

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

POCONO MOUNTAIN EDUCATION :  
SUPPORT PROFESSIONALS PSEA/NEA :  
 :  
 : CASE NO. PERA-C-12-94-E  
v. :  
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POCONO MOUNTAIN SCHOOL DISTRICT :

**FINAL ORDER**

The Pocono Mountain School District (District) filed timely exceptions with the Pennsylvania Labor Relations Board (Board) on November 14, 2013, to a Proposed Decision and Order (PDO) issued on October 25, 2013. The District's exceptions challenge the Hearing Examiner's Findings of Fact and conclusion that the District violated Section 1201(a)(1), (5) and (8) of the Public Employee Relations Act (PERA), by failing to comply with a March 19, 2008 grievance arbitration award directing the reinstatement of Hussein Abou-Mousa as a school bus driver. The Secretary of the Board granted the District an extension of time to file a brief in support of the exceptions, and the District's brief was timely filed on December 4, 2013. Pursuant to an extension granted by the Secretary, the Pocono Mountain Education Support Professionals (Union), filed a brief in response to the exceptions on January 3, 2014. After a thorough review of the exceptions and all matters of record the Board makes the following:

**AMENDED FINDINGS OF FACT**

28. Mr. Abou-Mousa completed all four days of the twenty-hour training course in late February 2009. The State Form DL-714 is a PennDot school bus training report form that needs to be signed by the driving instructor, Intermediate Unit #20 Coordinator and the Trainee. Mr. Abou-Mousa and his instructor signed his DL-714 on February 27, 2009. The I.U. #20 Coordinator signed on April 29, 2009, two months later. He did not pass his first driving test; he passed on June 2, 2009. (N.T. 48, 51-54, 103, 107-114, 149; Employer Exhibits 14 & 15).

32. Mr. Abou-Mousa completed background checks when he was originally hired in 1997. (N.T. 57-58).

39. Mr. Abou-Mousa submitted his three background checks to the District on or about November 9, 2009. (N.T. 120, 157-158; Employer Exhibits 18-21).

**DISCUSSION**

On April 20, 2006, the District terminated the employment of Hussein Abou-Mousa, a school bus driver. (FF 3 and 5). The Union grieved Mr. Abou-Mousa's termination. On March 19, 2008, Arbitrator Scott E. Buchheit issued an Award, which provided that "the District shall reinstate the Grievant with full seniority but without back pay and other benefits lost as a result of his termination." (FF 10 and 11).<sup>1</sup>

All school bus drivers are required to hold a current commercial driver's license (CDL), a current passenger endorsement and a current school bus endorsement. (FF 15). Pennsylvania school bus drivers' certification, the "S-endorsement", is valid for four years. Mr. Abou-Mousa's S-endorsement was valid until March 31, 2008.

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<sup>1</sup> The District appealed the Award to the Monroe County Court of Common Pleas, which vacated the award. (FF 12). On July 27, 2011, the Commonwealth Court of Pennsylvania reversed the common pleas court and reinstated the March 19, 2008 Buchheit Award. (FF 41).

On March 28, 2008, the District's lawyer informed the Union's attorney, in relevant part, as follows:

Our office has just been advised that Mr. Hussein Abou-Mousa is contemplating reporting to Pocono Mountain School District on Monday, March 31, 2008 with the intention of resuming work.

Given the fact that the time period to file an appeal from the Arbitrator's decision has not expired, it is our office's position that any resumption of work duties at this state would be premature as there are bona fide appealable issues.

We have alerted our client to these issues and therefore would respectfully request that you advise and encourage Mr. Abou-Mousa to not report to work.

(FF 14).

The District's Transportation Director can schedule S-endorsement recertification training classes at the District anytime.<sup>2</sup> (FF 18). Although the District had not advised Mr. Abou-Mousa of the scheduling of any District recertification classes, on April 23, 2008, a District lawyer wrote a letter to the Union's attorney stating, in relevant part, as follows:

As a practical matter, it appears to us that because Mr. Abou-Mousa allowed his certifications to lapse, that he does not actually intend to return to the District. Notwithstanding the School District's appeal, Mr. Abou-Mousa's return to driving [a] bus is impeded by the lapse of his certification. We do not believe that the April reinstatement order has an indefinite life. As such, we wanted to know whether he plans to return to the District, and what his time frame will be for recertification.

(FF 19 and 20). Still without having offered reinstatement or training dates, in a letter dated May 14, 2008, the District's attorney stated that "we would still like to know when Mr. Abou-Mousa intends to regain his certification for the purposes of reclaiming his position as a bus driver for the School District." (FF 22).

On June 19, 2008, the Union reiterated that "[Mr. Abou-Mousa] will attend the District's next training session. If the District is refusing to train him, please advise. Otherwise, please notify us of the upcoming training dates." (FF 23). The next correspondence of record is the District's letter of October 30, 2008, wherein the District's lawyer stated as follows:

[W]e anticipated that Mr. Abou-Mousa would have applied for the training programs offered by PMSD. This has not happened; Mr. Abou-Mousa has shown no interest in pursuing his employment with the District. As such, if Mr. Abou-Mousa wants to work as a school bus driver for PMSD, he needs to show that interest by applying for the next class available to bus drivers with the District.

(FF 23). On November 18, 2008, the Union's attorney responded as follows:

As Attorney Audi informed you by letter dated June 19, 2008, Mr. Abou-Mousa does intend to participate in the next training program offered by the District.

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<sup>2</sup> The S-endorsement recertification process requires the bus driver to take a state-mandated ten hours of training, comprised of seven hours of knowledge training and three hours of driving training, and a driving test.

In his June 19, 2008 letter, Attorney Audi specifically asked that you notify us of upcoming training dates. Neither Attorney Audi nor Mr. Abou-Mousa has received this information. I again ask that you please notify us of the dates of the next available training session. In addition, I ask that you please provide the dates of any additional sessions that have been scheduled for the 2008-2009 school year.

(FF 24).

By letter dated December 9, 2008, the District's Transportation Director, Kevin Aul, informed Mr. Abou-Mousa of four dates during the week of February 23, 2009, of training classes at the District. (FF 27). Mr. Abou-Mousa took the twenty-hour, not the ten-hour, course, and completed all four days of the training course in late February 2009. After a first unsuccessful attempt, he passed his driving test on June 2, 2009. (FF 28). In June 2009, the Union's attorney submitted completed paperwork requested by the District and informed the District's lawyer that Mr. Abou-Mousa passed his driving test and was free to return to work. (FF 29).

On August 19, 2009, two weeks before the start of the 2009-2010 school year, the District's lawyers, for the first time, informed the Union attorney that Mr. Abou-Mousa must obtain completed background checks from the Pennsylvania State Police and the FBI as well as child abuse clearances from the Pennsylvania Department of Public Welfare (DPW). (FF 31).<sup>3</sup> Mr. Abou-Mousa submitted his three background checks to the District on or about November 9, 2009. (FF 39).

Mr. Abou-Mousa was reinstated as a school bus driver for the District on December 10, 2009 for the 2009-2010 school year. (FF 40). The District has not paid Mr. Abou-Mousa any backpay, nor made him whole for any sick or vacation days, for the period of time between the effective date of the award on March 19, 2008, and his reinstatement on December 10, 2009. (FF 42). Neither has the District reimbursed Mr. Abou-Mousa for out-of-pocket medical expenses that would have otherwise been covered by District provided health insurance between March 2008 and December 2009. (FF 43).

The Hearing Examiner noted that both parties recognized in their post-hearing briefs that, in determining whether an employer has complied with a grievance arbitration award, the Union has the burden of proving that an award exists, that the award is final and binding and that the employer has failed or refused to properly implement the award. **State System of Higher Education v. PLRB**, 528 A.2d 278 (Pa. Cmwlth. 1987). Based on the Findings of Fact, the Hearing Examiner concluded that the District was obligated to reinstate Mr. Abou-Mousa effective March 19, 2008, the date of the Buchheit Award, and to make him whole for not having been reinstated as of that date. **Fraternal Order of Police, Lodge 5 v. City of Philadelphia**, 39 PPER 9 at 32 (Final Order, 2008); **Wyoming Borough Police Department v. Wyoming Borough**, 43 PPER 22 (Final Order, 2011). Having found that the Union satisfied its burden of proving a *prima facie* case of a failure to comply with the March 19, 2008 Buchheit Award, the Hearing Examiner addressed the District's claims that it was unable to reinstate Mr. Abou-Mousa until December 2009. Based in part on the Commonwealth Court's decision in **City of Beaver Falls v. Beaver Falls Police Association**, 77 A.3d 75 (Pa. Cmwlth. 2013), the Hearing Examiner rejected the District's defenses, concluded that the District violated Section 1201(a)(1), (5) and (8) of PERA, and ordered the District to provide Mr. Abou-Mousa with make whole relief from March 19, 2008 to the date of his reinstatement.

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<sup>3</sup> The Act of July 11, 2006, P.L. 1092, No. 114 (Act 114), which amended Section 111 of the Public School Code was applicable at all times to Mr. Abou-Mousa's reinstatement, and requires all applicants for employment in schools, including independent contractors and student teachers, to undergo background checks. As of April 1, 2007, the following three background checks have been required of bus drivers offered employment by a school district: (1) Pennsylvania State Police Request for Criminal Records Check (Act 34); (2) Department of Public Welfare Child Abuse History Clearance (Act 151); and (3) Federal Criminal History Record Information (CHRI). (FF 34). The Act of June 30, 2011, P.L. 112, No 24 (Act 24) contains a number of significant changes to the School Code, including extending the requirements of Section 111 of the School Code to current employees and not only to prospective employe applicants. (FF 36).

The District excepts to several Findings of Fact of the Hearing Examiner. The Hearing Examiner's Findings of Fact will be sustained by the Board where supported by substantial evidence in the record. **Pennsylvania State Rangers Association v. Commonwealth of Pennsylvania, Department of Conservation and Natural Resources**, 45 PPER 1 (Final Order, 2013). Substantial evidence is that which a reasonable person would accept as adequate to support the finding reached by the Hearing Examiner. **PLRB v. Kaufman Department Stores**, 345 Pa. 398, 29 A.2d 90 (1942). When reviewing the record for substantial evidence, the Board is mindful of the credibility determinations of the Hearing Examiner, who had the opportunity to view the testimony first hand, and will not disturb those credibility determinations absent the most compelling of circumstances. **Mt. Lebanon Education Association v. Mt. Lebanon School District**, 35 PPER 98 (Final Order, 2004). After a thorough review of the exceptions and all matters of record, the District's exceptions to the Findings of Fact are sustained in part to the extent that Findings of Fact 28, 32 and 39 have been amended herein. Upon review of the record, the remainder of the Hearing Examiner's Findings of Fact are supported by substantial evidence, and will not be disturbed.

The District's exceptions to the Hearing Examiner's legal conclusions are premised on a misconception concerning the burden of proof for a failure to comply with a grievance arbitration award under Section 1201(a)(8) of PERA. On exceptions, the District challenges the evidence relied upon by the Hearing Examiner as not supporting a finding that Mr. Abou-Mousa attempted to return to work immediately following the issuance of the award, or that the District delayed implementation of the award in bad faith. However, there is substantial evidence of record, including the testimony of Mr. Abou-Mousa and the District's March 28, 2008 correspondence, which supports that Mr. Abou-Mousa made an attempt to return to work prior to the expiration of his S-certification, and was denied reinstatement at that time.

Moreover, as the burden is set forth in **State System of Higher Education, supra.**, it is not the grievant's burden to establish bad faith or a demand for reinstatement. As properly recognized by the Hearing Examiner, it was the Association's burden to establish that there was an enforceable grievance arbitration award reinstating Mr. Abou-Mousa, and that Mr. Abou-Mousa was not reinstated pursuant to the award. See **Franklin Township Sanitary Authority**, 13 PPER ¶13055 (Final Order, 1982) (employer committed an unfair labor practice by not offering reinstatement pursuant to the direction of the arbitration award); **Pottsgrove School District**, 8 PPER ¶8047 (Final Order, 1976) (employer incorrectly states that a complainant is obliged to show bad faith or willful noncompliance with the award). It was the District's obligation to prove that it either made a timely offer of reinstatement,<sup>4</sup> or satisfactorily explain the reasonableness of its delay.<sup>5</sup>

The District's mischaracterization of the burden of proof leads the District to argue that the Hearing Examiner erred in allowing into evidence letters exchanged between counsel for the Association and District. The District asserts that the correspondence of its attorney that is offered by the Association is actually evidence of settlement

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<sup>4</sup> The District argues on exceptions that the Hearing Examiner erred in refusing to allow the District to introduce criminal charges filed against Mr. Abou-Mousa, which had already been dismissed. The District proffers those documents as circumstantial evidence to explain Mr. Abou-Mousa's alleged neglect or hesitation to demand his return to work at the District. Not only does this argument run counter to the District's March 28, 2008 letter acknowledging Mr. Abou-Mousa's desire to return to work, but Mr. Abou-Mousa did not have the obligation under the Buchheit Award to demand his reinstatement. Rather, the District had the obligation under the award to make a timely offer of reinstatement. Thus, this evidence would be irrelevant, if not prejudicial, and was properly excluded.

<sup>5</sup> An employer cannot avoid its obligation by failing to comply with an arbitration award through unnecessary and unreasonable delay. To determine whether a particular lapse of time is a reasonable period for compliance with an arbitration award, the Board will consider such factors as (1) the nature and complexity of the compliance required under the award, (2) the length of time before compliance occurred, (3) the employer's ability to comply with the award, including legitimate obstacles to compliance, (4) steps taken by the employer toward compliance, and (5) the employer's explanation or lack thereof for the delay. **Fraternal Order of Police, Lodge No. 5 v. City of Philadelphia**, 27 PPER ¶27202 (Final Order, 1996).

discussions, or alternatively, inadmissible hearsay.<sup>6</sup> See **Walker v. Unemployment Compensation Board of Review**, 367 A.2d 366 (Pa. Cmwlth. 1976). However, contrary to the District's assertion, correspondence explaining why the District had not reinstated Mr. Abou-Mousa pursuant to the grievance arbitration award is not evidence of settlement discussions. The District's asserted reasons for not offering Mr. Abou-Mousa unconditional reinstatement as of March 19, 2008, would, if anything, be relevant to the District's burden of establishing the reasonableness of the delay in complying with the award. Indeed, a statement of the reasons why the District is not complying with the grievance arbitration award is tantamount to an admission that the District has not complied with the award. Nonetheless, the communications by the District's counsel are, at the very least, statements by a duly authorized attorney for the District made within the scope of the legal representation, that are being offered by the Association against the District. Pa. Rule of Evidence 803(25)(C) and (D);<sup>7</sup> **McGarity v. New York Life Insurance Company**, 359 Pa. 308, 59 A.2d 47 (1948).<sup>8</sup> As such, the Hearing Examiner did not err in admitting the correspondence into evidence.

With regard to the District's explanation for the reasonableness of its delay in complying with the March 19, 2008 Award to reinstate Mr. Abou-Mousa, the District argues on exceptions that Mr. Abou-Mousa's S-endorsement to drive a school bus expired before March 19, 2008, and, therefore, Mr. Abou-Mousa could not be reinstated until he completed driver training and recertification. However, the District's exceptions in this regard are in stark contrast to the testimony of District witness Teresa Rimmey, Administrative Assistant to the Executive Director of Support Staff Services. Ms. Rimmey unequivocally testified for the District as follows:

[BY MS. KELLY]. Okay. So can you tell from this card [Employer Exhibit 16] if he was still able to drive a bus for the school district? Well, not just this card, but this card and his last two. Did he have the licensing requirements required to drive a school [bus] on March 19, 2008?

A. **Yes.**

\* \* \*

HEARING EXAMINER MARINO: But is it your testimony that Mr. Abou-Mousa had a valid certification in March of '08?

THE WITNESS: Until March 31 of '08.

HEARING EXAMINER MARINO: Until March 31 of '08?

THE WITNESS: **Yes.**

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<sup>6</sup> Pennsylvania Rule of Evidence 801(c) defines "hearsay" as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted."

<sup>7</sup> Moreover, we note that the letters of April 23, 2008 and October 30, 2008 by the District's attorney, Deirdre J. Kamber, Esquire, of King, Spry, Herman, Freund & Faul, LLC, were copied to Dwight R. Pfenning, Ed.D., the District Superintendent, and Stephen Ferraioli, the District's Executive Director for Support Staff Services.

<sup>8</sup> In distinguishing **McGarity** from **Eldridge v. Melcher**, 313 A.2d 750 (Pa. Super., 1973), relied upon by the District, the Pennsylvania Superior Court noted that the statements made by the plaintiff's attorney in **Eldridge** were inadmissible because they were made in a court conference wherein negotiation and trial strategy are keynotes of the meeting; the statements were made orally and the plaintiff was not present when they were made; and the statements served neither to act as an admission of liability or duty nor to dispense with any proof at trial. Thus, by the same analysis **Eldridge** would not apply here where the statements by the District's attorney were not made at a settlement conference in the context of negotiations, were made in writing and copied to the District, and would amount to an admission that the District had not reinstated Mr. Abou-Mousa as directed by the Buchheit Award.

[BY MR. HUSISIAN]. And you heard the Hearing Examiner ask you that until the end of the month, March 31, 2008, that Mr. Abou-Mousa's [s-certification] was not expired?

A. **Correct.**

(N.T. 116, 125, and 126) (emphasis added). Contrary to the District's arguments on exceptions, the testimony of record clearly and expressly supports the finding that Mr. Abou-Mousa was licensed and certified to drive a school bus on March 19, 2008.

Further, as Ms. Rimmey noted in her testimony, had Mr. Abou-Mousa been reinstated before March 31, 2008, he could have obtained training and a physical through the District in time to renew his S-endorsement before it expired. (N.T. 126; 127). Indeed, the District has not filed exceptions to the Hearing Examiner's Findings of Fact, that "[t]he [District] Transportation Director can schedule training classes anytime" and that annual physicals are performed by a District physician. (FF 15 and 18). Thus, the record evidence supports the reasonable conclusion that but for the District's failure to timely reinstate Mr. Abou-Mousa pursuant to the Buchheit Award, Mr. Abou-Mousa would never have lost his S-endorsement certification needed to drive a school bus for the District.

Notably, these facts place this case on all fours with **City of Beaver Falls**, *supra*. In **Beaver Falls**, a grievance arbitrator issued an award on August 13, 2009 reinstating a police officer, effectively modifying a termination to a one-year suspension without pay. On appeal of a November 29, 2011 supplemental award on the issue of compliance, the city argued that the grievant was not entitled to back pay for any period of time that he was not certified under the Municipal Police Education and Training Law, 53 Pa. C.S. §§2161-2171 (MPETL), but the Commonwealth Court rejected the city's argument. Writing for the panel majority, Judge Brobson noted as follows:

[H]ad the City not improperly terminated Grievant's employment, Grievant would not have been in a situation where his certification lapsed. Furthermore, as the Arbitrator found, had the City reinstated Grievant following the 2009 award or taken steps to allow him to maintain his certification pending reinstatement, his certification also would not have lapsed. Thus, it is because of the City's improper firing of Grievant and resistance to reinstate him following the 2009 award that Grievant's certification lapsed. The City should not be permitted to benefit financially from its improper termination and subsequent delay.

**Beaver Falls**, 77 A.3d at 83 n.7. The Commonwealth Court's holding in **Beaver Falls** is consistent with the Board's recognition that circumstances alleged to justify an employer's failure to comply with a final and binding grievance arbitration grievance award cannot be a self-imposed contrivance to avoid the award through delay in implementation. **North Hills Education Association v. North Hills School District**, 38 PPER 78 (Final Order, 2007).

The scenario here, where Mr. Abou-Mousa's S-certification expired after the effective date of the Buchheit Award directing his reinstatement, renders this case distinguishable from cases such as **Fraternal Order of Housing Police v. Philadelphia Housing Authority**, 38 PPER 79 (Final Order, 2007) and **Keslosky v. Old Forge Civil Service Commission**, 73 A.3d 665 (Pa. Cmwlth. 2013). In both **Philadelphia Housing Police** and **Keslosky**, a police officer was terminated from his employment, and lost his MPETL certification before issuance of an arbitration award directing the officer's reinstatement. Thus, upon issuance of the awards reinstating the police officers in those cases neither employe had a valid MPETL certification, and the officers' lack of MPETL certification was an impediment to their reinstatement as police officers. To the contrary here, as Ms. Rimmey stressed numerous times, on March 19, 2008, the effective date of the Buchheit Award, Mr. Abou-Mousa was fully licensed and certified to drive a school bus. Accordingly, there was no impediment to his reinstatement at that time and **Philadelphia Housing Police** and **Keslosky** are inapplicable to this case.

Even if there was no licensing impediment to Mr. Abou-Mousa's reinstatement, the District argues that it could not reinstate Mr. Abou-Mousa until it received DPW clearances and FBI and PSP criminal background checks. The Board recognizes that an employer does not unlawfully fail or refuse to comply with a grievance arbitration award where the employer follows an existing past practice<sup>9</sup> concerning the manner in which it implements grievance arbitration awards. **City of Philadelphia v. PLRB**, 592 A.2d 823 (Pa. Cmwlth. 1991); **City of Philadelphia v. PLRB**, 759 A.2d 40 (Pa. Cmwlth. 2000), *petition for allowance of appeal denied*, 567 Pa. 730, 786 A.2d 990 (2001). In this regard, the District argues that new clearances and background checks are required of any employee that has been separated from employment with the District for more than two years. However, while a District witness testified to the existence of this alleged unwritten policy, the Association offered into evidence a 2012 grievance arbitration award reinstating another bus driver, Derrie Stout-Parker, who, as the District concedes, was not required to undergo new clearances and background checks upon her reinstatement.

The District argues that the Stout-Parker award is distinguishable. However, if the date of suspension without pay is considered as the starting date for separation from employment, then both Ms. Stout-Parker and Mr. Abou-Mousa were out of work for more than two years.<sup>10</sup> Yet, contrary to the alleged policy, Ms. Stout-Parker was not required to submit new clearances and background checks. If the date of separation from employment starts with termination, then neither Ms. Stout-Parker nor Mr. Abou-Mousa were separated from employment for more than two years.<sup>11</sup> The District asserts that Mr. Abou-Mousa nevertheless was required to submit to new background clearances and criminal history checks. Accordingly, in the face of these two recent, divergent applications of the alleged policy under similar circumstances, the District has failed to establish a past practice that would have required Mr. Abou-Mousa to provide new DPW clearances and criminal background checks prior to his reinstatement.<sup>12</sup>

The District also argues on exceptions that the Hearing Examiner erred in receiving evidence and directing make-whole relief for health care expenses incurred by Mr. Abou-Mousa between March 19, 2008 and December 10, 2009. The Board has held that it is not error for the Hearing Examiner to consider the issue of the remedy in the context of an unfair practice proceeding. **Corry Area Education Association v. Corry Area School District**, 38 PPER 155 (Final Order, 2007). The Hearing Examiner did not err in admitting the Association's evidence and directing make-whole relief to include reimbursement for medical expenses incurred as a result of the District's unfair practices.

After a thorough review of the exceptions and all matters of record, to the extent Findings of Fact 28, 32 and 39 have been amended herein, the District's exceptions are sustained in part. Based on the facts adduced from the evidence presented at the hearing, the Hearing Examiner did not err in concluding that the District violated Section 1201(a)(1), (5) and (8) of PERA by failing to comply with the March 19, 2008 Buchheit Award reinstating Mr. Abou-Mousa. Further, the Hearing Examiner did not err in granting make-whole relief, including payment of medical expenses incurred as a result of the District's unfair practice. Accordingly, the District's exceptions to the October 25, 2013 PDO shall be sustained in part and dismissed in part, and the PDO, as amended herein, shall be made absolute and final.

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<sup>9</sup> A past practice is a term of art to explain an accepted course of conduct characteristically repeated in response to the given set of underlying circumstances. **County of Allegheny v. Allegheny County Prison Employees Independent Union**, 476 Pa. 27, 34 n.12, 381 A.2d 849, 852 n.12 (1978).

<sup>10</sup> Ms. Stout-Parker was suspended without pay on May 10, 2010 and the arbitration award reinstating her was issued on July 16, 2012. Mr. Abou-Mousa was suspended without pay on March 15, 2006 and the Buchheit Award was issued on March 19, 2008.

<sup>11</sup> Ms. Stout-Parker was terminated from employment on March 16, 2011, and Mr. Abou-Mousa was terminated on April 20, 2006.

<sup>12</sup> Moreover, the District makes no attempt to explain the reasonableness of the delay caused by its decision to demand background checks and clearances only after Mr. Abou-Mousa completed his school bus driver recertification.

**ORDER**

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

**HEREBY ORDERS AND DIRECTS**

that the exceptions filed by Pocono Mountain School District are hereby sustained in part, and dismissed in part, and the October 25, 2013 Proposed Decision and Order, as amended herein, be and hereby is made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, James M. Darby, Member, and Robert H. Shoop, Jr., Member, this twenty-first day of January, 2014. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within order.

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

POCONO MOUNTAIN EDUCATION :  
SUPPORT PROFESSIONALS PSEA/NEA :  
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 : CASE NO. PERA-C-12-94-E  
v. :  
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POCONO MOUNTAIN SCHOOL DISTRICT :

**AFFIDAVIT OF COMPLIANCE**

The Pocono Mountain School District hereby certifies that it has ceased and desisted from its violations of Section 1201(a)(1), (5) and (8) of the Public Employe Relations Act; that it has paid Hussein Abou-Mousa and made him whole for all lost wages, out-of-pocket expenses and benefits in the manner directed and prescribed in the October 25, 2013 Proposed Decision and Order, including but not limited to wage increases received by the bargaining unit during the backpay period, seniority, out of pocket dental, medical and optical expenses, for himself and responsible family members, holiday pay and accrued sick and vacation time as well as background-check expenses; that it has placed Mr. Abou-Mousa on Step 15 of the pay scale for bus drivers in the current collective bargaining agreement for the 2013-2014 school year; that it has reimbursed Mr. Abou-Mousa for out-of-pocket expenses due to lost insurance coverage in the amount of \$1,527.00 plus expenses for responsible family members; that it has given Mr. Abou-Mousa ten vacation days, ten sick days and three personal days that it has paid interest at the simple rate of six percent per annum on any and all backpay due Mr. Abou-Mousa and his out-of-pocket expenses; that it has posted a copy of the Proposed Decision and Order and Final Order as directed; and that it has served a copy of this affidavit on the Pocono Mountain Education Association 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