or an unfair labor practice charge. Avery v. PLRB, 509 A.2d 888 (Pa. Cmwlth. 1986); New Castle Twp. Police Employees v. New Castle Twp., 25 PPER 25101 (Final Order, 1994). Under either type of settlement agreement, an unfair practice may be found where: (1) a settlement agreement exists; (2) the parties' intent is apparent from the settlement agreement; and (3) the party has failed to comply with the agreement's provisions. City of Philadelphia, 36 PPER at 359.

Here, there is no dispute regarding the first two elements of the test. The record clearly shows that a settlement agreement exists and that the parties intended to limit the number of times that the Commonwealth can remove a bid relief holder from his or her post in order to complete the training for a COT. However, the Union has simply not demonstrated that the Commonwealth failed to comply with the settlement agreement on October 16, 2025 to sustain its burden of proving the unfair practice alleged in its charge. In particular, the Union has not established that Corrections Officer Rhodes actually held the canopy relief bid post for the 2:00-10:00 shift on October 16, 2025, and as a result, I am unable to conclude that the Commonwealth violated the settlement agreement by "pulling" his bid relief post on that date. While the record shows that Major Bookheimer did, in fact, assign Rhodes to the canopy relief bid post on July 8, 2025, effective July 13, 2025, the record does not demonstrate that Rhodes continued to hold that bid relief post at any time after August 5, 2025, when the Commonwealth reopened the bid for that post. On this point, Bookheimer testified credibly

⁴ To the contrary, the Commonwealth does not contest the viability of the settlement agreement at all. Rather, the Commonwealth simply asserts that the settlement agreement does not apply to this situation.

and convincingly that the Commonwealth reopened the bid for that post on August 5, 2025, and again on September 2, 2025, and that nobody put in a bid for that post. Nor was Rhodes mandated to that post again at any time after the post was reopened on August 5, 2025. Rhodes acknowledged that he never put in a bid for that post, and the Commonwealth demonstrated that the bid for that post remained vacant until Corrections Officer Beck eventually put in a bid for it and was awarded the position on September 30, 2025, which was not effective until October 19, 2025.

Despite this evidence, the Union insists that Corrections Officer Rhodes still held the bid for the canopy relief post from July 2025 through and including October 16, 2025. To support this claim, the Union relies on the testimony of Local Union Vice President Hammers, who explained how the parties had a past practice at SCI Benner where the Commonwealth would assign the least senior corrections officer to a post in cases where the bid was left vacant, and that individual would then hold the bid so that there was a regular person assigned to the post until someone else bid on the post in subsequent bid offerings, at which point that new individual would then become the bid holder. In making this argument, the Union does not cite to any contractual provision and instead relies simply on the alleged practice to purportedly establish a binding term and condition of employment.

As the Commonwealth persuasively notes, however, in order for a past practice to become binding, it must involve a matter which is otherwise a mandatory subject of bargaining, since a managerial prerogative, not included in a contract, may be altered unilaterally by the employer at any time. South Park Twp. Police Ass'n v. PLRB, 789 A.2d 874 (Pa. Cmwlth. 2002). Section 702 of PERA provides that public employers possess the managerial right to direct the workforce. Community College of Beaver County Society of Faculty, PSEA/NEA v. Beaver County Community College, 35 PPER 24 (Final Order, 2004). Thus, absent a contractual provision requiring the Commonwealth to mandate Corrections Officer Rhodes to the vacant canopy relief bid post on October 16, 2025, the Commonwealth was free to assign whoever it saw fit to work the post on that date consistent with its statutory right to direct the workforce.

In addition, the Commonwealth also had a contractual privilege to assign whoever it saw fit to work the canopy relief bid post on October 16, 2025, pursuant to the managerial rights provision of the CBA. Article 2, Section 1 of the CBA expressly provides as follows:

It is understood and agreed that the Employer, at its sound discretion, possesses the right, in accordance with applicable laws, to manage all operations **including the direction of the working force** and the right to plan, direct, and control the operation of all equipment and other property of the Employer, except as modified by this Agreement.

Matters of inherent managerial policy are reserved exclusively to the Employer. These include but shall not be limited to such areas of discretion or policy as the functions and programs of the Employer, standards of service, its' overall budget, utilization of technology, the organizational structure and **selection and direction of personnel**.

(CX-2) (Emphasis added).

This provision demonstrates that the Commonwealth specifically bargained to preserve its statutory right under Section 702 of PERA to select and direct its personnel. As detailed above, the Union has not identified any contractual provision, which limits the Commonwealth's authority in this regard or which could serve to continue the status of Corrections Officer Rhodes as the bid relief holder for the canopy relief post after the Commonwealth reopened the position for bidding in early August 2025. The Board has adopted the sound arguable basis or contractual privilege defense to a claimed refusal to bargain, which calls for the dismissal of a charge when the employer establishes a sound arguable basis in the language of the parties' collective bargaining agreement, or other bargained-for agreement, for the claim that the employer's action was permissible, i.e. contractually privileged under the terms of that agreement. Temple University Hospital Nurses Ass'n et. al. v. Temple University Health System, 41 PPER ¶ 3 (Final Order, 2010). Therefore, the charge under Section 1201(a) (1) and (5) of the Act must be dismissed, as the Commonwealth was acting under its statutory and contractual authority to direct the workforce when it assigned COT Baker to work the canopy relief bid post on October 16, 2025.

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 employee organization within the meaning of Section 301(3) of PERA.
3. The Board has jurisdiction over the parties hereto.
4. The Commonwealth has not committed unfair practices in violation of Section 1201(a) (1) or (5) of PERA.

ORDER

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

HEREBY ORDERS AND DIRECTS

that the complaint is rescinded, and the charge is dismissed.

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 8th day of
October, 2026.

PENNSYLVANIA LABOR RELATIONS BOARD

/s/ John Pozniak
John Pozniak, Hearing Examiner