

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

ALLEGHENY COUNTY PRISON EMPLOYEES :
INDEPENDENT UNION :
v. : CASE NO. PERA-C-22-214-W
COUNTY OF ALLEGHENY :

PROPOSED DECISION AND ORDER

On August 15, 2022, Allegheny County Prison Employees Independent Union (ACPEIU or Union) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (PLRB or Board) alleging that Allegheny County (County or Employer) violated Section 1201(a)(1) and (3) of the Public Employe Relations Act (PERA or Act) by retaliating and discriminating against Union President Brian Englert by disciplining him for engaging in protected activities.

On September 13, 2022, 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 November 23, 2022, in Pittsburgh, as the time and place of hearing.

The hearing was necessary and held on November 23, 2022, in Pittsburgh, at which time all parties in interest were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. The Union submitted a post-hearing brief on February 10, 2023. The County submitted a post-hearing brief on May 12, 2023.

The Hearing Examiner, based upon all matters of record, makes the following:

FINDINGS OF FACT

1. The Union is a labor organization and the exclusive collective bargaining representative of Allegheny County Jail corrections officers within the meaning of the Act. (N.T. 5-7).
2. The County is a public employer within the meaning of the Act. (N.T. 5-7).
3. The parties are subject to a Collective Bargaining Agreement (CBA) which consists of the 1994-1997 consolidated agreement and subsequent amending interest arbitration awards. (Joint Exhibit 1).
4. Brian Englert is a corrections officer and has been an employe of the County for over 11 years. He has been President of the Union since November, 2021. The immediate past President of the Union was Jason Batykefer, who was promoted to Major and now outside of the bargaining unit. (N.T. 13-14).

5. The CBA and the following interest arbitration awards have a uniform allowance and a uniform maintenance allowance for corrections officers. The CBA and the following interest arbitration awards provide that the County shall provide new corrections officers their first set of uniforms and then requires the corrections officers to use their uniform allowances with a uniform vendor designated by the County for subsequent replacement uniforms. The corrections officers have had continual problems getting uniforms and other equipment in a timely manner due to the vendor being backlogged or backordered. Englert received many complaints from his bargaining unit members concerning uniforms. (N.T. 39-42, 48, 51, 121-122; Joint Exhibit 1).

6. Englert addressed the uniform issue by contacting the County Purchasing Department by email on March 18, 2022, and outlined the problems the corrections officers were having with uniforms and asked if another vendor may be used to solve the problems. The director of the Purchasing Department responded to Englert on March 21, 2022, with an email indicating that a County purchasing agent would step in to assist. The purchasing agent emailed Englert a day later requesting a list of corrections officers with ongoing uniform issues. This led to an exchange of information between Englert, County purchasing and a representative from the existing vendor, Pittsburgh Public Safety. Englert's efforts did not ultimately bring an end to the uniform issues. (N.T. 46-51, 66-68; Union Exhibit 6).

7. On June 15, 2023, Englert was suspended for one day for violations of County Jail policies and procedures. The reasons cited for this suspension were Englert arriving approximately three hours late to work on April 7, 2022, and for sending multiple emails in March and April of 2022 to the Purchasing Department of Allegheny County regarding uniform issues and completing a "Piggyback Justification Form" and submitting it to the Purchasing Department. (N.T. 29-30; Union Exhibit 3).

8. The letter from Warden Harper to Englert which announced the discipline on June 15, 2022, stated in relevant part:

June 15, 2022

Dear Officer Brian Englert:

A Loudermill hearing was held on Tuesday May 10, 2022 at 1513 hours, which consisted of Deputy Warden Adam Smith, Deputy Warden Blythe Toma, Robert Lee, HR Generalist. You were represented by union representative Charles Claypoole and Brett Amrhein.

At the hearing, you were given the opportunity to respond to charges that your conduct is in violation of the below listed Allegheny County Jail violations [sic] of policies and procedures.

ACJ Code of Ethics

2.6 ALL EMPLOYEES SHALL REPORT FOR WORK AS SCHEDULED

a. All employees shall be prompt and punctual in their assigned reporting times. The prison is a 24-hour operation and excessive time off and lateness cannot be tolerated for the efficient allocation of staff.

b. All employees are required to be present at and for their respective post on time.

c. Lateness of an ongoing nature will be cause for disciplinary action.

d. If for any reason an employee is unable to report for duty at the assigned time, they are required to notify the prison supervisors' office as early as possible in accordance with the Reporting-Off Policy. This includes any employee who anticipates being late. Failure to notify the jail supervisor will be cause for disciplinary action.

e. All employees must clearly understand that their absence and/or lateness works an undue hardship of their fellow employee, due to the necessity of maintaining proper manning levels being essential to the prison operation.

ACPEIU CBA

20. New Article, Union Business- The following language shall be added as a new article:

Section 1. One of either the Union President or Vice President shall be able to take off Union Business leave, (unless both individuals are required to testify in which both shall be permitted off) for any and all Union Business with proper notification provided to the jail administration. Proper notification shall be defined as three (3) calendar days. Notification must be made to the Warden, Chief Deputy Warden or Deputy Warden of Operations. This shall include: Union meetings, preparation time for and attendance at interest arbitration proceedings, preparation time for and attendance at grievances and grievance arbitrations, and preparation time for and attendance at unfair labor practice proceedings. After notification has been provided to the Jail Administration, the President and/or Vice President shall call off to the employee entrance per policy and procedure and will not be compensated by the county for the day but instead by the Union.

ACJ Code of Ethics

4.8 CHAIN OF COMMAND:

The jail management is reflective of the chain of command. Each employee reports to a supervisor in their department or shift, who in turn reports to a division head (business, security, treatment), who report to the Warden. The chain of command permits effective management and should be utilized. While all employees are encouraged to process matters through the chain of command, openly and fairly, they are also encouraged to effectively communicate to all their supervisors, directly as well as indirectly.

Specifically, on 4/7/22 you were scheduled to work the 3x1 I shift. You reported late (approximately 3 hours) for your shift and cited "union business" upon arrival to the ACJ. This leave was not pre-approved as required.

Additionally, on March 18th, 2022, March 24th, 2022, March 25th, 2022, March 26th, 2022, March 30th, 2022 and April 12th, 2022 you sent multiple emails to the Purchasing Department of Allegheny County. The emails detail issues with uniforms. you also completed a "Piggyback Justification Form" and submitted it to the Purchasing Department. These roles are outside your scope of duty, these issues should have been forwarded through the chain of command for resolution.

Therefore, based upon documentation submitted, I have determined that you will be suspended from your position as a correctional officer for one (1) day beginning July 21, 2022, for the above-mentioned violations of the Allegheny County Jail policies and procedures. This suspension shall be held in abeyance, until the completion of the grievance process.

Sincerely,

Orlando L. Harper
Allegheny County Jail
Warden

(Union Exhibit 3).

9. Staffing issues at the Jail have increased over time. The job of a corrections officer is physically and mentally demanding. Approximately eight years ago, corrections officers would be forced to work a double shift due to lack of manpower once a week or so. This is referred to as forced or mandatory overtime. The rate of forced overtime or double shifts has increased dramatically over the past eight years. Some corrections officers are working up to an additional

forty hours a week of forced overtime. Such amounts of forced overtime may impact corrections officer safety by reducing alertness. Forced overtime also diminishes corrections officers' personal and rest time. (N.T. 24-27, 78, 53-56, 105-106, 110-111).

10. On August 4, 2022, Englert was suspended for three days for violations of the County Jail Code of Ethics and the County Jail Social Media Policy for a tweet made by Englert on May 29, 2022. In the tweet, Englert posted numbers he calculated showing how many officers were missing on shifts at the Jail. The tweet then says "Adequately staffed again today @bethanyhallam @Allegheny_CO @acj_comms This is union busting by Democrats." Englert sent the tweet from an account with the name "ACJUnionPres". (N.T. 38-39, 54-57; Union Exhibit 5, 7).

11. The letter from Warden Harper to Englert which announced the discipline on August 4, 2022, stated in relevant part:

August 4, 2022

Dear Officer Brian Englert,

A Loudermill hearing was held on Tuesday August 2, 2022 at 1510 hours, which consisted of Chief Deputy Warden Jason Beasom, Deputy Warden Adam Smith and Robert Lee, HR Generalist. You were represented by union representative Officer Brett Amrhein.

At this hearing, you were given the opportunity to respond to charges that your conduct is in violation of the below listed Allegheny County Jail violations [sic] of policies and procedures.

ACJ Code of Ethics

2.3 ALL EMPLOYEES SHALL CARRY OUT ALL ORDERS AND DIRECTIVES:

a. All employees will carry out all orders and directives issued or given them by a supervisor, in a prompt and efficient manner. DISREGARD OF ORDERS AND DIRECTIVES ISSUED BY A SUPERVISOR IN A WILLFUL OR DILATORY MANNER WILL BE CAUSE FOR SEVERE DISCIPLINARY ACTION UP TO AND INCLUDING DISCHARGE.

b. Insubordination in any fashion will not be tolerated. All employees will render due respect to all supervisory staff and will carry out all orders and instructions given. No staff member will engage in making derogatory remarks or discrediting statements or slanderous gossip, concerning supervisors, nor their orders; or instructions. Disregard of such, will be cause for severe disciplinary action up to and including termination.

3.3 All employees are required to hold confidential all jail matters. Staff information distributed verbally or written is not to be discussed with any inmate of the institution, nor any individual who has not been expressly authorized.

3.7 All employees will refrain from any activity or association that may place themselves in a compromising position, jeopardizing the security of the institution and reflecting poorly upon themselves or the prison institution and/or fellow staff.

ACJ Policy #624

Social Media Use by Employees:

1. All authorized personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of this department for which loyalty and confidentiality are important, impede the performance of duties, impair discipline and harmony among: coworkers, or negatively affect the public perception of the department.

3. All authorized personnel shall not post, transmit, or otherwise disseminate any information to which they have access as a result of their employment without written permission from the Warden.

All authorized personnel are prohibited from the following:

b) Speech involving themselves or other department personnel reflecting behavior that would reasonably be considered reckless or irresponsible.

d) All authorized personnel may not divulge information gained by reason of their authority; make any statements, speeches, appearances, and endorsements; or publish materials that could reasonably be considered to represent the views or positions of this department without expressed authorization.

On Sunday, May 29th, 2022, a post was made on a social media page pertaining to staffing at the Allegheny County Jail. The post is a picture of an email with the positions needed for overtime. The post heading stated "Adequately staffed again

today @bethanyhallam @Allegheny_Co @acLcomms.
This is union busting by democrats."

Therefore, based upon documentation submitted, I have determined that you will be suspended from your position as a Correctional Officer at the Allegheny County Jail for three (3) days beginning September 26, 2022 through September 28, 2022, for the above-mentioned violations of the Allegheny County Jail policies and procedures. This suspension shall be held in abeyance, until the completion of the grievance process.

Should you have any questions concerning this correspondence, please feel free to contact me directly at 412-350-2102.

Sincerely,

Orlando L. Harper
Allegheny County Jail
Warden

(Union Exhibit 5).

12. With respect to Englert's tweet containing information about jail staffing levels (Union Exhibit 7), Batykefer testified that he was concerned that the information in the tweet should not be public knowledge. He testified that he was concerned that anyone could read the tweets and relay the information to inmates which would create a safety concern since inmates may know that response times are going to be slower and backup may be less available. Batykefer was not aware of the tweet actually causing any safety problems around the time it was made. (N.T. 108-110).

DISCUSSION

In its Charge, the Union asserts that the County committed violations of Section 1201(a) (3) of the Act when the County disciplined Union President Englert on June 15, 2022, and August 4, 2022. The Union also alleges in its Charge that these two instances of discipline were independent violations of Section 1201(a) (1).

In a discrimination claim, the complainant has the burden of establishing that the affected employees engaged in protected activity, that the employer knew of that activity and that the employer took adverse employment action that was motivated by the employees' involvement in protected activity. St. Joseph's Hospital v. PLRB, 473 Pa. 101, 373 A.2d 1069 (1977). Motive creates the offense. PLRB v. Stairways, Inc., 425 A.2d 1172 (Pa. Cmwlth. 1981). The employer has a defense even if the union proves discriminatory motive. Once the burden of a prima facie case has been met, the employer may rebut a prima facie case of discrimination by proffering a credible nondiscriminatory reason for its actions. Deputy Sheriffs Association

of Chester County v. Chester County, 46 PPER 22 (Final Order 2014); see, Wright Line, Inc., 251 NLRB 1083, 105 LRRM 1169 (1980), enforced, 662 F.2d 899 (1st Cir. 1981), cert. denied, 455 U.S. 989, 102 S.Ct. 1612 (1982). The employer need only show by a preponderance of the evidence that it would have taken the same actions sans the protected conduct. Pennsylvania Federation of Teachers v. Temple University, 23 PPER ¶ 23033 at 64 (Final Order, 1992).

An independent violation of Section 1201(a)(1) occurs, "where in light of the totality of the circumstances, the employer's actions have a tendency to coerce a reasonable employe in the exercise of protected rights." Fink v. Clarion County, 32 PPER ¶ 32165 at 404 (Final Order, 2001); Northwest Area Educ. Ass' n v. Northwest Area Sch. Dist., 38 PPER 147 (Final Order, 2007). Under this standard, the complainant does not have a burden to show improper motive or that any employes have in fact been coerced. Pennsylvania State Corrections officers Ass' n v. Commonwealth of Pennsylvania, Department of Corrections, Pittsburgh SCI, 35 PPER 97 (Final Order, 2004). However, an employer does not violate Section 1201(a)(1) where, on balance, its legitimate reasons justifiably outweigh concerns over the interference with employe rights. Ringgold Educ. Ass'n v. Ringgold Sch. Dist., 26 PPER 26155 (Final Order, 1995).

Section 401 of PERA provides employes with the right to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection. 43 P.S. Section 1101.401. An employer violates [the Act] if it maintains workplace rules that would reasonably tend to chill employes in the exercise of their rights. Teamsters Local 773 v. Monroe County, 48 PPER 2 (Proposed Decision and Order, 2016), citing T-Mobile USA, Inc. and Communications Workers of America and Communications Workers of America Local 7011, 363 NLRB No. 171 (2016). In Monroe County, the Hearing Examiner reviewed a social media policy adopted by the Monroe County Correctional Facility to determine if the unilateral implementation of that policy was an independent violation of Section 1201(a)(1). The Hearing Examiner found that some parts of the Social Media Policy in Monroe County violated PERA because they had the tendency to coerce employees in the exercise of guaranteed rights found at Section 401 of PERA. In Monroe County the Hearing Examiner specifically found that Social Media Policy language which restricts employes ability to share information via social media for the purposes of exposing unsafe working conditions violates employes' Section 401 rights under PERA. That is, using social media to expose unsafe working conditions is protected activity.

In general, the Board has found that a wide range of Union speech is protected. In Pennsylvania State Troopers Association v. Commonwealth of Pennsylvania, Pennsylvania State Police, 41 PPER 33 (Final Order, 2010), the Board stated that "an employe's criticism of the employer will lose the protection of the act only if it is 'offensive, defamatory, or opprobrious,' and not if it is merely 'intemperate, inflammatory or insulting.'" In AFSCME, District Council 85, Local 3530 v. Millcreek Township, 31 PPER ¶ 31056 (Final Order, 2000), the Board opined that an employe's conduct as a union representative will only lose the protection of the Act where it is so obnoxious or violent that it renders the employe unfit for service.

Moving to this case, Englert was, on August 4, 2022, disciplined for a tweet that showed that the Jail was understaffed with specific numbers for shifts on May 29, 2022. I find that this discipline was a violation of Section 1201(a)(3) because the County disciplined Englert specifically for engaging in protected activity. Motive creates the offense. Stairways, supra. As discussed above in Monroe County, employees' use of social media to share information for the purposes of exposing unsafe working conditions is protected activity under Section 401. The Union in this matter put on credible testimony that Englert, as Union President, was concerned about understaffing at the Jail and motivated by what he saw as the deleterious effect that understaffing had on bargaining-unit members' health and safety due to the resultant forced-overtime shifts. While the County in this case did, through the testimony of Batykefer, identify an interest in preventing information about staffing from being publicly disseminated, I rely on Monroe County, supra, for the determination that the tweet in question was protected activity, even though the County had its own concerns about safety in the Jail. Therefore, the County in this case cannot rebut the showing of discriminatory motive by proffering a credible nondiscriminatory reason for its actions over Englert's tweet.

The County makes no argument that the protected communication should lose protection for being "offensive, defamatory, or opprobrious".

In its Brief at page 17, the County cites Department of Welfare, 43 PPER 46 (Proposed Decision and Order, 2011) and Temple University Hospital, 38 PPER 38 (Final Order, 2007) for the proposition that an employer can ban communication from employees based on the employer's concern for safety. In Department of Welfare, the Hearing Examiner held that the employer did not violate Section 1201(a)(1) of PERA by prohibiting employees from wearing a union button in client service areas that read "More Staff = Quality Services." In Temple University Hospital, the Board held that the employer hospital could ban nurses from wearing a sticker when near hospital patients that said: "Bring Back Janell: Safety for All Our Staff." I find the reliance on these cases misplaced as they deal with expressions on uniforms made by employees during work hours while the employees were engaged personally with a customer or client. Englert was not on work time in front of inmates when he made the tweet in question. Englert was not disseminating the staffing information to inmates personally while he was on duty. The issue in this matter is about social media posts made by the Union President outside of work. Thus, I find that the Monroe County, supra, case to be the more controlling precedent in this matter.

Should the Board disagree that the discipline of Englert on August 4, 2022, was a violation of Section 1201(a)(3), that discipline would also be an independent violation of Section 1201(a)(1). The discipline of Englert for engaging in protected activity under Section 401 has a tendency to coerce a reasonable employee in the exercise of protected rights. That is, disciplining Englert for making a tweet that is protected activity would have the tendency to coerce a reasonable employee from making similar tweets. The County has not put forth justified reasons which outweigh the concern over the interference of rights. As discussed above, Monroe County found that

restricting employees' ability to share information via social media for the purposes of exposing unsafe working conditions violates employee Section 401 rights under PERA.

Moving forward to another instance of discipline in this case, on June 15, 2022, Englert was disciplined, in part for:

[O]n March 18th, 2022, March 24th, 2022, March 25th, 2022, March 26th, 2022, March 30th, 2022 and April 12th, 2022 you sent multiple emails to the Purchasing Department of Allegheny County. The emails detail issues with uniforms, you also completed a "Piggyback Justification Form" and submitted it to the Purchasing Department. These roles are outside your scope of duty, these issues should have been forwarded through the chain of command for resolution.

The County, in the June 15, 2022, discipline letter to Englert cites the following rules as being violated with respect to Englert's communications regarding uniforms:

ACJ Code of Ethics

4.8 CHAIN OF COMMAND:

The jail management is reflective of the chain of command. Each employee reports to a supervisor in their department or shift, who in turn reports to a division head (business, security, treatment), who report to the Warden. The chain of command permits effective management and should be utilized. While all employees are encouraged to process matters through the chain of command, openly and fairly, they are also encouraged to effectively communicate to all their supervisors, directly as well as indirectly.

I find that this discipline on June 15, 2022, was a violation of Section 1201(a) (3) because the County disciplined Englert specifically for engaging in protected activity. Motive creates the offense. Stairways, supra. It is clear from the record that Englert's emails to the purchasing department and completion of a "Piggyback Justification Form" were over concerns the Union members had over uniforms. Uniform maintenance and uniform allowances are an explicit term and condition of employment in the CBA and subsequent interest arbitration awards between the parties. Englert credibly testified that many of his bargaining-unit members came to him with concerns about uniforms. Batykefer also testified that issues regarding uniforms for the corrections officers existed and that the third-party vendor was backlogged. Englert's communications over the uniforms therefore were clear concerted activities for the purpose addressing the working conditions of his bargaining-unit members as their representative.

Moving to the County's justification for disciplining Englert for his communications over uniforms, the County here cannot rely on a

chain of command work rule to prevent Englert from engaging in protected activity. See Teamsters Local No. 249 v. Millvale Borough, 36 PPER ¶ 147 (Final Order, 2005) (Holding that activity may be statutorily protected even though the activity may be perceived by the employer to violate its chain of command.); Fraternal Order of Police, Lodge No. 10 v. City of Allentown, 26 PPER ¶ 26143 (Final Order, 1995) (Holding that employees do not lose their protection under the 'mutual aid or protection' clause when they seek to improve terms and conditions of employment through channels outside the immediate employee-employer relationship).

The County makes no argument that the protected communication should lose protection for being "offensive, defamatory, or opprobrious".

The County at the hearing and in its brief presses the argument that Englert was disciplined over his uniform communications for conducting Union work on employer time (County Brief at page 14) and for misuse of computer resources (County Brief at pages 14-15). However, a review of the letter from the Warden which announced the discipline of Englert (Union Exhibit 3) shows that the County was not ultimately concerned about Englert conducting Union work on employer time or Englert's misuse of computer resources when it disciplined him for his communications regarding uniforms. The County in its letter to Englert only mentions the chain of command issues. I therefore find these arguments to be post-hoc justifications that are not accepted as credible.

The letter from the Warden disciplining Englert on June 15, 2022, contains a reference to a "Piggyback Justification Form" (Form). The nature of the Form was not well developed in the record by either party and was not included in the record by either party. The Form is briefly discussed in the pre-disciplinary conference report that led to the June 15, 2022, discipline. Overall, the record shows that the Form was treated similarly (as a violation of the Chain of Command) to Englert's emails by the Employer when it decided to discipline Englert. Neither party in their Briefs strongly distinguishes the Form as being conceptually different from the emails regarding the uniforms. The Form was simply not a focus of the hearing. The County does note in its Brief at page 14 that the Form is not part of the record. The County also notes at page 15 of its Brief that the discipline of Englert was over misappropriation of County resources. The record does not support a finding that Englert misappropriated County funds or that the County was concerned that Englert misappropriated funds when it disciplined him over the uniform communications. In its Brief, the County does not offer a proposed finding of fact that Englert misappropriated County funds connected to the Form. From a review of the record, I conclude that the discipline to Englert over the Uniform communications was mainly over his emails to third parties. I therefore include the emails and the "Piggyback Justification Form" together in the analysis above.

Thus, for the above reasons, the County in this case cannot rebut the showing of discriminatory motive by proffering a credible nondiscriminatory reason for its discipline over Englert's uniform communications.

Should the Board disagree that the discipline of Englert on June 15, 2022, was a violation of Section 1201(a)(3), that discipline would also be an independent violation of Section 1201(a)(1). The discipline of Englert for engaging in protected activity under Section 401 has a tendency to coerce a reasonable employe in the exercise of protected rights. That is, disciplining Englert for making communications about uniforms, which are protected activity, would have the tendency to coerce a reasonable employe from making similar communications about uniforms. The County has not put forth justified reasons which outweigh the concern over the interference of rights. As discussed above, the County cannot rely on its concerns for chain of command issues to discipline protected activity. Millvale Borough, supra; City of Allentown, supra. The County also cannot rely on the claim that it was disciplining Englert for conducting Union work on Employer time or misuse of computer resources as these justifications did not appear in the Warden's letter to Englert which announced the discipline.

A few issues remain. The June 15, 2022, one-day suspension of Englert also contained an entirely separate basis for the discipline. This other, separate basis was over Englert arriving late to work on April 7, 2022. The discipline is combined, however, in the Warden's letter with the unlawful discipline over the protected activity regarding uniforms, and the record shows that the one-day suspension is for both acts together. Having found above that the motive for the one-day suspension was unlawful, and there being no way to disentangle the one-day suspension from this unlawful motive, I must order the entire discipline on June 15, 2022, to be rescinded. I will not address the issue of tardiness in an exercise of judicial economy.

Additionally, the Union put on evidence of discipline of Englert from March 30, 2022. (Union Exhibits 1 and 2). The Charge in this matter was filed August 15, 2022, which is more than four months after March 30, 2022. Thus, the March 30, 2022, discipline is outside of the four-month statute of limitation found at Section 1505 of the Act.

CONCLUSIONS

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

1. Allegheny County is a public employer within the meaning of Section 301(1) of PERA.
2. ACPEIU is an employe organization within the meaning of Section 301(3) of PERA.
3. The Board has jurisdiction over the parties hereto.
4. Allegheny County has committed unfair practices in violation of Section 1201(a)(1) and (3) of PERA.

ORDER

In view of the foregoing and in order to effectuate the policies of PERA, the Hearing Examiner

HEREBY ORDERS AND DIRECTS

that the County of Allegheny shall:

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

2. Cease and desist from discriminating in regard to hire or tenure of employment or any term and condition of employment to encourage or discourage membership in any employe organization.

3. Take the following affirmative action:

(a) Immediately and completely rescind the June 15, 2022, and August 4, 2022, discipline of Brian Englert and make him whole for any and all losses relating to the discipline together with statutory interest of six percent *per annum*;

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

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

(d) 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 pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this decision and order shall become and be absolute and final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this seventh day of June, 2023.

PENNSYLVANIA LABOR RELATIONS BOARD

/s/ Stephen A. Helmerich
STEPHEN A. HELMERICH, Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

ALLEGHENY COUNTY PRISON EMPLOYEES :
INDEPENDENT UNION :
v. : CASE NO. PERA-C-22-120-W
COUNTY OF ALLEGHENY :

AFFIDAVIT OF COMPLIANCE

The County of Allegheny hereby certifies that it has ceased and desisted from its violation of Section 1201(a)(1) and (3) of the Public Employe Relations Act; that it has complied with the Proposed Decision and Order as directed therein; that it has immediately and completely rescinded the June 15, 2022, and August 4, 2022, discipline of Brian Englert and made him whole for any and all losses relating to the discipline together with statutory interest of six percent *per annum*; 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