

**State of New Hampshire**

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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**INTERNATIONAL BROTHERHOOD OF  
POLICE OFFICERS LOCAL 580  
(ROCHESTER)**

**Petitioner**

**and**

**ROCHESTER POLICE COMMISSION**

**Respondent**

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**CASE NO. P-0749-21**

**DECISION NO. 2000-115**

PRE-HEARING CONFERENCE MEMORANDUM AND ORDER

BACKGROUND

The IBPO Local 580, (Complainant) filed unfair labor practice charges on September 15, 2000 pursuant to RSA 273-A:5 I (a), and (g) alleging that the Rochester Police Commission (Respondent), and its agents denied certain members' rights to have a union representative of their choice present at an investigation interview they reasonably believed may result in their being disciplined and further, that the Respondent, in so doing, did violate a previous cease and desist order of this Board. The Complainant requests relief in the form of a Board order finding the Commission violated its so-called "Weingarten" rights, declaring injunctive relief and sanctions to compel compliance with its orders, rescinding certain disciplinary actions of the Respondent, making the subject officers "whole" for lost wages and benefits and compel the Respondent to make the union "whole" for costs and attorney's fees.

The Rochester Police Commission generally denies the material allegations related to the underlying incident. The Commission then proceeds to request relief in the form of a Board dismissal of the unfair labor practice complaint, an order reimbursing the Police Commission for costs and a cease and desist order prohibiting the union from attempting to arbitrate suspensions to the subject officers.

PARTICIPATING REPRESENTATIVES

For the Complainant: Peter C. Phillips, Esq., Counsel to the IBPO Local 580

For the Respondent: Thomas J. Flygare, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

1. Does the PELRB have jurisdiction to hear the complaint?
2. Did the actions of the Commission constitute a denial of representation in an investigation interview and interfere with the administration of the union in violation of the statute?

WITNESSES

For the Complainant:

1. Officer Timothy P. Brown
2. Officer Thomas V. Blair
3. Scott Dumas, Local Vice President
4. Peter Phillips, Esq.

For the Respondent:

1. Captain David Dubois

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order, or upon a proper showing, later reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

Joint Exhibits:

1. Letters of Suspension, dated 7/20/00
  - a. Thomas Blair copy
  - b. Timothy Brown copy
2. Brown memorandum to Captain Dubois re: request for representation

For the Complainant:

1. Dumas Memorandum, dated 3/21/00
2. PELRB Decision No. 97-085

For the Respondent:

1. Notice of Interview, dated 3/20/00
2. Collective Bargaining Agreement

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order, or upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is to be understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

#### LENGTH OF HEARING

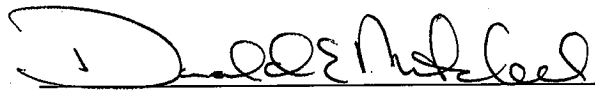
The representatives indicate that direct testimony of witnesses is now estimated to be three (3) hours. The time being set aside for this hearing is one-half day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB no later than December 1, 2000

#### DECISION AND PRE-HEARING ORDER

1. Any request by the Complainant for additional relief shall be filed with the PELRB no later than October 31, 2000.
2. The party representatives shall exchange their final Witness and Exhibit lists and each shall fax a copy of their respective list to the PELRB no later than Tuesday, December 12, 2000. The party representatives shall meet, or otherwise arrange, to pre-mark all exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.
3. Any additional preliminary, procedural or dispositive motions shall be filed by the parties no later than November 29, 2000.

Unless otherwise ordered as a result of the filing of any subsequent motion, an evidentiary hearing between the parties is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on **Tuesday, December 19, 2000 beginning at 9:30 AM.**

Signed this 23<sup>rd</sup> day of October, 2000.



Donald E. Mitchell, Esq.  
Hearings Officer