

Pennsylvania Labor Relations Board

Harrisburg, Pennsylvania

2011-2013 Report

This report was prepared by the staff of the Pennsylvania Labor Relations Board to comply with Section 4(c) of the Pennsylvania Labor Relations Act of 1937, as amended, which requires that the board notify the governor of its caseload and activities.

Interpretation of case law should not be construed as official statement of board policy nor should it be offered as authority for any legal position.

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Pennsylvania Labor Relations Board

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Introduction

The Pennsylvania Labor Relations Board administers and enforces four commonwealth laws concerning labor-management relations.

This report explains the roles and responsibilities of the board and outlines its activities during the 2011, 2012, and 2013 calendar years. The report contains summaries of board final orders and court opinions issued during those years that involved board cases, discussions and statistical tables on the board's caseload, and its case-processing activities for each of the statutes it administers.

The board is composed of three members who are appointed by the governor and confirmed by the Senate to serve six-year terms, staggered at two-year intervals. The staff in the central Harrisburg office and the regional Pittsburgh office is responsible for the board's administrative and adjudicative activities, while the three-member board resolves appeals of staff determinations and establishes overall policy and operating guidelines.

The [Pennsylvania Labor Relations Act](#) (PLRA), which created the board in 1937, encourages the peaceful resolution of private sector industrial strife and unrest through collective bargaining between employers and their employees. The PLRA also protects employees, employers and labor organizations engaged in legal activities associated with the collective bargaining process. The board's private sector jurisdiction consists of Pennsylvania-based employers and their employees not covered by the [National Labor Relations Act](#).

The majority of the board's work is in the public sector; the board's private sector jurisdiction is very limited. The [Public Employee Relations Act](#) (PERA), enacted in 1970, extended collective bargaining rights and obligations to most public employees and their employers at the state, county and local government levels, and vested the board with administrative authority to implement its provisions.

A 1977 decision of the Pennsylvania Supreme Court further expanded the board's jurisdiction to include representation and unfair practice issues arising from [Act 111 of 1968](#) (Act 111), which granted collective bargaining rights to police officers and firefighters.

[Act 88 of 1992](#) (Act 88) provides bargaining procedures for school employees. Under Act 88, the board is required to make fact-finding appointments upon the mutual request of the parties at any time, except during arbitration or between notice and conclusion of a strike. Act 88 provides that either party may request fact-finding no later than 84 days prior to the end of the school fiscal year (June 30, in most cases). The board is empowered to appoint fact-finders within its discretion at times other than the mandated period. Act 88 also provides that mandatory arbitration will be implemented after a strike has reached the point where 180 days of instruction can no longer be provided by the last day of school or June 15, whichever is later.

Board Responsibilities

Although specific provisions may vary, the board's basic duties are similar in public and private sector cases. The board has the responsibility to determine the appropriateness of collective bargaining units and certify employee representatives, as well as the authority to remedy and prevent unfair labor practices. For public employees (other than police and firefighters) the board also has a limited role in resolution of collective bargaining impasses.

Representation Cases

In accordance with each collective bargaining act, employees may organize in units represented by employee organizations of their own choosing for the purpose of bargaining collectively with their employers concerning wages, hours and other terms and conditions of employment. Under PERA, units of first-level supervisors may also be organized in order to "meet and discuss" with their employers concerning issues that are bargainable for other employees. One of the board's major functions is to determine the appropriateness of these collective bargaining units, based on guidelines established in each act and case law. The board then conducts secret ballot elections to determine whether employees in an appropriate unit wish to be represented by an employee organization. Employees or employee representatives seeking representation must file a petition supported by a showing of interest of 30 percent of the employees in the unit.

Units may be certified without conducting elections if an employer does not question the appropriateness of a unit or the majority status of the petitioning employee organization and joins with the employee organization to request that the board certify the proposed unit.

Representatives may be decertified pursuant to the filing of a decertification petition, which must also be supported by a showing of interest of 30 percent of the employees in the unit. In the case of an employer-filed petition a statement or other evidence of a substantiated good faith doubt of the majority status of the representative is required. The certified representative will lose its bargaining status if it does not receive a majority (50 percent under Act 111) of the valid votes cast or if it voluntarily relinquishes its representative status through the filing of a disclaimer of interest.

Parties may petition the board to include in or exclude from a position from an existing unit. This procedure is used to allocate newly created positions and to determine managerial, supervisory or confidential status of a position.

The board may also amend a previously issued certification to reflect a change in the name of a party or affiliation of an employee representative.

Unfair Practice Cases

The board enforces and protects the rights of parties to organize and to bargain collectively through adjudication of charges of unfair practices and direction of remedies if such practices are found. Both the PLRA and PERA outline unfair practices prohibited for employers, employees or employee organizations; the unfair practice prohibitions in the PLRA are also applied to police, firefighters and their employers under Act 111.

The board's [Rules and Regulations](#) authorize the board secretary to issue complaints in unfair practice charges when it is determined that a sufficient cause of action is stated in the charge. After a complaint is issued, the case is assigned to a hearing examiner for further investigation. Conciliation is also used for the purpose of arriving at a settlement of the case without a formal hearing. Should the settlement effort fail, or should the case contain issues and circumstances that appear not to be amenable to a negotiated settlement, the case proceeds to a formal hearing.

At the hearing, a representative of the party that filed the charge prosecutes the case before a board hearing examiner; the parties present testimony and documentary evidence and cross-examine witnesses. Upon conclusion of a hearing, the hearing examiner issues a proposed decision and order containing a statement of the case, findings of fact, conclusions of law, and an order either dismissing or sustaining the charge. If the charge is sustained, appropriate actions to remedy the effect of the unfair practice may be ordered. The board has the authority to petition the courts for the enforcement of its orders, appropriate temporary relief or restraining orders.

Impasse Resolution Cases

The board has limited powers relating to bargaining impasses between employers and employees under PERA and Act 88.

Both PERA and Act 88 provide for mandatory mediation of bargaining impasses under the auspices of the [Pennsylvania Bureau of Mediation](#). After the exhaustion of mediation, the board has the discretion to appoint a fact-finder if the board finds that the issues and circumstances in the case are such that fact-finding would be beneficial. The fact-finder conducts a hearing and makes findings and recommendations for resolving the dispute.

The board also issues panels to assist parties in the selection of neutral arbitrators for interest arbitration proceedings authorized under PERA to resolve bargaining disputes involving employees who do not have the right to strike.

Operations Summary

The following pages contain information detailing the board’s activities during the 2011, 2012, and 2013 calendar years. Statistical data is provided regarding cases filed and concluded, as well as summaries of board orders and court opinions involving board cases.

Please note that the data and summaries contained in this report, while believed to be accurate, are informational only and should not be relied upon for legal research.

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Between 2011 and 2013, a total of 1785 cases were filed with the board (645 in 2011, 574 in 2012, and 566 in 2013). During these years, charges of unfair practices comprised 63 percent of all filings, while 22 percent were representation cases (including unit clarification and decertification petitions), and 15 percent were seeking assistance with bargaining impasse resolution.

Chart 1 illustrates all cases filed from 2011 to 2013, broken down by type of employer and type of case.

Chart 1: Cases Filed with the Board, 2011-2013

Type of Employer	Year Filed	Type of Case					
		Charge	Representation	Unit Clarification	Decertification	Fact-Finding	Arbitration
Authority	2011	21	5			2	
	2012	16	2		1	1	
	2013	16	12	1		1	
Commonwealth	2011	44	6	5	1		
	2012	30		6			
	2013	19		5			1
County	2011	39	7	3		2	35
	2012	23	10	5	2	1	52
	2013	35	10	6	2	4	45
Higher Education	2011	10	1				
	2012	10		2	1		
	2013	8					
Municipality	2011	169	33	13	6	2	
	2012	131	33	13	11		1
	2013	139	25	14	7	2	
Non-Profit	2011	12	5	2	1		
	2012	4		1	1		
	2013	5					
Private Sector	2011	17					
	2012	11					
	2013	23					
School District	2011	110	20	38	5	22	
	2012	105	8	30	4	40	
	2013	88	10	23	4	54	
Union	2011	9					
	2012	19					
	2013	7					

REPRESENTATION CASES

The board processes four types of representation cases: certification and decertification of an employee representative, clarification regarding whether a specific classification should be included in or excluded from a particular certified unit and amendments of a certification to reflect a change in the name or affiliation of a certified employee representative.

In 2011, a total of 151 representation cases were filed. Of these cases, 86 percent were filed pursuant to PERA and 14 percent were filed in accordance with Act 111.

In 2012, a total of 130 representation cases were filed. Of these cases, 82 percent were filed pursuant to PERA and 18 percent were filed in accordance with Act 111.

In 2013, a total of 119 representation cases were filed. Of these cases, 88 percent were filed pursuant to PERA and 12 percent were filed in accordance with Act 111.

Table 1 details the representation cases concluded from 2011 to 2013, citing the method of disposition.

Table 1: Representation Cases Concluded, 2011-2013

Certification Cases Concluded	2011	2012	2013
by Certification of Representative	17	7	6
by Nisi Order*	33	32	10
By Board Order	2	0	0
Decertification Cases Concluded			
by Nisi Order	9	12	5
Unit Clarification Cases Concluded			
by Board Order	4	1	0
by Hearing Examiner Order	11	13	7
by Nisi Order	29	32	17
Amendment of Certification Cases Concluded			
by Nisi Order	5	3	4
Cases Dismissed			
by Administrative Dismissal	13	16	9
by Hearing Examiner Order	5	2	1
by Nisi Order	9	8	4
Cases Withdrawn			
by Nisi Order	24	17	12
TOTAL	161	143	75

*A nisi order is a conditional order that is confirmed unless action is taken within a defined period of time. For the purposes of the board, a nisi order is final unless exceptions are filed within 20 days of its issuance.

Charts 2(a), 2(b), and 2(c) illustrate the elections conducted by the board in each year of this report: 45 in 2011, 40 in 2012, and 26 in 2013.

Chart 2(a): Elections Conducted, 2011

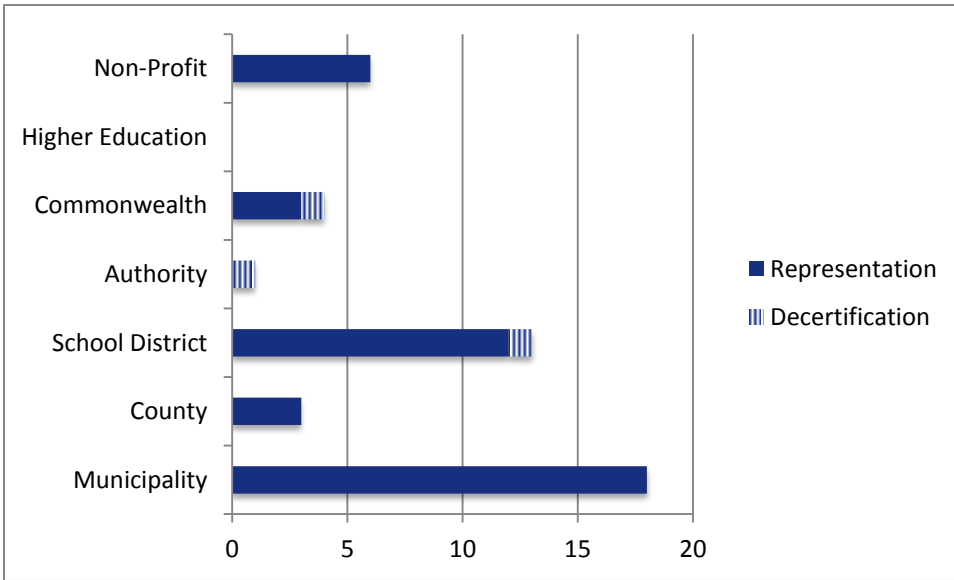


Chart 2(b): Elections Conducted, 2012

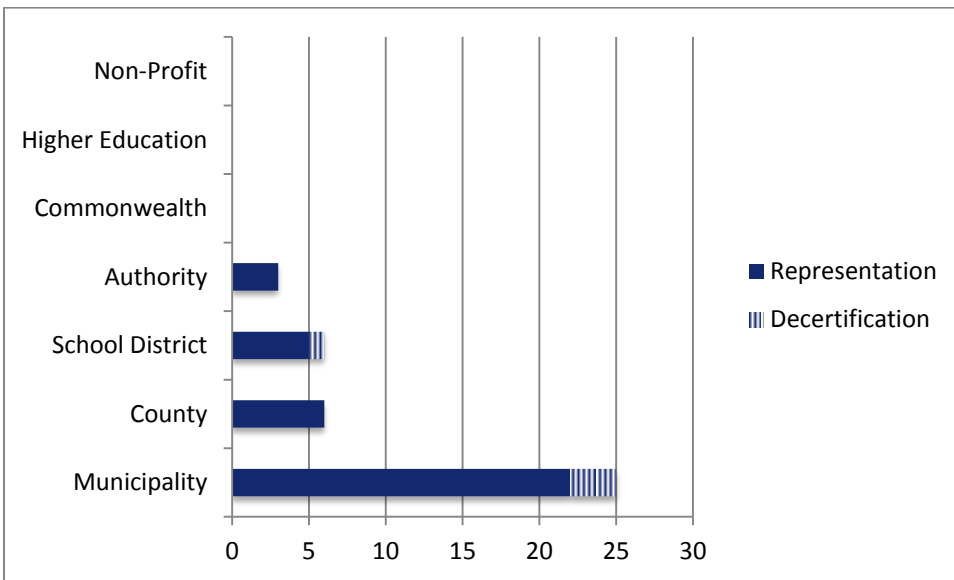


Chart 2(c): Elections Conducted, 2013

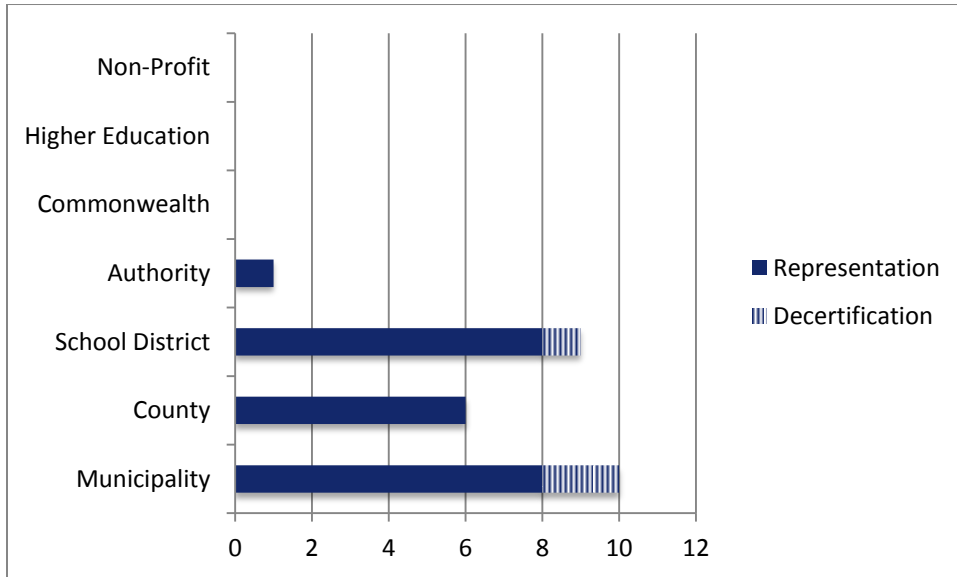
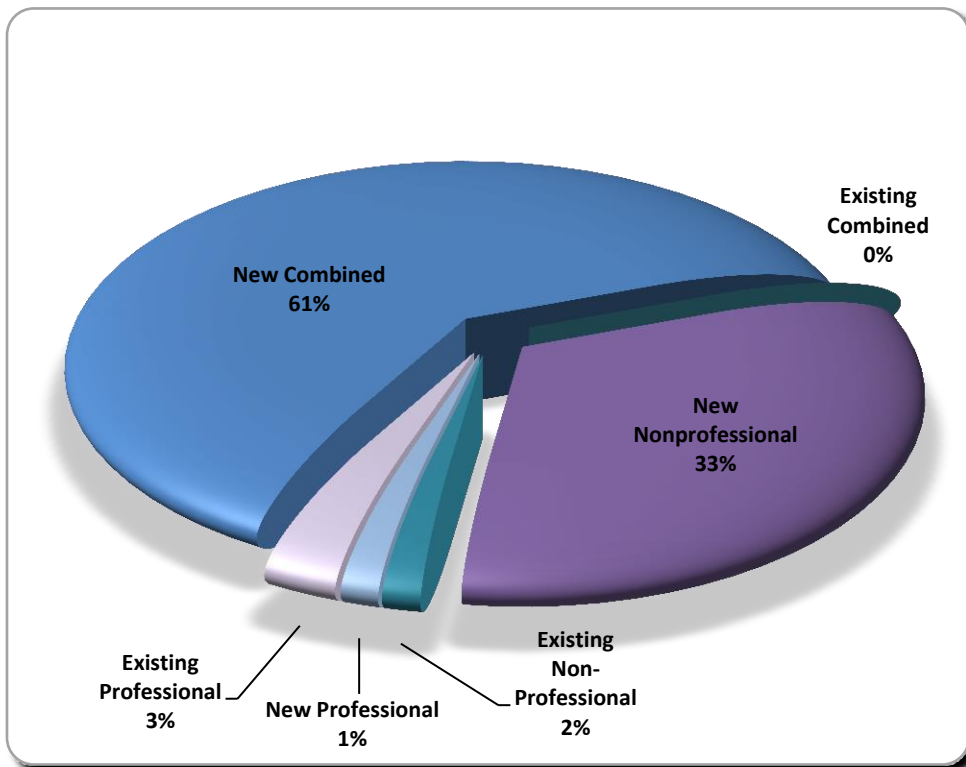


Chart 3 depicts the total number and type of units certified in 2011, 2012, and 2013. Of the 67 total units certified, all were collective bargaining units; no meet and discuss units were certified during this time period. Combined units include both professional and nonprofessional employees.

Chart 3: Units Certified by the Board, 2011-2013



UNFAIR PRACTICE CASES

The board adjudicates allegations of unfair practices, as enumerated in PERA and the PLRA, and issues remedial relief as appropriate. PERA Section 1201(a) and PLRA Section 6(1) pertain to prohibited practices for employers, while PERA Section 1201(b) and PLRA Section 6(2) relate to prohibited practices for employe representatives and employes. Please see Appendices I and II to view the full text of Section 1201 of PERA and Section 6 of the PLRA.

In 2011, a total of 431 unfair practice charges were filed. Of these charges, 63 percent were filed pursuant to PERA, while 33 percent and 4 percent were filed under Act 111 and the PLRA, respectively.

In 2012, a total of 349 unfair practice charges were filed. Of these charges, 67 percent were filed pursuant to PERA, while 30 percent and 3 percent were filed under Act 111 and the PLRA, respectively.

In 2013, a total of 340 unfair practice charges were filed. Of these charges, 64 percent were filed pursuant to PERA, while 29 percent and 7 percent were filed under Act 111 and the PLRA, respectively.

Tables 2 details the unfair practice cases concluded in 2011, 2012, and 2013, citing the method of disposition.

Table 2: Unfair Practice Cases Concluded, 2011-2013

Cases Sustained (Unfair Practice Found)	2011	2012	2013
by Board Order	10	6	6
by Hearing Examiner Order	15	18	19
Cases Dismissed			
by Administrative Dismissal	31	21	35
by Board Order	19	8	15
by Hearing Examiner Order	29	15	31
By Nisi Order	1	1	1
by No Complaint Letter	67	62	77
Cases Withdrawn			
by Nisi Order	237	221	220
TOTAL	409	352	404

Table 3 details the specific subsections of PERA and the PLRA found to have been violated in the unfair practice cases sustained between 2011 and 2013. Refer to Appendices I and II to view the text that correlates with each subsection.

Table 3: Unfair Practices Found, 2011-2013

PERA Section 1201	2011	2012	2013
Subsection (a)(1)	5	4	5
Subsection (a)(3)	1	1	2
Subsection (a)(5)	3	1	3
Subsection (a)(8)	0	1	1
PLRA Section 6			
Subsection (1)(a)	3	3	3
Subsection (1)(c)	0	2	1
Subsection (1)(e)	2	2	1

IMPASSE RESOLUTION CASES

Article VIII of PERA requires the board's involvement in two types of collective bargaining impasse resolution procedures: fact-finding and interest arbitration.

The board has the authority to appoint fact-finders for the purpose of settling negotiations that have reached impasse. The majority of the board's fact-finding cases are filed pursuant to Act 88, which provides for a period of mandatory fact-finding appointments in addition to the discretionary appointments provided for in PERA.

Upon appointment, the fact-finder has 40 days to hold a hearing and issue a report containing nonbinding recommendations. The parties then have 10 days to accept or reject the recommendations. If either party rejects the report, it is published on the [board's website](#) and the parties have an additional 10 days to reconsider. If both parties do not ultimately accept the recommendations, they must resume bargaining.

In 2011, 27 fact-finding appointments were made, including 21 pursuant to Act 88 and six under PERA. In 2012, 37 fact-finding appointments were made, including 36 pursuant to Act 88 and one under PERA. And in 2013, 56 fact-finding appointments were made, including 49 pursuant to Act 88 and seven under PERA.

Charts 4(a), 4(b), and 4(c) illustrate the outcomes of the board's fact-finding appointments from 2011 to 2013. Fact-finding successfully resulted in an agreement (by both parties accepting the report) in 26 percent of the cases in 2011, 24 percent in 2012, and 32 percent in 2013.

Chart 4(a): Fact-Finding Outcomes, 2011

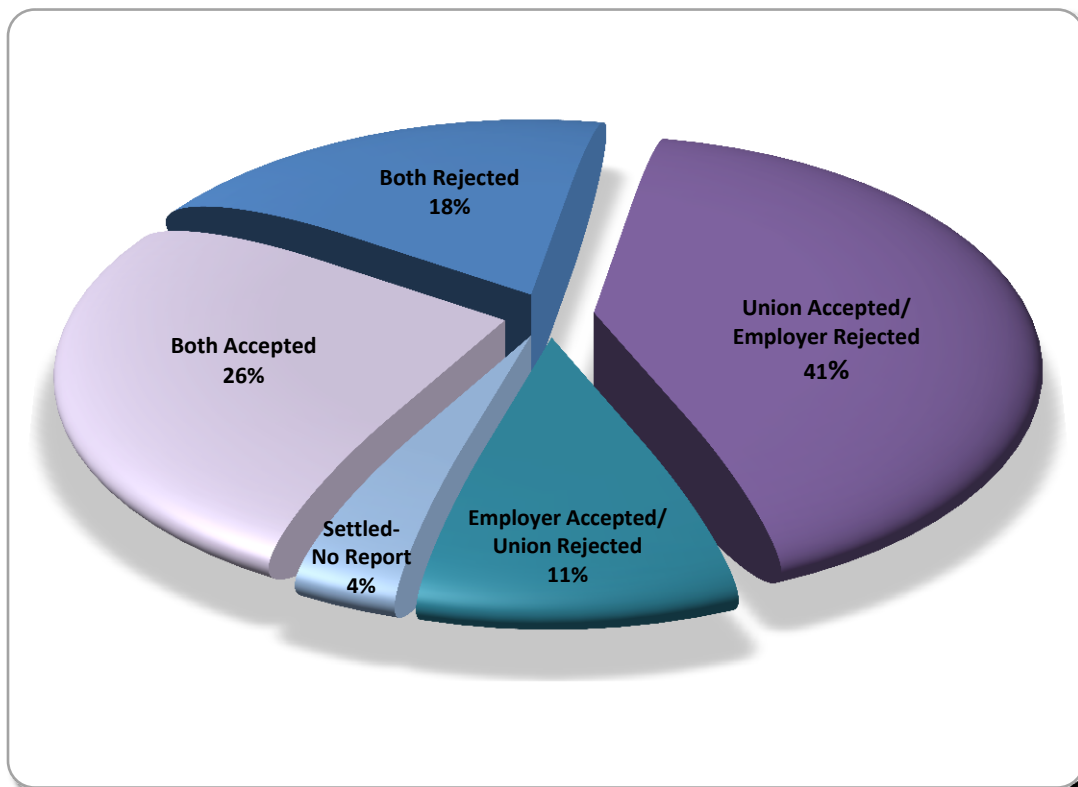


Chart 4(b): Fact-Finding Outcomes, 2012

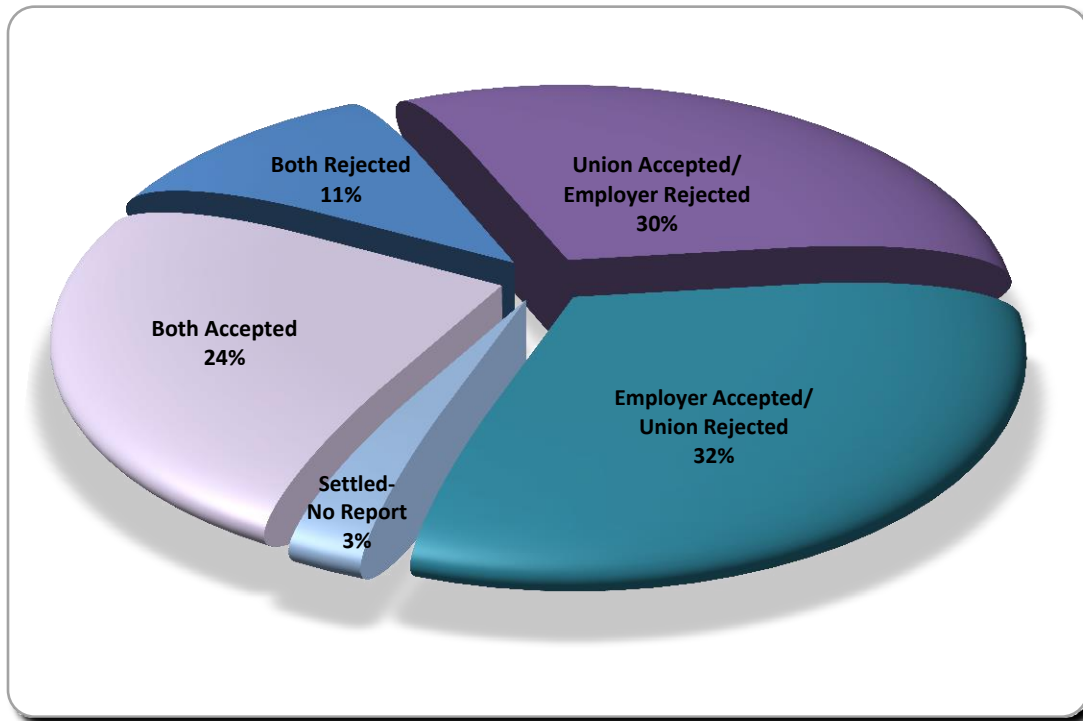
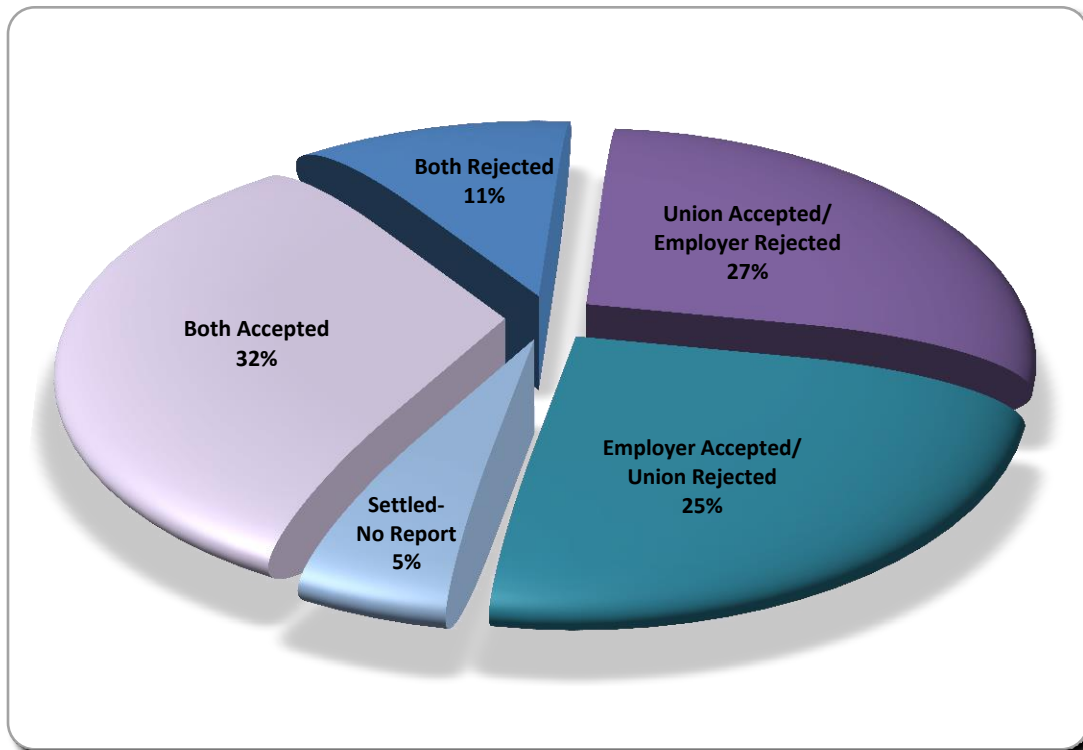


Chart 4(c): Fact-Finding Outcomes, 2013



The board's other impasse resolution function is to provide panels used in the selection of neutral arbitrators for interest arbitration proceedings in accordance with PERA; the board issued 35 arbitration panels in 2011, 50 panels in 2012, and 43 panels in 2013.

Summaries of Board Orders

The board issues several different types of orders. The most common type of board order is a final order. Parties may appeal hearing examiner orders by filing exceptions with the board. After considering the exceptions, the board issues a final order dismissing or sustaining the exceptions in whole or in part or may remand the case to the hearing examiner for further proceedings.

Another common board order is a final order dismissing exceptions to an administrative dismissal. The board secretary may administratively dismiss a charge or petition if it is untimely, if it fails to state a cause of action or if the document filed is not a signed and notarized original. Parties may appeal administrative dismissals by filing exceptions with the board. If the exceptions are sustained, the board issues an order remanding the case to the board secretary for issuance of a complaint. Otherwise, the exceptions are dismissed through issuance of a board final order.

Summaries of the final orders issued by the board from 2011 to 2013 are provided below. Citations for the board's orders are given as the board's case number and the Pennsylvania Public Employee Reporter (PPER) reference.

FINAL ORDERS

Chambersburg Area Education Association, PSEA/NEA v. Chambersburg Area School District, PERA-C-09-407-E (January 25, 2011), the Board affirmed the finding that the complainant failed to sustain its burden of proving a unilateral removal of bargaining unit work in violation of Section 1201(a)(1) and (5) of PERA.

Cambria County Deputy Sheriffs' Association v. Cambria County, PERA-C-10-24-W (February 15, 2011), the Board made final a determination that the employer had not committed unfair practices within the meaning of PERA.

Rochester Area Education Association, PSEA/NEA v. Rochester Area School District, PERA-C-09-448-W (February 15, 2011), the Board found that the employer established a sound arguable basis for eliminating the induction coordinator position and reassigning those duties, and thus did not violate its bargaining obligation under PERA.

In the Matter of the Employees of Abington Heights School District, PERA-U-09-440-E (February 15, 2011), the Board affirmed the proposed order of unit clarification finding that the position of behavioral specialist consultant/behavioral analyst should be included in the professional bargaining unit.

In the Matter of the Employees of Dormont Borough, PERA-U-09-254-W (February 15, 2011), the Board made final the proposed order of unit clarification excluding the code enforcement officer from the nonprofessional bargaining unit as a management level employe under PERA.

In the Matter of the Employees of Lancaster County, PERA-U-09-465-E (March 15, 2011), the Board upheld the proposed order of unit clarification finding that maintenance mechanics who worked alone with inmates outside the prison walls were prison guards within the meaning of Section 604(3) of PERA.

Minersville Area Educational Support Personnel Association, PSEA/NEA v. Minersville Area School District, PERA-C-09-423-E (March 15, 2011), the Board found that the superintendent's memorandum to bargaining unit members would have a tendency to coerce employes from engaging in protected activities in violation of Section 1201(a)(1) of PERA.

American Federation of State County and Municipal Employees District Council 89 v. Lancaster County, PERA-C-10-10-E (April 26, 2011), the Board upheld the conclusion that the employer failed to sustain its burden of proving the necessity of a legislative enactment, and thus violated Section 1201(a)(1) and (5) of PERA by refusing to implement the financial terms of a prison guard interest arbitration award.

AFSCME District Council 47, Local 2187 v. City of Philadelphia, Streets Department, PERA-C-09-398-E (May 17, 2011), the Board found that the employer had a sound arguable basis in the collective bargaining agreement to exercise a tie-breaking procedure to resolve seniority issues resulting in the layoff of a union steward, and thus did not violate section 1201(a)(5) of PERA.

Tredyffrin-Easttown Education Association v. Tredyffrin-Easttown School District, PERA-C-09-508-E (June 21, 2011), the Board held that the district's introduction of online courses did not eliminate the essential function of the bargaining unit professional employees, and therefore the district was not excused from its statutory obligation to bargain over the removal of work under Section 1201(a)(5) of PERA.

Greenville Education Association, PSEA/NEA v. Greenville Area School District, PERA-C-08-462-W (August 16, 2011), the Board affirmed the hearing examiner's conclusion that the district violated Section 1201(a)(1) and (3) of PERA when it suspended and subsequently discharged the president of the association in retaliation for his protected activity.

Pennsylvania State Corrections Officers Association v. Commonwealth of Pennsylvania, Department of Corrections, Graterford SCI, PERA-C-07-123-E (September 20, 2011), the Board concluded that the Commonwealth did not violate Section 1201(a)(1) and (5) of PERA by continuing the practice of requiring correctional officers to treat with a panel physician for the first ninety days following injuries under the Heart and Lung Act.

Association of Pennsylvania State College and University Faculties v. Pennsylvania State System of Higher Education, California University, PERA-C-10-244-E (October 18, 2011), the Board found that the employer and union were not at an impasse in negotiations and that bargaining unit faculty and coaches were not on strike, and therefore the employer violated Section 1201(a)(1) and (5) of PERA by unilaterally implementing parking fees.

Chris P. Blount v. Allentown City School District, PERA-C-10-418-E (December 20, 2011), the Board affirmed a proposed decision and order in which the hearing examiner concluded that the employer did not violate Section 1201(a)(1) and (3) of PERA when it discharged an employee.

United Steelworkers, Local 9305, Kathryn Standish v. Ambridge Water Authority, PERA-C-10-173-W (December 20, 2011), the Board made final the hearing examiner's determination that the employer had failed to comply with the parties' previous settlement of the charge in violation of Section 1201(a)(5) of PERA.

American Federation of State, County and Municipal Employees District Council 89 v. Lancaster County, PERA-C-11-28-E (April 17, 2012), the Board upheld the conclusion that the employer violated Section 1201(a)(1) and (5) of PERA by refusing to implement the fiscal terms of a prison guard interest arbitration award.

International Union of Operating Engineers, Local 66 v. Franklin Township, PERA-C-10-414-E (April 17, 2012), the Board reversed the hearing examiner's dismissal of the charge, and found that the township's implementation of changes to an employee's hours and benefits during collective bargaining was coercive and interfered with rights guaranteed under PERA.

American Federation of State, County and Municipal Employees District Council 87 v. Luzerne County, PERA-C-10-185-E (April 17, 2012), the Board vacated the hearing examiner's conclusion that the county violated Section 1201(a)(5) of PERA, because the complainant failed to prove that the county controlled the Workforce Investment Board's selection of non-county providers for the work at issue.

American Federation of State, County and Municipal Employees District Council 89 v. Lancaster County, PERA-C-10-368-E (May 15, 2012), the Board affirmed the hearing examiner's conclusion that the county discriminatorily terminated the employment of two employees during an organizing campaign.

Washington Court Association of Professional Employees, affiliated with AFSCME DC 84 v. Washington County, PERA-C-10-283-W (June 19, 2012), the Board determined that the hearing examiner did not err in finding that the county commissioners violated PERA by failing to pay court-appointed employees wages for eight hours per day as directed by an interest arbitration award.

Pennsylvania Social Services Union, Local 668, Service Employees International Union v. Berks County, Berks County Prison Board, PERA-C-11-50-E (September 18, 2012), the Board made final the hearing examiner's conclusion that the employer violated Section 1201(a)(1) of PERA by threatening and coercing an employe in the exercise of a contractual right.

Plum Borough School District Educational Secretaries, ESPA/PSEA/NEA v. Plum Borough School District, PERA-C-11-330-W (November 27, 2012), the Board affirmed in part, the hearing examiner's finding that the district violated Section 1201(a)(5) of PERA in contracting out bargaining unit work.

Association of Pennsylvania State College and University Faculties v. Pennsylvania State System of Higher Education, West Chester University, PERA-C-11-239-E (January 15, 2013), the Board upheld the finding that the employer and union had not entered into a final settlement agreement, and thus the employer did not violate Section 1201(a)(1) and (5) of PERA.

Neshannock Education Support Professionals PSEA/NEA v. Neshannock Township School District, PERA-C-11-441-W (April 16, 2013), the Board found that the district violated Section 1201(a)(1) and (5) of PERA by unilaterally transferring duties to non-bargaining unit teachers and parent volunteers.

Teamsters Local 636 v. West Mifflin Borough, PERA-C-12-24-W (August 20, 2013), the Board reversed the hearing examiner and found that the borough committed unfair practices by failing to abide by a settlement reached in a previous unfair practice case.

International Union of Operating Engineers Local 66 v. Rochester Township, PERA-C-12-98-W (November 19, 2013), the Board affirmed the conclusion that the township violated Section 1201(a)(1) and (3) of PERA by discriminating against an employe with respect to her continued employment.

Gas Works Employees Union Local 686 UWUA v. Philadelphia Gas Works, PERA-C-12-99-E (December 17, 2013), the Board upheld the determination that the employer did not violate Section 1201(a)(5) of PERA when it refused to provide witness.

Capital City Lodge No. 12, Fraternal Order of Police v. City of Harrisburg, PF-C-09-94-E (January 25, 2011), the Board concluded that the city did not violate Act 111 or Section 6(1)(a) and (e) of the PLRA when city council failed to enact an ordinance to change the police pension plan consistent with a contract extension agreement entered into by the Mayor.

Fraternal Order of Police, Lodge 27 Delaware v. Springfield Township, PF-C-10-96-E (February 15, 2011), the Board found that the township violated Section 6(1)(a) and (e) of the PLRA when it unilaterally amended its civil service regulations contrary to the express terms of grievance and unfair labor practice settlement agreements.

E.B. Jermyn Lodge No. 2, Fraternal Order of Police v. City of Scranton, PF-C-05-101-E (February 15, 2011), the Board sustained in part and denied in part the city's exceptions to a proposed decision and order directing the city to comply with a prior Board final order and a grievance arbitration award concerning implementation of a strategic implementation team agreement.

Marlowe Freeman v. City of Chester, PF-C-10-102-E (April 26, 2011), the Board found the charge properly dismissed where the complainant failed to meet his burden of proving all three elements of a prima facie case of discrimination.

Fraternal Order of Police Lodge 12, Capital Police v. City of Harrisburg, PF-C-10-61-E (April 26, 2011), the Board concluded that under Act 111, direct deposit of paychecks is a mandatory subject of bargaining.

Pennsylvania State Troopers Association v. Commonwealth of Pennsylvania, Pennsylvania State Police, PF-C-09-95-E & PF-C-09-129-E (April 26, 2011), the Board found that the hearing examiner did not err in dismissing charges of unfair labor practices filed against the Commonwealth for alleged violations of Section 6(1)(a), (c) and (d) of the PLRA.

International Association of Fire Fighters Local 1400 v. City of Chester, PF-C-10-62-E, (May 17, 2011), the Board held that the charge of unfair labor practices seeking immediate enforcement of a grievance arbitration award was premature because the award was stayed during the city's petition for allowance of appeal to the Pennsylvania Supreme Court.

Pennsylvania State Troopers Association v. Commonwealth of Pennsylvania, Pennsylvania State Police, PF-C-09-83-E, (May 17, 2011), the Board affirmed the hearing examiner's conclusion that discipline was issued for the non-discriminatory reasons of misrepresenting facts and conducting an unauthorized investigation of a member while on duty, and thus there was no violation of Section 6(1)(c) of the PLRA.

Wyoming Borough Police Department v. Wyoming Borough, PF-C-10-59-E (July 19, 2011), the Board concluded that the borough violated Section 6(1)(a) and (e) of the PLRA by failing to comply with a grievance arbitration award and directed make-whole relief until the date of the grievant's resignation.

Fraternal Order of Police, E.B. Jermyn Lodge No. 2 v. City of Scranton, PF-C-09-97-E (August 16, 2011), the Board upheld the hearing examiner's limited remedy of a cease and desist order against the city for its unfair labor practice.

Pennsylvania State Troopers Association v. Commonwealth of Pennsylvania, Pennsylvania State Police, PF-C-09-103-E (September 20, 2011), the Board vacated the hearing examiner's conclusion that the Commonwealth violated Section 6(1)(a) and (e) of the PLRA where the complainant failed to meet its burden of proving a unilateral change to an established past practice.

Manor Township Police Association v. Manor Township, PF-C-10-63-E (October 18, 2011), the Board found that the complainant failed to allege an independent violation of Section 6(1)(a) of the PLRA, and that, under the circumstances, the township's layoff of police officers would not tend to restrain, interfere with or coerce reasonable employees in their pursuit of rights under Act 111 and the PLRA.

General Teamsters, Chauffeurs Helpers, Local 249 v. Oakmont Borough, PF-C-11-59-W (November 15, 2011), the Board held that the employer violates Section 6(1)(a) and (e) of the PLRA by refusing to raise jurisdictional claims and issues of procedural arbitrability in interest arbitration under Act 111.

Fraternal Order of Police, Christina Lodge No. 84 v. Freeland Borough, PF-C-10-137-E (January 17, 2012), the Board found that the complainant failed to prove that it is the exclusive collective bargaining representative for the borough police officers, and therefore the hearing examiner properly dismissed the charge of unfair labor practices.

Pennsylvania State Troopers Association v. Commonwealth of Pennsylvania State Police, PF-C-09-96-E (July 17, 2012), the Board upheld the determination that a corporal was not entitled to union representation while providing a witness statement to the internal affairs division, and therefore the Commonwealth did not violate Section 6(1)(a) of the PLRA.

In The Matter Of The Employes Of Dunmore Borough, PF-U-11-122-E (July 17, 2012), the Board dismissed exceptions filed by the chief who lacked standing in a unit clarification proceeding.

Police Association of Falls Township v. Falls Township, PF-C-10-74-E and PF-C-10-99-E (March 19, 2013), the Board affirmed the hearing examiner's determination that the township's failure to promote a sergeant to a lieutenant's position was discriminatory in violation of Section 6(1)(c) of the PLRA.

Bucks County Detectives Association v. County of Bucks and the Office of the District Attorney of the County of Bucks, PF-C-11-173-E (May 21, 2013), the Board upheld the dismissal of a charge of unfair labor practices where the complained of changes to the prescription benefit plan were raised during the hearing but were not sufficiently set forth in the specification of charges.

Pennsylvania State Rangers Association v. Commonwealth of Pennsylvania, Department of Conservation and Natural Resources, PF-C-11-130-E (May 21, 2013), the Board affirmed the hearing examiner's determination that the union failed to establish that the employer unlawfully removed bargaining unit work in violation of Section 6(1)(e) of the PLRA.

West Conshohocken Police Officers v. West Conshohocken Borough, PF-C-10-163-E (July 16, 2013), the Board affirmed the hearing examiner's finding that the borough did not violate Section 6(1)(c) of the PLRA in suspending an officer.

United Steel Paper Rubber Manufacturing Energy Allied Industrial and Service Workers International v. McDonald Borough, PF-C-12-90-W (September 17, 2013), the Board sustained the finding that the borough did not engage in surface or regressive bargaining or refuse to bargain in good faith in violation of Section 6(1)(a) and (e) of the PLRA.

Chambersburg Borough v. International Association of Fire Fighters, Local 1813, PF-C-11-174-E and International Association of Fire Fighters, Local 1813 v. Chambersburg Borough, PF-C-12-40-E (October 15, 2013), the Board upheld the hearing examiner's conclusion that the union did not engage in a secondary boycott in violation of Section 6(2)(d) of the PLRA, and that therefore the borough violated Section 6(1)(a) and (c) of the PLRA by suspending the president of the union for his conduct in the alleged secondary boycott.

FINAL ORDERS DISMISSING EXCEPTIONS TO ADMINISTRATIVE DISMISSALS

Latitia Smith v. Southeastern Pennsylvania Transportation Authority, PERA-C-10-438-E (March 15, 2011), the Board sustained the dismissal of a charge where the complainant was not subject to an investigatory interview and thus had no right to demand union representation under Section 1201(a)(1).

Harrisburg Education Association, PSEA/NEA v. Harrisburg City School District, PERA-C-11-53-E (June 21, 2011), the Board sustained the dismissal of a charge under Section 1201(a)(1) and (5) of PERA as premature where the employer had not yet implemented an alleged decision to transfer bargaining unit.

In the Matter of the Employees of Commonwealth of Pennsylvania, Pennsylvania Board of Probation and Parole, PERA-R-11-108-E (July 19, 2011), the Board affirmed the decision of the Secretary declining to direct a hearing on the petition for representation, where the petitioned-for unit did not comport with the broad-based bargaining unit policy and violated the policy of conducting rival representation elections in the unit as currently certified.

Association of Pennsylvania State College and University Faculties v. State System of Higher Education, Kutztown University, PERA-C-11-79-E (September 20, 2011), the Board sustained the dismissal of the charge where the employer's alleged decision to eliminate two academic advising positions and to reassign the duties to others in the bargaining unit fell within its managerial prerogative to select and direct personnel under Section 702 of PERA.

International Brotherhood of Electrical Workers, Local 743 v. Upper Leacock Township, PERA-C-11-71-E (November 15, 2011), the Board upheld the Secretary's decision to decline to issue a complaint on the basis that maintenance of the status quo during negotiations for an initial contract does not include the continuation of periodic wage adjustments.

Harrisburg City School District v. American Federation of State County and Municipal Employees District Council 90, PERA-C-11-362-E (December 20, 2011), the Board sustained the dismissal of a charge alleging that an employe representative was violating Section 1201(b)(3) of PERA by refusing to negotiate with the employer over a payment schedule to implement a remedy awarded in grievance arbitration.

In the Matter of the Employees of Commonwealth of Pennsylvania, Office of Attorney General, PERA-R-11-124-E (December 20, 2011), the Board upheld the Secretary's decision declining to direct an election where the petition for representation sought to fragment the existing professional bargaining unit contrary to the policy of conducting rival representation proceedings in the unit as currently certified.

Daniel Edward Meyers v. Commonwealth of Pennsylvania, Department of Public Welfare, South Mountain Restoration Center, PERA-C-11-277-E (January 17, 2012), the Board affirmed the Secretary's dismissal of a charge alleging that the employer violated Section 1201(b)(1), (3), (4) and (9) of PERA.

Daniel Edward Meyers v. Commonwealth of Pennsylvania, Department of Public Welfare, South Mountain Restoration Center, PERA-C-11-276-E (January 17, 2012), the Board affirmed the Secretary's dismissal of a charge alleging that the employer violated Section 1201(b)(1), (3), (4) and (9) of PERA.

Pennsylvania Social Services, Union Local 668 Service Employees International Union v. Commonwealth of Pennsylvania, Department of Labor & Industry, PERA-C-12-164-E (September 18, 2012), the Board sustained the Secretary's dismissal of a charge alleging that the employer violated Section 1201(a)(1) and (5) of PERA for a supervisory meet and discuss unit.

Pennsylvania Social Services Union Local 668 Service Employees International Union v. Lackawanna County, PERA-C-12-389-E (June 18, 2013), the Board made final the Secretary's decision not to issue a complaint on a charge of unfair practices alleging a failure to bargain in good faith.

Teamsters Local 401 v. Luzerne County, PERA-C-13-84-E (July 16, 2013), the Board made final the Secretary's determination that the complainant failed to state a cause of action under Section 1201(a)(5) of PERA for a meet and discuss unit.

Hazleton Area Education Support Professionals v. Hazleton Area School District, PERA-C-13-27-E (July 16, 2013), the Board affirmed the Secretary's dismissal of a charge as untimely under Section 1505 of PERA.

Pennsylvania Social Services Union, Local 668, Service Employees International Union v. Lancaster County, PERA-C-13-202-E (November 19, 2013), the Board sustained the decision not to issue a complaint on a charge alleging that the employer was refusing to bargain at reasonable times and places in violation of Section 1201(a)(5) of PERA.

International Association Of Machinists And Aerospace Workers Local 243 v. Stewartstown Borough, PF-C-12-18-E (June 19, 2012), the Board concluded that the Secretary did not err in declining to issue a complaint on a charge alleging that a successor borough council violated its duty to bargain by rescinding an addendum to the collective bargaining agreement entered into by its "lame-duck" predecessor.

Fraternal Order of Police Schuylkill-Carbon Lodge 13 v. Tamaqua Borough, PF-C-12-71-E (August 28, 2012), the Board sustained the Secretary's dismissal of an untimely charge alleging the implementation of a modified duty policy.

David J. Sweitzer v. Middletown Borough, PF-C-13-21-E (March 19, 2013), the Board upheld the dismissal of the charge as untimely filed under Section 9(e) of the PLRA.

Michael Newman v. Walmart, PLRA-C-11-8-E (July 19, 2011), the Board affirmed the dismissal of a charge for want of jurisdiction over a private employer engaged in interstate commerce.

Summaries of Court Opinions

The following court opinions involving board cases were issued in between 2011 and 2013. Court opinions are cited to PPER and, at the appellate level, the appropriate court citation is included if available.

Please note that the appellate developments for board decisions covered by this report include only those decisions issued during the reporting period; further developments will be detailed in subsequent reports.

Act 35 of 2008 (the Act of July 4, 2008, P.L. 286) removed jurisdiction over appeals from decisions of the board from the courts of common pleas. Consequently, the Commonwealth Court has first-level appellate jurisdiction over appeals of board final orders. See 42 Pa. C.S. §§ 763 and 933 (as amended).

COMMONWEALTH COURT

Municipal Employees of Slippery Rock v. Pennsylvania Labor Relations Board, 14 A.3d 189 (Pa. Cmwlth. January 26, 2011), the Commonwealth Court deferred to the Board's holding that a code enforcement officer is a management level employee.

Independent State Store Union v. Pennsylvania Labor Relations Board, 18 A.3d 367 (Pa. Cmwlth. January 27, 2011), *petition for allowance of appeal denied*, 22 A.3d 1035 (Pa. 2011), the Commonwealth Court affirmed the Board's determination that the union's allegations of unfair practices under Section 1201(a)(1), (5) and (9) were untimely where, in response to the Secretary's dismissal of the charge for insufficiency, the union alleged additional facts in exceptions filed more than four month after the alleged unfair practice.

Williamsport Area School District v. Pennsylvania Labor Relations Board, No. 932 C.D. 2010, *unreported* (Pa. Cmwlth., May 3, 2011), the Commonwealth Court upheld the Board's determination that the school district and union had not reached a bona fide impasse in the negotiations concerning subcontracting and therefore the contracting out of bus services violated PERA.

Neshannock Educational Support Professionals Association, PSEA/NEA v. Pennsylvania Labor Relations Board, 22 A.3d 1103 (Pa. Cmwlth. June 14, 2011), the Commonwealth Court reversed the Board's determination that an accounts payable clerk was a confidential employe under Section 301(13)(ii) of PERA because she worked in a close continuing relationship with public officers or representatives associated with collective bargaining, but remanded the case to the Board for a determination of whether the accounts payable clerk was a confidential employe by nature of working in the personnel office and having access to information subject to use in collective bargaining under Section 301(13)(i).

Construction General Laborers and Material Handlers Union, Local 1058 v. Pennsylvania Labor Relations Board, 391 C.D. 2011, *unreported* (Pa. Cmwlth, October 12, 2011), the Commonwealth Court affirmed the Board's holding that the code enforcement officer responsibly directs the implementation of the borough's policies, making the code enforcement officer a managerial level employe.

Lancaster County v. Pennsylvania Labor Relations Board, 35 A.3d 83 (Pa. Cmwlth. January 12, 2012), *petition for allowance of appeal denied*, 74 A.3d 1032 (Pa. 2013), the Commonwealth Court affirmed the Board's holding that the county committed an unfair labor practice in violation of Section 1201(a)(1) and (5) by refusing to implement an interest arbitration award for prison guards.

Lancaster County v. Pennsylvania Labor Relations Board, 35 A.3d 73 (Pa. Cmwlth. January 12, 2012), *petition for allowance of appeal granted*, 65 A.3d 914 (Pa. 2013), the Commonwealth Court held that the Board erred in concluding that prison maintenance employes are prison guards for purposes of PERA.

AFSCME, District Council 47, Local 2187 v. Pennsylvania Labor Relations Board, 41 A.3d 213 (Pa. Cmwlth., March 22, 2012), the Commonwealth Court held that the Board did not err in finding that the employer had a sound arguable basis in the collective bargaining agreement to exercise a tie-breaking procedure to resolve seniority issues and thus the employer did not violate PERA when application of those procedures resulted in the layoff of a union steward.

Pennsylvania State Sytem of Higher Education v. Pennsylvania Labor Relations Board, No. 2159 C.D. 2011, *unreported* (Pa. Cmwlth. August 15, 2012), *petition for allowance of appeal denied*, 69 A.3d 604 (Pa. 2013), the Commonwealth Court affirmed the Board's conclusion that the employer violated its bargaining obligation by unilaterally imposing parking fees for employes.

Lancaster County v. Pennsylvania Labor Relations Board, 62 A.3d 469 (Pa. Cmwlth. January 4, 2013), the Commonwealth Court affirmed the Board's holding that the county committed an unfair labor practice in violation of Section 1201(a)(1) and (5) by refusing to implement an interest arbitration award for prison guards.

Washington County v. Pennsylvania Labor Relations Board, 72 A.3d 830 (Pa. Cmwlth, July 18, 2013), the Commonwealth Court affirmed the Board's determination that the county commissioners, as a joint employer, were liable for back pay owed to court-appointed employes under an interest arbitration award.

American Federation of State, County and Municipal Employees v. Pennsylvania Labor Relations Board, 77 A.3d 53 (Pa. Cmwlth., August 1, 2013), the Commonwealth Court held that the Board did not err in holding that the union failed to establish that the Workforce Investment Board's decision to subcontract work performed by county employes was an unfair practice committed by the county.

County of Berks v. Pennsylvania Labor Relations Board, 79 A.3d 8 (Pa. Cmwlth. September 17, 2013), *petition for allowance of appeal filed*, 809 MAL 2013, Commonwealth Court affirmed the Board's finding that the employer violated Section 1201(a)(1) of PERA by threatening an employee with the elimination of an alternative work schedule for the entire bargaining unit because of her exercise of a right under the collective bargaining agreement.

Lancaster County v. Pennsylvania Labor Relations Board, ___ A.3d ___, 2013 Pa. Cmmw. Lexis 544 (Pa. Cmwlth. December 30, 2013), *petition for allowance of appeal filed*, 48 MAL 2014, the Commonwealth Court reversed the Board's determination that the employer chose to terminate the employment of two employees because of organizing efforts at the county youth intervention center.

Pennsylvania State Police v. Pennsylvania Labor Relations Board, No. 626 C.D. 2010, *unreported* (Pa. Cmwlth. January 6, 2011), the Commonwealth Court held that the Board did not err in determining that the employer violated Sections 6(1)(a) and (c) of the PLRA by subjecting an employee to a disciplinary internal affairs investigation because of his protected activity of sending off-duty emails to other employees about ongoing collective bargaining negotiations.

Capital City Lodge No. 12 v. Pennsylvania Labor Relations Board, 30 A.3d 1241 (Pa. Cmwlth. November 1, 2011), *petition for allowance of appeal denied*, 615 Pa. 793, 44 A.3d 1162 (2012), the Commonwealth Court affirmed the Board's determination that pension enhancements tentatively agreed to between the mayor and the union were subject to approval by the city council, and therefore city council's failure to approve that agreement was not an unfair labor practice.

International Association of Fire Fighters, Local 22 v. Pennsylvania Labor Relations Board, 35 A.3d 833 (Pa. Cmwlth. January 18, 2012), *petition for allowance of appeal denied*, 69 A.3d 603 (Pa. 2013), the Commonwealth Court found that the city fire code and charter specifically authorized fire service paramedics to engage in firefighting, and that they assisted at fire scenes, and thus the Board erred in determining that fire service paramedics were not fire fighters within the meaning of Act 111.

Pennsylvania State Troopers Association v. Pennsylvania Labor Relations Board, 39 A.3d 616 (Pa. Cmwlth., March 5, 2012), the Commonwealth Court held that the Board did not err in finding that discipline issued against two union members because they had made misrepresentations and conducted an unauthorized investigation was unrelated to union activities and thus there was no violation of Section 6(1)(c) of the PLRA.

City of Scranton v. Pennsylvania Labor Relations Board, 50 A.3d 774 (Pa. Cmwlth. March 8, 2012), the Commonwealth Court affirmed the Board's determination that the city failed to comply with a previous Board order directing the city to comply with a grievance arbitration award that had directed compliance with an agreement between the city and the police union concerning implementation of a strategic implementation team.

Pennsylvania State Troopers Association v. Pennsylvania Labor Relations Board, 71 A.3d 422 (Pa. Cmwlth., July 2, 2013), the Commonwealth Court found that there was sufficient evidence that the corporal reasonably believed that an interview with the employer had the potential to result in discipline against him, and therefore the Board erred in failing to find an unfair labor practice in violation of Section 6(1)(a) of the PLRA for the denial of union representation.

PENNSYLVANIA SUPREME COURT

Lancaster County v. Pennsylvania Labor Relations Board, 65 A.3d 914 (Pa. 2013), the Supreme Court granted the petition for allowance of appeal from the decision of the Commonwealth Court at Lancaster County v. Pennsylvania Labor Relations Board, 35 A.3d 73 (Pa. Cmwlth. 2012) on the issue of whether the Board interpreted PERA in a clearly erroneous manner by concluding that prison maintenance employees who supervise inmates on prison grounds outside the prison walls are prison guards for purposes of bargaining unit placement.

Allegheny County Deputy Sheriff's Association v. Pennsylvania Labor Relations Board, 615 Pa. 126, 41 A.3d 839 (2012), the Supreme Court reversed and remanded the Commonwealth Court decision affirming the Board's dismissal of a petition to represent a bargaining unit of deputy sheriffs under Act 111. On remand, the Commonwealth Court held that it would be unconstitutional for deputy sheriffs to be police within the meaning of Act 111. Allegheny County Deputy Sheriff's Association v. Pennsylvania Labor Relations Board, 68 A.3d 6 (Pa. Cmwlth. 2013). On a Petition for Allowance of Appeal from the Commonwealth Court's decision on remand, the Supreme Court reversed, vacated the Commonwealth Court's order, and directed the Board to proceed with the deputy sheriffs' representation petition under Act 111. Allegheny County Deputy Sheriff's Association v. Pennsylvania Labor Relations Board, 80 A.3d 772 (Pa. 2013).

City of Erie v. Pennsylvania Labor Relations Board, 612 Pa. 661, 32 A.3d 625 (2011). The Pennsylvania Supreme Court affirmed the Board's finding that the city committed an unfair labor practice when it failed to bargain with the union over its repeal of the firefighters' pension benefit.

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Appendix I

Public Employe Relations Act (Act 195)

ARTICLE XII Unfair Practices

Section 1201. (a) Public employers, their agents or representatives are prohibited from:

- (1) Interfering, restraining or coercing employes in the exercise of the rights guaranteed in Article IV of this act.**
- (2) Dominating or interfering with the formation, existence or administration of any employe organization.
- (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any employe organization.
- (4) Discharging or otherwise discriminating against an employe because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this act.
- (5) Refusing to bargain collectively in good faith with an employe representative which is the exclusive representative of employes in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.
- (6) Refusing to reduce a collective bargaining agreement to writing and sign such agreement.
- (7) Violating any of the rules and regulations established by the board regulating the conduct of representation elections.
- (8) Refusing to comply with the provisions of an arbitration award deemed binding under section 903 of Article IX.
- (9) Refusing to comply with the requirements of "meet and discuss."

(b) Employe organizations, their agents, or representatives, or public employes are prohibited from:

- (1) Restraining or coercing public employes in the exercise of the rights guaranteed in Article IV of this act.
- (2) Restraining or coercing a public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances.
- (3) Refusing to bargain collectively in good faith with a public employer, if they have been designated in accordance with the provisions of this act as the exclusive representative of employes in an appropriate unit.
- (4) Violating any of the rules and regulations established by the board regulating the conduct of representation elections.
- (5) Refusing to reduce a collective bargaining agreement to writing and sign such agreement.
- (6) Calling, instituting, maintaining or conducting a strike or boycott against any public employer or picketing any place of business of a public employer on account of any jurisdictional controversy.
- (7) Engaging in, or inducing or encouraging any individual employed by any person to engage in a strike or refusal to handle goods or perform services; or threatening, coercing or restraining any person where an object thereof is to (i) force or require any public employer to cease dealing or

doing business with any other person or (ii) force or require a public employer to recognize for representation purposes an employe organization not certified by the board.

(8) Refusing to comply with the provisions of an arbitration award deemed binding under section 903 of Article IX.

(9) Refusing to comply with the requirements of "meet and discuss."

**It shall be lawful for public employes to organize, form, join or assist in employee organizations or to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection or to bargain collectively through representatives of their own free choice and such employes shall also have the right to refrain from any or all such activities, except as may be required pursuant to a maintenance of membership provision in a collective bargaining agreement.

Appendix II

Pennsylvania Labor Relations Act (Act 294)

Section 6. Unfair Labor Practices

(1) It shall be an unfair labor practice for an employer—

(a) To interfere with, restrain or coerce employes in the exercise of the rights guaranteed in this act.

(b) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other material support to it: Provided, that subject to rules and regulations made and published by the board pursuant to this act, an employer shall not be prohibited from permitting employes to confer with him during working hours without loss of time or pay.

(c) By discrimination in regard to hire or tenure of employment, or any term or condition of employment to encourage or discourage membership in any labor organization: Provided, that nothing in this act, or in any agreement approved or prescribed thereunder, or in any other statute of this Commonwealth, shall preclude an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this act as an unfair labor practice) to require, as a condition of employment, membership therein, if such labor organization is the representative of the employes, as provided in section seven(a) of this act***, in the appropriate collective bargaining unit covered by such agreement when made and if such labor organization does not deny membership in its organization to a person or persons who are employes of the employer at the time of the making of such agreement, provided such employe was not employed in violation of any previously existing agreement with said labor organization.

(d) To discharge or otherwise discriminate against an employe because he had filed charges or given testimony under this act.

(e) To refuse to bargain collectively with the representatives of his employes, subject to the provisions of section seven(a) of this act.***

(f) To deduct, collect, or assist in collecting from the wages of employes any dues, fees, assessments, or other contributions payable to any labor organization, unless he is authorized so to do by a majority vote of all the employes in the appropriate collective bargaining unit taken by secret ballot, and unless thereafter received written authorization from each employe whose wages are affected.

(2) It shall be an unfair practice for a labor organization, or any office or officers of a labor organization, or any agent or agents of a labor organization, or any one acting in the interest of a labor organization, or for an employe or for employes acting in concert—

(a) To intimidate, restrain, or coerce any employe for the purpose and with the intent of compelling such employe to join or to refrain from joining any labor organization, or for the purpose or with the intent of influencing or affecting his selection of representatives for the purpose of collective bargaining.

(b) During a labor dispute, to join or become a part of a sit down strike, or, without the employer's authorization, to seize or hold or to damage or destroy the plant, equipment, machinery, or other property of the employer, with the intent of compelling the employer to accede to demands, conditions, and terms of employment including the demand for collective bargaining.

(c) To intimidate, restrain, or coerce any employer by threats of force or violence or harm to the person of said employer or the members of his family, with the intent of compelling the employer to accede to demands, conditions, and terms of employment including the demand for collective bargaining.

(d) To picket or cause to be picketed a place of employment by a person or persons who is not or are not an employe or employes of the place of employment.

(d) To engage in a secondary boycott, or to hinder or prevent by threats, intimidation, force, coercion or sabotage the obtaining, use or disposition of materials, equipment or services, or to combine or conspire to hinder or prevent by any means whatsoever, the obtaining, use or disposition of materials, equipment or services.

(e) To call, institute, maintain or conduct a strike or boycott against any employer or industry or to picket any place of business of the employer or the industry on account of any jurisdictional controversy.

***Representatives designated or selected for the purposes of collective bargaining by the majority of the employes in a unit appropriate for such purposes, shall be the exclusive representatives of all the employes in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: Provided, That any individual employe or a group of employes shall have the right at any time to present grievances to their employer.