

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD**

IN THE MATTER OF :

RHODE ISLAND STATE LABOR :
RELATIONS BOARD :

-AND- :

CASE NO. ULP-6369

CITY OF WOONSOCKET :

DECISION AND ORDER

TRAVEL OF CASE

The above-entitled matter comes before the Rhode Island State Labor Relations Board (hereinafter "Board") on an Unfair Labor Practice Complaint (hereinafter "Complaint"), issued by the Board against the City of Woonsocket (hereinafter "Employer") based upon an Unfair Labor Practice Charge (hereinafter "Charge") dated May 17, 2023 and filed by the New England Police Benevolent Association, Local 808 (hereinafter "Union").

The Charge alleged as follows:

In January 2023, the City of Woonsocket issued a proposed Body Worn Camera policy. On January 26, 2023, the Complainant sent a demand to bargain based on the same. There was no response to the demand to bargain. Woonsocket implemented the new policy on April 9, 2023 without any response to the demand to bargain.

Following the filing of the initial Charge, each party submitted written position statements as part of the Board's informal hearing process. On August 10, 2023, the Board issued its Complaint, alleging the Employer violated R.I.G.L. § 28-7-13 (6) and (10) when, through its representative, the Employer (1) unilaterally changed terms and conditions of employment for bargaining unit members by developing and implementing a Body Cam Usage policy; and (2) unilaterally changed terms and conditions of employment for bargaining unit members by developing and implementing a Body Cam Usage policy without bargaining with the Union over the terms of the policy; (3) Failed and refused to engage and/or negotiate in good faith with the Union over its unilateral change in terms and conditions of employment regarding the development and implementation of a Body Cam Usage policy. The Board held a formal hearing for this matter on September 19, 2023. Post-hearing briefs were filed by the Union on October 16, 2023 and the Employer on December 27, 2023. In arriving at the Decision and Order herein, the Board has reviewed and considered the testimony and exhibits submitted at the hearing and the arguments contained within the post-hearing briefs submitted by the parties.

FACTUAL SUMMARY

The matter before the Board is the Union's claim of an unfair labor practice against the Employer due to the Employer's unilateral implementation of a policy applying to the application and use of body worn cameras by police officers and the Employer's failure and/or refusal to bargain with the Union over the alleged change in terms and conditions of employment by the Employer through its unilateral action.

The facts surrounding this unfair labor practice Complaint are not in dispute between the parties. The Union and the Employer were, at all times relevant to the instant proceedings, subject to a collective bargaining agreement.¹ The Union represents police officers employed by the Employer.

In July 2022, a public notice was issued soliciting comment on the proposed adoption of a statewide policy regarding body worn cameras by police officers. (Employer Exhibit 1). In January 2023, the Employer issued a notice of its intent to implement a Body Worn Camera policy. On February 3, 2023, the Union sent a letter to the Employer demanding bargaining over the Employer's proposed Body Worn Camera policy. (Union Exhibit 1). The Employer did not respond to the Union's bargaining demand. On April 9, 2023, the Employer implemented a policy regarding Body Worn Cameras. (Joint Exhibit 1). Thereafter, the Union filed its Charge with the Board.

POSITION OF THE PARTIES

Union:

The Union asserts that the Employer engaged in an unfair labor practice and a violation of the State Labor Relations Act (hereinafter "Act") when it unilaterally drafted and implemented a Body Worn Camera policy without first bargaining with the Union over the decision to change the terms and conditions of employment of bargaining unit members due to its unilateral action.

Employer:

The Employer does not dispute the facts of this matter. Instead, the Employer contends that it simply adopted the Rhode Island Department of Public Safety's Rules and Regulations regarding the establishment of a statewide policy involving body worn cameras and that such action cannot be considered an unfair labor practice or a violation of the Act.

DISCUSSION

The issue before the Board is whether the actions of the Employer in unilaterally changing terms and conditions of employment by implementing a Body Worn Camera

¹ The Union referenced the existence of a collective bargaining agreement between the parties in its opening statement and the Employer did not dispute this statement. However, neither party introduced a copy of the current collective bargaining agreement into evidence as an exhibit during the course of the hearing before the Board.

policy without first bargaining with the Union over the policy and the change to terms and conditions of employment that occurred or would occur as a result of the policy constitutes a violation of the Act. As discussed in more detail below, it is the Board's view that the conduct of the Employer in taking unilateral action and not engaging in bargaining with the Union over the unilateral implementation of the policy is a violation of the Act. Moreover, the Employer's affirmative defense does not, based on the entire record before the Board, absolve the Employer from its bargaining responsibility.

It has long been the position of this Board that when an employer unilaterally changes terms and conditions of employment without first engaging in bargaining with the bargaining unit's exclusive representative, the employer commits a violation of the Act. (See R.I.G.L. § 28-7-12; §28-7-14; §28-9.2-4; R.I.G.L. § 28-9.2-6; *Rhode Island State Labor Relations Board v. City of East Providence*, ULP-6344 (December 14, 2023); *Rhode Island State Labor Relations Board v. State of Rhode Island – Department of Corrections*, ULP-6256 (May 24, 2021); *Rhode Island State Labor Relations Board v. Middletown School Department*, ULP-6257A (September 9, 2020); *Rhode Island State Labor Relations Board v. Woonsocket School Committee*, ULP-4705 (June 4, 1997); *Local 2334 of the International Association of Fire Fighters, AFL-CIO v. The Town of North Providence*, PC-13-5202 (September 26, 2014); and *NLRB v. Solutia, Inc.*, 699 F.3d 50, 60 (1st Cir. 2012) (providing that an employer is in violation of a governing collective bargaining statute “when it makes a unilateral change to a term or condition of employment without first bargaining to impasse with the union”).²

A. The Employer Engaged in Improper Unilateral Action.

In the present case, there appears to be no dispute between the parties that the Employer unilaterally acted in implementing a Body Worn Camera policy. (Joint Exhibit 1; see Employer Memorandum of Law at page 1).

Just as there appears to be little dispute between the parties that the Employer acted unilaterally in implementing the Body Worn Camera policy applicable to police officers, there also appears to be little dispute that the implementation of the policy changed the terms and conditions of employment of the impacted bargaining unit members.³

As previously mentioned, the Board has long held that an employer violates the terms of the Act when it unilaterally changes terms and conditions of employment without first engaging in bargaining with the exclusive representative of the employees. In the instant

² This Board and the courts of this State have, with respect to labor law issues, consistently looked to federal labor law for guidance. (See *Town of North Kingstown v. International Association of Firefighters, Local 1651, AFL-CIO*, 107 A.3d 304 (R.I. 2015); and *Town of Burrillville v. Rhode Island State Labor Relations Board*, 921 A.2d 113, 120 (R.I. 2007)).

³ The Board acknowledges and will discuss *infra* the Employer's argument that it was simply following the State guidelines in adopting its general order regarding Body Worn Cameras. The Board has considered the affirmative defense and concluded that it is not sufficient to overcome the evidence before the Board that the Employer's unilateral action impacted terms and conditions of employment, that the effect on terms and conditions of employment was substantial and material and, therefore, is a mandatory subject of bargaining which requires the Employer to engage in good-faith bargaining with the Union and that no waiver by the Union of its right to seek bargaining under these circumstances existed or occurred.

case and as mentioned above, there was no dispute from the Employer and it has presented no evidence opposing the notion that the unilateral implementation of the Body Worn Camera policy changed the terms and conditions of employment for those effected individuals. Further, there is no dispute that the actions taken by the Employer, i.e., changing the working terms and conditions of employment of bargaining unit personnel, is a mandatory subject of bargaining which requires the Employer to bargain with the employees' exclusive bargaining representative. (See R.I.G.L. § 28-9.2-2(b); *Town of North Kingstown v. International Association of Firefighters, Local 1651, AFL-CIO*, 107 A.3d 304, 313 (R.I. 2015).⁴

While the Employer makes an argument that its action was justified, that does not alter the fact that the Employer, in the instant case, took unilateral action in changing the working terms and conditions of employment of bargaining unit personnel. Because the justification put forth by the Employer for its actions neither supports nor legally justifies its unilateral action, the Board finds that the Employer acted in violation of the Act.

B. The Employer's Unilateral Action in Implementing a Body Worn Camera Policy was in Violation of the State Labor Relations Act.

As noted above, the issue of unilateral changes to terms and conditions of employment is one that frequently comes before the Board and is an issue upon which much has been written. Basically, an employer is prohibited from making unilateral changes in terms and conditions of employment (which, as discussed above, are mandatory subjects of bargaining) where those changes represent a material and substantial alteration of what the previous application or practice has been. (See R.I.G.L. § 28-7-12; § 28-7-14; *Rhode Island State Labor Relations Board v. Town of North Smithfield*, ULP-5799 (May 15, 2006); *Local 2334 of the International Association of Firefighters, AFL-CIO v. The Town of North Providence*, PC-2013-5202 (Sept. 26, 2014); and *NLRB v. Solutia, Inc.*, 699 F.3d 50, 60 (1st Cir. 2012) (providing that an employer is in violation of a governing collective bargaining statute "when it makes a unilateral change to a term or condition of employment without first bargaining to impasse with the union")). In the instant case, there was no debate or disagreement upon the fact that the Employer unilaterally implemented the Body Worn Camera policy. Further, there was little to no discussion concerning whether this change to the terms and conditions of employment of bargaining unit members was material and substantial and had a significant impact on the performance of the daily job duties and responsibilities of law enforcement officers employed by the Employer.

⁴ As R.I.G.L. § 28-9.2-2(b) makes clear, police officers have the right "to bargain collectively concerning wages, rates of pay, and other terms and conditions of employment." As the statutory language establishes, these are mandatory rights over which an employer has an obligation to bargain before it unilaterally makes changes in these areas. (See *Town of North Kingstown v. International Association of Firefighters, Local 1651, AFL-CIO*, 107 A.3d 304 (R.I. 2015)).

C. The Unilateral Changes in Implementing the Body Worn Camera Policy Were Material and Substantial

Just as the facts presented to the Board showed without dispute that the Employer's implementation of the Body Worn Camera policy was enacted unilaterally, it is also clear to the Board that the unilateral changes had a material and substantial impact on employee terms and conditions of employment. The changes implemented by the Employer meant that bargaining unit members now had an additional obligation attached to their daily working conditions, i.e., the wearing, operating and using a body cam. (See Joint Exhibit 1). As the Employer's policy demonstrates, new requirements were placed on the Employer's law enforcement officers (except undercover officers) in how they were to wear and operate the body worn camera and what the officer's responsibilities were regarding the cameras. (Joint Exhibit 1 at pages 2 – 3; 5 – 9). The policy also provides that violation of the policy by a law enforcement officer required to wear the camera could lead to disciplinary action. (Joint Exhibit 1 at page 4).

It is well settled before this Board that changes to an employee's job description, work duties, job assignment or responsibilities comes within the concept of terms and conditions of employment. See *Rhode Island State Labor Relations Board and State of Rhode Island Department of Health*, ULP-6276 (February 6, 2021); *Rhode Island State Labor Relations Board and Pawtucket School Department*, ULP-6287 (May 24, 2021); *Rhode Island State Labor Relations Board and Middletown School Department*, ULP-6257 (2020); see also *Essex Valley Visiting Nurses Association*, 343 NLRB No. 92 (2004). Thus, there can be no legitimate argument that the changing or modifying of an employee's work duties or assignment goes to the essence of the working terms and conditions of the employee or group of employees, provided the change is not immaterial, insubstantial, or insignificant. See *Ead Motors*, 346 NLRB 1060 (2006).

In the present case, the Board finds that the implementation of the Body Worn Camera policy was clearly a term and condition of the employment of law enforcement officers employed by the Employer and that the change was material and substantial and altered the working conditions of bargaining unit members.

D. The Employer Failed To Bargain With The Union.

In addition to unilaterally changing terms and conditions of employment for bargaining unit members, the Employer failed to bargain with the Union over its unilateral implementation of the Body Worn Camera policy. As the case law of this Board and the statutory law makes clear, an employer is required to negotiate with the exclusive representative of its employees over mandatory subjects of bargaining (see *Barrington School Committee v. Rhode Island State Labor Relations Board*, 388 A.2d 1369, 1374-75 (R.I. 1978); *School Committee of the City of Pawtucket v. Pawtucket Teachers Alliance AFT Local 930*, 390 A.2d 386, 389 (R.I. 1978); *Town of Narragansett v. International Association of Firefighters, Local 1589*, 380 A.2d 521, 522 (R.I. 1977); *Belanger v. Matteson*, 346 A.2d 124, 136 (R.I. 1975)). As R.I.G.L. § 28-7-2(c) makes clear, it is the policy of the State to allow and encourage bargaining over wages, hours

and other working conditions between employees and employers. (See also R.I.G.L. § 28-7-14; R.I.G.L. § 28-9.7-4).

As noted above, the Board need not spend a great deal of time on whether a unilateral change by an employer to terms and conditions of employment represents a mandatory subject of bargaining. This Board's decisions as well as the overwhelming number of decisions from Rhode Island courts, the NLRB and the federal courts all support the notion that wages, hours and terms and conditions of employment represent mandatory subjects of bargaining and changes in these areas by an employer obligates the employer to bargain with the union representing the employees before making any changes. See *NLRB v. Katz*, 369 U.S. 736 (1962); *Rhode Island State Labor Relations Board v. City of East Providence*, ULP-6344 (December 14, 2023); *Rhode Island State Labor Relations Board v. Middletown School Department*, ULP-6257A (September 9, 2020); *Rhode Island State Labor Relations Board v. Town of North Smithfield*, ULP-5759 (May 15, 2006); *Rhode Island State Labor Relations Board v. Woonsocket School Committee*, ULP-4705 (June 4, 1997); *Local 2334 of the International Association of Firefighters, AFL-CIO v. The Town of North Providence*, PC 13-5202 (September 26, 2014); *NLRB v. Solutia, Inc.*, 699 F.3d 50, 60 (1st Cir. 2012). Thus, the United States Supreme Court made clear in *Litton Financial Printing Division, A Division of Litton Business Systems, Inc. v. National Labor Relations Board*, 501 U.S. 190, 198 (1991) that “[n]umerous terms and conditions of employment have been held to be the subject of mandatory bargaining under the NLRA.”

In Rhode Island, R.I.G.L. § 28-7-13(6) makes it an unfair labor practice for an employer to “refuse to bargain collectively” with its employees’ representative. Generally, an employer violates its bargaining obligation when it refuses to bargain with its employees’ representative concerning wages, hours and other terms and conditions of employment, so-called mandatory subjects of bargaining. Much has been written on the subject of what constitutes a mandatory subject for bargaining. Mandatory subjects of bargaining are those subjects that address wages, hours and other terms and conditions of employment. The determination of whether an item is to be considered a mandatory bargaining subject has been discussed by the NLRB and the United States Supreme Court on numerous occasions. Thus, for example, in *Ford Motor Company v. NLRB*, 441 U.S. 488 (1979), the Supreme Court described mandatory bargaining subjects as those subjects that are “plainly germane to the ‘working environment’...” Similarly, our Supreme Court has recognized that items which are considered mandatory subjects of bargaining are subject to both negotiation and/or arbitration. See *Town of North Kingstown v. International Association of Firefighters, Local 1651, AFL-CIO*, 107 A.3d 304, 313 (R.I. 2015); *National Labor Relations Board v. Wooster Division of Borg-Warner Corp.* 356 U.S. 342, 349 (1958); *Barrington School Committee v. Rhode Island State Labor Relations Board*, *supra*; *School Committee of the City of Pawtucket v. Pawtucket Teachers Alliance AFT Local 930*, *supra*; and *Town of Narragansett v. International Association of Firefighters, Local 1589*, *supra*; .

Further, plant rules have long been held to be mandatory subjects of bargaining by the NLRB. Thus, an employer is generally prohibited from unilaterally implementing or changing such rules. *Schraffts Candy Co.*, 244 NLRB 1274 (1979); *Dynatron/Bondo Corp.*, 324 NLRB 572 (1997); *Goya Foods of Florida*, 347 NLRB 1118 (2006). In addition, where a rule effects or implicates an employee's continuation of employment, such as through a disciplinary system, it will be a mandatory subject of bargaining regardless of an employer's legitimate reason for its promulgation. See *BHP (USA) Inc, dba BHP Coal New Mexico*, 341 NLRB 1316 (2004); *Rhode Island State Labor Relations Board v. City of East Providence*, ULP-6344 (December 14, 2023).

In the instant case, the Union was afforded no legitimate opportunity to bargain with the Employer over the unilateral changes the Employer made when it implemented the Body Worn Camera policy. In addition, the Employer does not dispute this fact (See Employer Memorandum of Law). Thus, there can be no serious argument or legitimate disagreement that changes to the working conditions of bargaining unit members represents a change to terms and conditions of employment. See *Rhode Island State Labor Relations Board v. Middletown School Department*, ULP-6257A (September 9, 2020). In the *Middletown* case, the employer unilaterally altered the working conditions of several bargaining unit members. In implementing its reorganization of bargaining unit position duties due to a funding cutback, the employer met with the union to "discuss" the changes that were being made. However, as the Board noted in its Decision,

while Union representatives were able to meet with representatives of the School Department, the discussion regarding the School Department's unilateral action did not afford the Union an opportunity to engage in meaningful bargaining over the School Department's decision to reorganize the Facilities division. Instead, the School Department simply notified the Union of the changes it was making and refused to alter or modify its position.

Middletown School Department, ULP-6257A, at page 8.

In the instant case, the facts are even more stark. Here though the Union demanded bargaining when it learned the Employer intended to implement a new policy regarding body worn cameras, the Employer never responded to the Union's bargaining demand and implemented the policy without any discussion with the Union.

Based on the evidence before this Board, it is clear that the Employer did not engage in good faith bargaining or any bargaining with the Union over the Employer's unilateral action in implementing the Body Worn Camera policy. This conduct constitutes a violation of the Act.

E. The Employer's Defense.

The Employer made little effort to defend the indefensible, i.e., its unilateral implementation of a policy and its failure to bargain with the Union over the terms of the policy. The Employer did attempt to argue that its actions were justified because a State

law required it to implement certain rules and regulations associated with having law enforcement officer use body worn cameras. While the Employer's argument is true, it does not absolve the Employer of its bargaining obligation when it implements a policy that changes the working terms and conditions of its employees in a substantial and material manner. In reviewing the proposed statewide rules and regulations for body worn cameras, the Board can find no language that conflicts with the statutory obligations set forth in the Act (R.I.G.L. 28-7-12) or the Municipal Police Officers' Arbitration Act (R.I.G.L. 28-9.2-2, 28-9.2-4) of an employer to bargain with the exclusive representative of the employees over working terms and conditions of employment. See also *East Providence School Committee v. East Providence Education Association*, (PB 09-1421, R.I. Super, March 2010). Further and as has already been discussed above, the policy the Employer unilaterally implemented changed terms and conditions of employment and added a new potential disciplinary wrinkle to a law enforcement officer's position. As this Board and the NLRB have made clear on numerous occasions, policies that impact the possibility of discipline of an employee represent a mandatory subject of bargaining. (See *Toledo Blade Co.*, 343 NLRB No. 51 (2004); *Electri-Flex Co.*, 228 NLRB 847 (1977); *Rhode Island State Labor Relations Board and City of East Providence*, ULP-6344, (December 14, 2023); *SLRB and Rhode Island Department of Corrections*, ULP-6256). Thus, it is clear to this Board that the Employer's actions in this case were in violation of the Act.⁵

FINDINGS OF FACT

1. The Respondent is an "employer" within the meaning of the Rhode Island State Labor Relations Act.
2. The Union is a labor organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining and of dealing with employers in grievances or other mutual aid or protection and as such is a "labor organization" within the meaning of the Rhode Island State Labor Relations Act.
3. The Union and the Employer were, at all times relevant to the instant matter, subject to a collective bargaining agreement.
4. In July 2022, a public notice was issued soliciting comment on the proposed adoption of a statewide policy regarding body worn cameras by police officers.
5. In January 2023, the Employer issued a notice of its intent to implement a Body Worn Camera policy.

⁵ While the Employer did not raise the issue, the Union asserted in its memorandum that it had not waived its right to demand bargaining in the instant case. As the Employer did not actively pursue this affirmative defense, the Board need not spend any significant time on the issue other than to state that based on the evidence presented to the Board the Union did not waive its right to pursue bargaining in this matter. See *Town of Burrillville v. Rhode Island State Labor Relations Board*, 921 A.2d 113, 120 (R.I. 2007).

6. On February 3, 2023, the Union sent a letter to the Employer demanding bargaining over the Employer's proposed Body Worn Camera policy. The Employer did not respond to the Union's bargaining demand.

7. On April 9, 2023, the Employer implemented a policy regarding Body Worn Cameras.

8. The Employer unilaterally changed the working terms and conditions of employment of law enforcement officers when it unilaterally implemented a Body Worn Camera policy.

9. The Employer unilaterally changed the working terms and conditions of employment of law enforcement officers when it unilaterally implemented a Body Worn Camera policy without engaging in good faith bargaining with the Union.

CONCLUSIONS

1. The Union has proven by a fair preponderance of the evidence that the Employer committed a violation of R.I.G.L. § 28-7-13(6) and (10) when it unilaterally changed the working terms and conditions of employment of bargaining unit members when it implemented a Body Worn Camera policy.

2. The Union has proven by a fair preponderance of the evidence that the Employer committed a violation of R.I.G.L. § 28-7-13(6) and (10) when it failed and refused to negotiate with the Union before it unilaterally changed the working terms and conditions of employment of bargaining unit members by implementing a Body Worn Camera policy.

ORDER

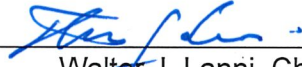
1. The Employer is hereby ordered to cease and desist from making unilateral changes to working terms and conditions of employment, without first notifying the Union and giving it the opportunity to bargain over any proposed changes.

2. The Employer is hereby ordered to cease and desist from applying or using the Body Worn Camera policy consistent with the terms of this Decision.

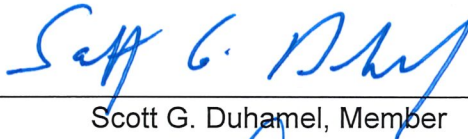
3. Should the Employer decide to implement, apply or use the Body Worn Camera policy or a variation thereof, consistent with the terms of this Decision, the Employer must first engage in good faith negotiations with the Union.

4. The Employer is hereby ordered to post a copy of this Decision and Order for a period of not less than sixty (60) days in each building where bargaining unit personnel work, said posting to be in a location where other materials designed to be seen, read and reviewed by bargaining unit personnel are posted.

RHODE ISLAND STATE LABOR RELATIONS BOARD



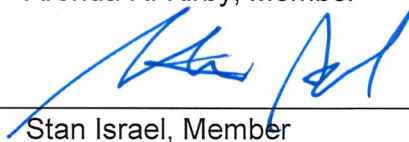
Walter J. Lanni, Chairman



Scott G. Duhamel, Member



Aronda R. Kirby, Member





Stan Israel, Member

**** BOARD MEMBERS KENNETH B. CHIAVARINI, HARRY F. WINTHROP AND LAWRENCE PURTILL WERE ABSENT FOR SIGNING OF THE DECISION & ORDER.**

Entered as an Order of the
Rhode Island State Labor Relations Board

Dated: February 19, 2024

By:  
Thomas A. Hanley, Administrator

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF :
CITY OF WOONSOCKET :
-AND- :
NEW ENGLAND POLICE BENEVOLENT :
ASSOCIATION, LOCAL 808 :

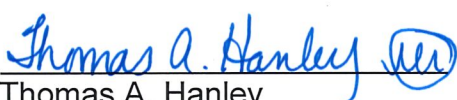
CASE NO. ULP- 6369

**NOTICE OF RIGHT TO APPEAL AGENCY DECISION
PURSUANT TO R.I.G.L. 42-35-12**

Please take note that parties aggrieved by the within decision of the RI State Labor Relations Board, in the matter of Case No. ULP-6369, dated February 19, 2024, may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after **February 21, 2024**.

Reference is hereby made to the appellate procedures set forth in R.I.G.L. 28-7-29.

Dated: February 21, 2024

By: Thomas A. Hanley 
Thomas A. Hanley
Administrator