COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

BLACKHAWK EDUCATION ASSOCIATION, PSEA/NEA	:	
v.	:	Case No. PERA-C-14-58-W
BLACKHAWK SCHOOL DISTRICT	:	

PROPOSED DECISION AND ORDER

On February 21, 2014, the Blackhawk Education Association, PSEA/NEA (Association or Union) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (Board) against the Blackhawk School District (District or Employer), alleging that the District violated Section 1201(a)(1), (3), and (5) of the Public Employe Relations Act (PERA or Act) by revoking approval for a collective bargaining agreement (CBA) that was negotiated, ratified, and executed by both parties.[1]

On February 27, 2014, the Secretary of the Board issued a Complaint and Notice of Hearing, assigning the charge to conciliation for the purpose of resolving the matters in dispute through mutual agreement of the parties, and designating March 26, 2014, in Pittsburgh as the time and place of hearing, if necessary. On March 6, 2014, the District filed an Answer to the Complaint, denying the averments contained in the charge. The hearing was continued to April 23, 2014 pursuant to the District's request and without objection from the Association.

The hearing was necessary and was held on April 23, 2014, at which time the parties were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. The Association filed a post-hearing brief on or about June 9, 2014, while the District filed a Motion to Reconvene the Hearing on or about June 9, 2014. On or about June 17, 2014, the Association filed a Response in Opposition to the District's Motion to Reconvene the Hearing. The District filed its post-hearing brief in support of its position on July 9, 2014, along with an Offer of Proof. The Association filed a Motion to Strike Portions of the District's Brief and Offer of Proof on July 21, 2014, as well as a Motion for Leave to file a reply brief.

On July 22, 2014, I granted the Association's Motion for Leave to file a reply brief and denied the Association's Motion to Strike. The Association filed a reply brief on August 12, 2014, while the District filed a response to the reply brief on September 2, 2014.

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

FINDINGS OF FACT

1. The Blackhawk School District is a public employer within the meaning of Section 301(1) of PERA. (N.T. 6-7; Stipulation ¶ 3)

2. The Association is an employe organization within the meaning of Section 301(3) of PERA. (N.T. 7; Stipulation ¶ 4)

3. The Association is the exclusive representative for a unit of the District's professional employes, as certified by the Board in Case No. PERA-R-395-W. (Joint Exhibit 1; Stipulation ¶ 5)

[1] The Association subsequently withdrew its claim that the District's actions constitute a violation of Section 1201(a)(3) of the Act in its post-hearing brief.

4. The Association and the District are currently parties to a CBA initially dated September 1, 2009 through August 31, 2013, which was extended by mutual agreement of the parties until August 31, 2014. (Joint Exhibit 2; Stipulation ¶ 6)

5. In early June 2013, the Association's Representative Council voted to approve the initiation of early bird negotiations with the District. The Association's President, Jarrod McCowin, sent correspondence to the District's Superintendent, Dr. Michelle Miller, requesting to commence early bird negotiations for a successor agreement. As McCowin explained:

   Q. In your email to Dr. Miller you'll notice that you used the phrase early bird contract. Can you tell us what you meant by early bird contract?

   A. Sure. This was the first time I was involved in negotiations, but the basic understanding I have is that normal negotiations begin in January of the last year of the contract. But if the two parties agree to the idea, they can meet any time before that to try to come to an early bird agreement.

(N.T. 27-28; Exhibit D-3)

6. McCowin further explained the desirability of attempting early bird negotiations:

   Q. You were asked a question about what role the primary election played in initiating negotiations. What was your --- what was the Association's motivation to start the process in early bird negotiations?

   A. We saw the potential to get to work early on contracts. The previous two contracts that had been negotiated went through full-blown negotiations and nothing was settled by the time the old contracts had expired. So in both cases a new school year had started under, I believe, the term status quo --- is that the correct term?

   Q. Yes.

   A. We started a new school year without a new contract. And so anyway, with that little bit of history, we were hoping to get started early and keep things simple. Get things done in a timely manner. And personally as a teacher, I have a lot more time to get to work on that in June and July than during the school year. So it was advantageous for all of us in terms of being able to meet. Anita (Mensch) and I both teach, obviously. So it was convenient and seemed like a good idea.

(N.T. 37-38)

7. Commencing in July 2013, representatives of the Association and District engaged in negotiations with respect to a successor agreement. McCowin and Negotiations Chairperson Anita Mensch negotiated on behalf of the Association, while School Board members Donald Inman, Chad Calabria, and Paul May were involved in negotiations on behalf of the District. After at least seven meetings, those representatives reached a tentative agreement with respect to a successor agreement, with a term from September 1, 2014 through August 31, 2018. (N.T. 28, 32, 35-37; Stipulation ¶¶ 7-8)

8. On September 19, 2013, the Association's membership ratified the tentative agreement. On the same date, the District's School Board voted to approve the tentative agreement by a vote of seven in favor, to two opposed. Specifically, those voting in favor were: Chad Calabria, Bob Clendennen, Jamie Fitzgerald, Paul Heckathorn, Donald Inman, Paul May, and Richard Oswald; those who voted no were: Dean Fleischman and Lance Rose. (Joint Exhibit 3; Stipulation ¶¶ 9-10)

9. In May 2013, four of the nine school board positions were subject to election during the primary elections. Of those four seats, one school board member was reelected (Fleischman), and three new school board members were elected to the remaining seats (Helsing, Pander, and Yonkee). An additional school board member (Clendennen), who was not up for reelection, resigned after the general election took place in November 2013 and was replaced by appointment. (N.T. 29-30, 39-40; Exhibit D-1)

10. On January 16, 2014, the District held a regular School Board meeting during which it did not vote to rescind its prior approval of the 2014-2018 CBA. (Joint Exhibit 5)

11. On February 14, 2014, the District's School Board voted to pass a Resolution on Revocation in which it rescinded its prior approval of the 2014-2018 CBA. (Joint Exhibits 5-6; Stipulation ¶¶ 12-13)

12. Specifically, in reference to the approval of the 2014-2018 CBA, the Resolution states, in relevant part:

    (5) On the basis of legal advice provided by the present District Solicitor, this (School) Board believes that the purported contract approval made as noted above as contrary to applicable law, and therefore invalid.

    (6) Such purported approval is hereby revoked, and the previous (School) Board action thereon is hereby vacated.

    (7) The District Solicitor is hereby authorized and directed to take such actions as he deems necessary or proper to implement this resolution.

(Joint Exhibit 6)

DISCUSSION

In its charge, the Association alleged that the District violated Section 1201(a)(1) and (5) of the Act by repudiating a lawfully executed CBA between the parties. Specifically, the Association argues that the District's unilateral repudiation of the lawfully executed CBA constitutes a failure to bargain in good faith in violation of Section 1201(a)(5) of the Act. In addition, the Association asserts that the District's repudiation of the CBA undermines employes' confidence in the collective bargaining process and has a chilling effect on the exercise of rights protected under the Act, which results in both an independent and derivative violation of Section 1201(a)(1). The District, on the other hand, contends that there cannot be a finding of unfair practices because the School Board, which voted to approve and executed the CBA in September 2013, was a lame duck governing body, which had no authority to bind the successor School Board to the terms of the new CBA. The District also moves to reconvene the hearing to permit the introduction of additional evidence and testimony regarding the alleged negotiations of the early bird contract that purportedly occurred between June and September 2013.

It is well settled that an employer commits an unfair practice under Section 1201(a)(1) and (5) of the Act by repudiating a CBA which has already been ratified and signed by that entity. **AFSCME District Council 83 v. Summit Township**, 41 PPER 29 (Final Order, 2010). If the agreement was reached by a lame duck governing body, however, the agreement is not enforceable, and no such unfair practices may be found. **AFSCME District Council 83 v. Summit Township**, 40 PPER 6 (Proposed Decision and Order, 2009) *citing* **Teamsters Local Union 205 v. Borough of Plum**, 33 PPER ¶ 33077 (Proposed Decision and Order, 2002). The successor governing body must take prompt action at its first meeting to void the previously ratified agreement in such instances to avoid a finding of unfair practices. **International Ass'n of Machinists & Aerospace Workers Local 243 v. Stewartstown Borough**, 44 PPER 9 (Final Order, 2012).

Preliminarily, the Association has clearly sustained its burden of demonstrating that the District repudiated the 2014-2018 CBA. Indeed, the record shows that the Association's membership ratified a tentative CBA on September 19, 2013, which was the same date the

District's School Board voted to approve the CBA by a count of seven in favor to two opposed. Likewise, the record shows that the District's School Board voted in February 2014 to pass a Resolution on Revocation in which it rescinded its prior approval of the 2014-2018 CBA. Such a revocation normally constitutes clear evidence of bad faith bargaining. **Athens Area School District v. PLRB**, 760 A.2d 917 (Pa. Cmwlth. 2000); **Summit Township, supra**. However, the District has raised a lame duck defense to the charge, contending that the September 2013 School Board had no authority to bind the successor School Board to the terms of the 2014-2018 CBA. As a result, the question is whether the School Board, as constituted in September 2013, was a lame duck governing body pursuant to the case law. I am not persuaded that it was; therefore, the District violated the Act in February 2014 by repudiating a lawfully executed CBA between the parties.

First of all, there is absolutely no authority whatsoever for defining a lame duck governing body as including any period of time other than that between the general election and the conclusion of a term. *See* **Lobolito, Inc. v. North Pocono School District**, 755 A.2d 1287 (Pa. 2000) (concluding that a successor school board was entitled to disavow a contract entered by an outgoing school board in December, after a new majority was elected in the November general elections); **Borough of Pitcairn v. Westwood,** 848 A.2d 158 (Pa. Cmwlth. 2004)(holding that borough council could terminate the police chief, who was appointed by the previous borough council in December after four of seven council members were not reelected in the general election); **Falls Twp. V. McManamon**, 537 A.2d 946 (Pa. Cmwlth. 1988)(invalidating a contract entered into by an outgoing board of supervisors in late November, after the general election). In fact, the Commonwealth Court has expressly rejected the notion that a school board member lacks authority to act simply because he or she has been defeated in a primary election. **Burns v. Board of Directors of the Uniontown Area School District**, 748 A.2d 1263 (Pa. Cmwlth. 2000).

In **Burns**, which involved a superintendent's contract, three sitting school board members, whose terms would expire in early December, were defeated in the May 1997 primary election. On July 11, 1997, the school board voted to approve a five-year contract for its current superintendent beginning July 1, 1998. After the December reorganization of the school board, the new school board voted to rescind the superintendent's 1998-2003 contract, apparently claiming the July 1997 school board was a lame duck. In rejecting this argument, the Court opined:

> Although District characterizes the then-sitting July 1997 (School) Board as a 'lame duck' (school) board, this term has no basis in the School Code. Such a political distinction has no basis in law in determining the rights, duties and obligations of a duly elected (school) board fulfilling duties for their full term. On the contrary, even though some of the members of the July 1997 (School) Board may not have been nominated for reelection in their respective party, at the time of the July 1997 (School) Board action upon the expiring term of the superintendent, the sitting (School) Board, although not mandated to do so, was fully empowered under the School Code to make that decision as part of their duties to fulfill their existing term.

Burns, 748 A.2d at 1269-1270.

In the same vein, although some of the School Board members in this case may not have been nominated for reelection by their respective party, at the time of the September 2013 ratification of the CBA, the sitting School Board was fully empowered under the School Code to make that decision as part of their duties to fulfill their existing term. As the Commonwealth Court noted in **Burns**, the School Code provides that the terms of school board members shall expire on the first Monday of December at the conclusion of their term. *Id.* at 1264 fn2 *citing* 24 P.S. §§ 3-303, 3-401. Similarly, as the Association points out, the School Code and PERA both authorize the School Board to enter into CBA's with the District's employes, without limitation. *See* 24 P.S. § 11-1101-A, *et seq.*; 43 P.S. § 1101.101 *et seq.* The District submits that **Burns** actually supports its position because the critical factor therein was that there was an express statutory exclusion in the School Code for the election, reappointment, and removal of the

superintendent. However, I am unable to conclude that **Burns** has such a narrow limitation contained in its holding. As the Association persuasively notes, the School Code calls for school board elections to occur every other year. *See* 24 P.S. § 3-303. Therefore, such a narrow reading of **Burns**, which permits the definition of a lame duck governing body to encompass the period following a primary election, would create an unworkable situation and essentially render a school board unable to act for eight months of every two-year election cycle. This is inconsistent with the public policy underlying the Act of promoting orderly and constructive relationships between all public employers and their employes, *See* 43 P.S. § 1101.101, and would cripple governing bodies' ability to govern. In fact, the school board minutes submitted by the District reflect that, between the May primary elections and the December reorganization of the School Board, the empowered School Board approved dozens of employment actions and contracts, which according to the District's arguments in this case, could now be rescinded or invalidated on a whim. (Exhibit D-1). Such a proposition cannot be countenanced by this Board.

The District complains that if the validity of the 2014-2018 CBA is upheld, the new School Board will not get the opportunity to negotiate a CBA with its teachers' union. However, it is well settled that pursuant to PERA's statutory bargaining obligations, a public employer may enter into a CBA with its employes for a duration which extends beyond the term of office of the members of the governing body. **AFSCME District Council 83 v. Summit Township**, 41 PPER 29 (Final Order, 2010) *citing* **Chichester School District v. Chichester Education Ass'n**, 750 A.2d 400 (Pa. Cmwlth. 2000), **appeal denied**, 795 A.2d 980 (2000). Likewise, the District complains about the alleged irregularity of early bird negotiations here and submits that this somehow justifies its actions in rescinding the 2014-2018 CBA. Once again, the District's contention is without merit, as a governing body is free to negotiate with its employe representative or reopen the terms of a CBA at any time if both parties agree. 43 P.S. § 1101.701. The existence of early bird contract negotiations hardly evidences any sort of bad faith on the part of either party, as alleged by the District.

In any event, the Association contends that, even assuming for the sake of argument that the primary election disqualified the three school board members who were ultimately replaced through the general election, and disregarding the ratification votes of those three members, the CBA still would have been ratified by the District, since the vote was seven to two. The District, meanwhile, counters that such a position is flawed because the School Code specifically requires that certain actions, such as entering into contracts and fixing salaries and compensation for teachers, can only be undertaken by an affirmative vote of a majority of all the members of the board of school directors in every school district, duly recorded, showing how each member voted. Carrying the District's argument to its logical conclusion then, the affirmative votes of five members of a nine member school board are required to enter into a CBA. I find the Association's argument more persuasive and controlling here.

As previously set forth above, there were four school board seats up for election during the May 2013 primary elections. Of those four seats, one school board member was reelected (Fleischman), and three new school board members were elected to the remaining seats (Helsing, Pander, and Yonkee). An additional school board member (Clendennen), who was not up for reelection, resigned after the general election took place in November 2013 and was replaced by appointment. Accordingly, the results of the May 2013 primary elections demonstrated that there could potentially be a change of at most three persons on the school board. The record shows that at least one sitting board member (Calabria) who was defeated in the primary election chose to continue his candidacy with a write-in campaign. (N.T. 40). It is of no consequence that a fourth school board member (Clendennen) who was not up for reelection resigned after the general election in November 2013 since he could have continued his term if he so desired.

As the Association points out, the record reflects that the November general elections ultimately led to the replacement of school board members Calabria, Inman, and Fitzgerald. The six remaining members of the school board would still have constituted a majority, and therefore a quorum, and thus had the authority to take action under the School Code. *See* 24 P.S. § 4-422 ("A majority of the members of a board of school directors shall be a quorum."). Discounting those three votes, which were all "yes"

votes, the CBA would still have been ratified by a vote of four to two, and therefore accepted by the District's School Board. As such, the District's School Board, as constituted in September 2013, was not a lame duck governing body in any regard, which renders the case law on lame duck governing bodies wholly inapplicable here.

The District argues that Section 508 of the School Code mandates that certain actions can only be undertaken by an affirmative vote of a majority of all the members of the school board. Section 508 of the School Code provides as follows:

> The affirmative votes of a majority of all the members of the board of school directors in every school district, duly recorded, showing how each member voted, shall be required in order to take action on the following subjects...
>
> Entering into contracts of any kind, including contracts for the purchase of fuel or any supplies, where the amount involved exceeds one hundred dollars ($100).
>
> Fixing salaries or compensation of officers, teachers, or other appointees of the board of school directors...
>
> Failure to comply with the provisions of this section shall render such acts of the board of school directors void and unenforcible (sic).

24 P.S. § 5-508.

The District's argument in this regard is without merit. The Pennsylvania courts have long held that the language contained in Section 508 of the School Code is directory only, and not mandatory. **Mullen v. DuBois Area School District**, 259 A.2d 877 (Pa. 1969); **Cadchost, Inc. et. al. v. Mid Valley School District**, 512 A.2d 1343 (Pa. Cmwlth. 1986); **Harborcreek School District v. Harborcreek Education Association**, 441 A.2d 807 (Pa. Cmwlth. 1982). In fact, this Board has recognized this very same principle of law in **Summit Township**, **supra**, opining that as long as there is solid proof of approval of the CBA by a majority of the governing body, the requirements of Section 508 are directory only. It is undisputed here that the CBA was approved by a majority of the School Board members in September 2013. What is more, the Commonwealth Court in **Cadchost** specifically upheld the school board's approval of a contract for the sale of land where the solicitor for the school district testified that at least seven of the nine board members were present for a work session where they authorized the solicitor to enter the agreement. *Id.* at 1345. Therefore, by implication, the votes of seven members of a nine member school board were sufficient to satisfy the requirements of Section 508 of the School Code.

The District would have this Board adopt a rule whereby any action of a school board involving the matters set forth in Section 508, which includes entering into a collective bargaining contract, would be void and unenforceable if even one single member is not present for the vote. Notwithstanding the ample Pennsylvania authority holding otherwise, such a rule would be ill-advised. Indeed, if just one school board member was disqualified from voting on an issue contained in Section 508, then the school board would be unable to take any action relative to that issue until the disqualified member resigned or was voted out of office, and ultimately replaced.

Similarly, the District makes much of the prior School Board's Negotiations Committee's alleged failure to comply with the Sunshine Act, 65 Pa.C.S. §§ 701-716, as amended. In particular, the District complains that Section 708(a)(2) requires the Negotiations Committee to announce the reason for holding any Executive Sessions related to the negotiation or arbitration of a CBA at an open meeting immediately prior or subsequent to the Executive Session, and that the meeting minutes contained in Exhibit D-1 are silent in this regard, despite McCowin's testimony that he met with the Negotiations Committee at least seven times beginning in July 2013. Once again, however, the District's argument is completely lacking in merit. This Board has held that a public employer may not use the Sunshine Act or statutory public meeting requirements as a guise

to engage in bad faith bargaining, or to avoid finalizing an agreement reached by a majority of board members, or to negate its contractual obligations arrived at through collective bargaining. **Summit Township, supra.** As such, the District's arguments regarding the Sunshine Act and Section 508 of the School Code are rejected.

Further, the District has waived any defense that the School Board, as constituted in September 2013, was a lame duck governing body which did not have the authority to bind the successor School Board. As previously set forth above, the District's newly elected School Board had at least one regular meeting on January 16, 2014, during which it did not vote to rescind its prior approval of the 2014-2018 CBA. Instead, the newly constituted School Board waited until February 14, 2014, which was approximately five months after the prior School Board's ratification and two months after its own reorganization, to rescind the CBA. Such a delay is fatal to the District's lame duck argument. This Board has held that a successor governing body must take prompt action at its first meeting to void the previously ratified agreement in order to avoid a finding of unfair practices. **Stewartstown Borough, supra.** The District did not take prompt action at its first meeting to void the previously ratified agreement in this case, and therefore, should not be heard to complain when it has to abide by the terms of the 2014-2018 CBA.

In addition, the Association contends that the District has committed an independent violation of Section 1201(a)(1) of the Act. The Board will find an independent violation of Section 1201(a)(1) if the actions of the employer, in light of the totality of the circumstances in which the particular act occurred, tend to be coercive, regardless of whether employes have been shown in fact to have been coerced. **Northwestern Education Ass'n v. Northwestern School District**, 16 PPER § 16092 (Final Order, 1985). Improper motivation need not be established; even an inadvertent act may constitute an independent violation of Section 1201(a)(1). *Id.*

In this case, the District's action in unilaterally repudiating a CBA after both the District's School Board and the Association's membership had ratified it inevitably undermines the employes' confidence in the collective bargaining process, and would have a tendency to discourage employes from exercising the right to collectively bargain, as well as other rights protected under PERA. If an employer has the authority to declare a CBA void and ineffective after the agreement has been properly negotiated and executed in accordance with the Act, employes could be reluctant to file and pursue any grievance that might possibly offend the employer. There would be a rational fear that any successful grievance could result in the involuntary dissolution of the entire CBA. As a result, the District has also committed an independent violation of Section 1201(a)(1) of the Act.

Finally, the District has moved to reconvene the hearing in this matter to permit the introduction of additional evidence and testimony regarding the alleged negotiations of the early bird contract that purportedly occurred between June and September 2013. To begin, the District inexplicably claims that the record was not closed following the hearing on April 23, 2014. However, at the conclusion of the hearing, counsel for both parties were asked whether they had any additional evidence or testimony to present, and each responded in the negative. Likewise, neither side reserved the right to submit additional evidence or testimony. (N.T. 46-47). As such, the record was closed. Accordingly, the District's Motion to Reconvene the Hearing will be treated as a Motion to Reopen the Record, which is specifically authorized, albeit on exceptions from a Hearing Examiner's decision, by the Board's regulations. *See* 34 Pa. Code § 95.98(f)(2).

The Board will grant a request to reopen the record for the taking of additional evidence when the following five criteria are met; the evidence sought to be admitted must be evidence that: (1) is new; (2) could not have been obtained at the time of hearing through the exercise of due diligence; (3) is relevant and non-cumulative; (4) is not for the purpose of impeachment; and (5) is likely to compel a different result. **Teamsters Local 205 v. Peters Creek Sanitary Authority**, 34 PPER ¶ 27 (Final Order, 2003). The District has fallen woefully short of satisfying this five-part test.

First of all, the evidence which the District seeks to introduce at another hearing is not new. Nor has the District shown that the evidence could not have been obtained at the time of the hearing through the exercise of due diligence. According to the District's

own Motion and Exhibit "C," which is attached thereto, the alleged emails the District wants to submit were present on the District's server between June and September 2013. And, the District had the ability to control and retrieve them since that time, more than six months prior to the hearing. What is more, the emails had allegedly been extracted on March 13, 2014, well before the hearing on April 23, 2014. The District's administration and counsel had access to the emails more than 40 days prior to the hearing. At no point leading up to the hearing, during the hearing, or any point after the hearing, until the submission of the motion to reconvene, did the District raise any concern regarding its ability or inability to adequately prepare for the hearing. Nor did the District even request a continuance to allow for the accessing of these alleged emails and adequate preparation for the hearing.[2] In fact, the District did enter an email which was within its alleged search parameters into evidence during the hearing. (Exhibit D-1).

In addition, the alleged evidence is irrelevant to this proceeding and would not compel a different result. As set forth at length above, the instant matter did not involve an action by a lame duck governing body. Regardless of the content of the alleged emails, the September 2013 School Board was a lawfully-seated School Board which ratified the 2014-2018 CBA. As a result, the District's Motion to Reconvene the Hearing (Reopen the Record) is denied.[3] For the foregoing reasons, and because the District's Motion presents no novel issues of law or fact, the District's request for oral argument on its Motion to Reconvene the Hearing is similarly denied. *See* **Peters Creek Sanitary Authority**, **supra**.

In light of this record, the Association has sustained its burden of proving that the District violated Section 1201(a)(1) and (5) of the Act by repudiating the 2014-2018 CBA in February 2014.

CONCLUSIONS

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

1. The District is a public employer within the meaning of Section 301(1) of PERA.

2. The Association is an employe organization within the meaning of Section 301(3) of PERA.

3. The Board has jurisdiction over the parties hereto.

4. The District has committed unfair practices in violation of Section 1201(a)(1) and (5) of PERA.

ORDER

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

HEREBY ORDERS AND DIRECTS

that the District shall

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

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[2] The District did request a continuance of the March 26, 2014 hearing due to its counsel already having made arrangements for a prepaid vacation during that time. The continuance was granted, and the hearing was rescheduled for April 23, 2014. However, no such request was made for the purpose of extracting emails from the District's server or needing more time to adequately prepare for the April 23, 2014 hearing.

[3] The District's arguments in its numerous filings are replete with references to asserted facts, which were not submitted into the evidentiary record during the April 23, 2014 hearing. The Association's objections to these asserted facts contained in the District's Offer of Facts and Offer of Proof are sustained, aside from the three stipulations made by the Association to the paragraphs contained in the Offer of Facts. (N.T. 42-46; Exhibit D-4).

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

3. Take the following affirmative action:

(a) Implement and honor the valid and binding 2014-2018 CBA between the parties;

(b) Make the Association whole for any lost wages and/or benefits, plus six percent per annum interest on the amount, based on the District's unlawful rescission of the valid and binding 2014-2018 CBA;

(c) Post a copy of this Decision and Order within five (5) days from the effective date hereof in a conspicuous place readily accessible to the bargaining unit employes and have the same remain so posted for a period of ten (10) consecutive days;

(d) Furnish to the Board within twenty (20) days of the date hereof satisfactory evidence of compliance with this Decision and Order by completion and filing of the attached Affidavit of Compliance; and

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

IT IS HEREBY FURTHER ORDERED AND DIRECTED

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

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this tenth day of October, 2014.

PENNSYLVANIA LABOR RELATIONS BOARD

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John Pozniak, Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

BLACKHAWK EDUCATION ASSOCIATION, PSEA/NEA	:	
v.	:	Case No. PERA-C-14-58-E
BLACKHAWK SCHOOL DISTRICT	:	

AFFIDAVIT OF COMPLIANCE

The Blackhawk School District hereby certifies that it has ceased and desisted from its violation of Section 1201(a)(1) and (5) of the Public Employe Relations Act; that it has complied with the Proposed Decision and Order as directed therein; that it has posted a copy of the Proposed Decision and Order as directed therein; and that it has served an executed copy of this affidavit on the Union at its principal place of business.

_____
Signature/Date

_____
Title

SWORN AND SUBSCRIBED TO before me
the day and year first aforesaid.

_____
Signature of Notary Public