

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS

In the Matter of  
TOWN OF BILLERICA  
and  
BILLERICA POLICE  
PATROL UNION,  
NEPBA, LOCAL 5A

Case No.: MUP-23-9975

Date issued: August 8, 2023

COMPLAINT OF PROHIBITED PRACTICE

The Billerica Police Patrol Union, NEBPA, Local 5A (Union) filed a charge with the Department of Labor Relations on April 10, 2023, alleging that the Town of Billerica (Town) had engaged in a prohibited practice within the meaning of Section 10(a)(5) and, derivatively, Section 10(a)(1) of Massachusetts General Laws, Chapter 150E (the Law). Pursuant to Section 11 of the Law and Section 15.05 of the DLR's Rules, I conducted an investigation on Wednesday, July 19, 2023.<sup>1</sup> Based on the information presented at the investigation, I find probable cause to believe that a violation has occurred. Therefore, this Complaint of Prohibited Practice shall issue, and the parties will be given the opportunity to be heard for the purpose of determining the following allegations:

1. The Town is a public employer within the meaning of Section 1 of the Law.
2. The Union is an employee organization within the meaning of Section 1 of the Law.
3. The Union is the exclusive bargaining representative for a bargaining unit of police patrol officers.

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<sup>1</sup> I conducted the investigation remotely via the WebEx videoconference platform.

4. The position of police sergeant is part of the career ladder for patrol officers but is not included in the bargaining unit referenced in paragraph 3.
5. The Town's patrol officers and sergeants are subject to the provisions of M.G.L. c.31 (Civil Service), which, under certain circumstances, permits the Town to provisionally promote a patrol officer to sergeant (provisional sergeant), but a provisional sergeant does not have permanent Civil Service status in the higher rank.
6. Prior to April 8, 2023, the Town did not conduct its own written examination for patrol officers as part of the process for promotion to provisional sergeant and did not use the patrol officers' scores on that examination as part of the selection criteria for promotion.
7. Prior to April 8, 2023, the Town did not require patrol officers to complete a two-part writing exercise as part of the process for promotion to provisional sergeant and did not use the candidates' grades on that writing exercise as part of the selection criteria for promotion.
8. Prior to April 8, 2023, the Town did not assign points for patrol officers' education, training, and experience as part of the process for promotion to provisional sergeant and use those points as part of the selection criteria for promotion.
9. Prior to April 8, 2023, the Town did not assign points for patrol officers' prior discipline as part of the process for promotion to provisional sergeant and did not deduct those points as part of the selection criteria for promotion.
10. Prior to April 8, 2023, the Town did not restrict eligibility for promotion to provisional sergeant to those patrol officers who had previously signed up to take a Civil Service examination that was cancelled or were on a police sergeant requisition list that the Civil Service Commission (CSC) had issued.
11. On April 8, 2023, the Town conducted its own written examination for patrol officers as part of the process for promotion to provisional sergeant and subsequently used the patrol officers' scores on that examination as part of the selection criteria for promotion.
12. On April 8, 2023, the Town required patrol officers to complete a two-part writing exercise as part of the process for promotion to provisional sergeant and subsequently used the patrol officers' grades on that writing exercise as part of the selection criteria for promotion.
13. On or about April 8, 2023, the Town assigned points for patrol officers' education, training, and experience as part of the process for promotion to

provisional sergeant and used those points as part of the selection criteria for promotion.

14. On or about April 8, 2023, the Town assigned points to patrol officers who had received prior discipline, and, as part of the process for promotion to provisional sergeant, the Town deducted those points as part of the selection criteria for promotion.
15. On April 8, 2023, the Town restricted eligibility for promotion to provisional sergeant to those patrol officers who had previously signed up to take a Civil Service examination that was cancelled or were on a police sergeant requisition list that the CSC had issued.
16. The Town took the actions referred to in paragraphs 11 through 15 without giving the Union prior notice and an opportunity to bargain to resolution or impasse over the Town's decision to change the process, selection criteria and eligibility for promotion to provisional sergeant and the impacts of that decision on the patrol officers' terms and conditions of employment.
17. The process, selection criteria, and eligibility for promotion to provisional sergeant are mandatory subjects of bargaining.
18. By the conduct described in paragraphs 11 through 16, the Town has failed to bargain in good faith over its decision to change the process, selection criteria and eligibility for promotion to provisional sergeant without giving the Union prior notice and an opportunity to bargain to resolution or impasse over the decision and the impacts of the decision on unit members' terms and conditions of employment in violation of Section 10(a)(5) of the Law.
19. By the conduct described in paragraphs 11 through 16, the Town has derivatively interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed under Section 2 of the Law in violation of Section 10(a)(1) of the Law.

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MARGARET M. SULLIVAN, INVESTIGATOR