

# What's Hot with the Pennsylvania Labor Relations Board?

Pittsburgh Employment Law Conference

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# THE PLRB: BACKGROUND

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## THE PENNSYLVANIA LABOR RELATIONS BOARD

- Composed of three members
- Administers and enforces Commonwealth laws dealing with labor-management relations
- Provides oversight of the laws which guarantee collective bargaining rights to public and some private sector employees
- Works to balance the rights and interests of employers, employees and the public at large

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## **RIGHT TO COLLECTIVE BARGAINING**

- Public Employee Relations Act (PERA)
  - Also known as Act 195
  - Extends collective bargaining rights and obligations to most non-uniformed public employees and their employers
- Act 111
  - Authorizes collective bargaining for police and firefighters

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## UNFAIR LABOR CHARGES: THE BASICS

- What's a ULP?
  - Certain defined actions taken by employers or unions in violation of the Pennsylvania Labor Relations Act
- The PLRB has jurisdiction to hear and decide unfair labor charges
- Once a charge is filed, the Board will do one of the following
  - Direct the filing of an amended charge
  - Decline to issue a complaint and dismiss the charge
  - Schedule a hearing

# TRENDS

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# HOT TOPIC #1

JOINT EMPLOYER ISSUES

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## JOINT EMPLOYERS

- What constitutes a “joint employer”?
  - Where two or more entities share control over **wages, hours and terms of conditions of employment** for employees, the entities may each be deemed employers with a duty to negotiate those issues within their control
- Recent NLRB decisions expanded the scope of joint employment in the private sector
  - McDonald’s – NLRB recognized McDonald’s, USA, LLC as a joint employer with its franchisees and therefore subject to liability under the National Labor Relations Act
  - Browning-Ferris – NLRB held that companies can be held liable for labor violations committed by their contractors



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# JOINT EMPLOYMENT IN THE PUBLIC SECTOR

- PLRB has long recognized the joint employer relationship
- Private and Public Joint Employer Relationships
  - Public university and private contractor
  - Municipal owned convention center and private contractor
- Joint Public Sector Employers
  - School resource officers
  - Court-appointed or related employees

# HOT TOPIC #2

WORKING POLICE CHIEFS

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## WORKING POLICE CHIEFS

- If a police chief is clearly out of the bargaining unit, is the chief still permitted to engage in bargaining unit work?
  - Respond to emergencies?
  - Issue tickets?
  - Conduct patrol?
  - Assume shifts when officers call out sick?

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## WORKING POLICE CHIEFS

- *Fraternal Order of Police Lodge 2 v. City of Scranton*
  - 2011 PLRB decision reframed the analysis
  - Whether a chief is permitted to engage in bargaining unit work hinges on history
    - How has the role of chief been performed in the past?
- Act 111 v. Act 195
  - Would the analysis be the same if a department head performed bargaining unit work covered under Act 195?

# HOT TOPIC #3

## REGIONALIZATION

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## REGIONALIZATION

A group of municipalities decide to form a regional police department. All of the municipalities have current collective bargaining agreements in place. The expiration of those agreements are staggered over the next three years.

1. Do the municipalities have an obligation to get each unions approval prior to forming the regional?
2. What happens to each of the collective bargaining agreements?
3. What happens if Municipality A pays its police officers significantly more than Municipalities B and C?

# HOT TOPIC #4

SOCIAL MEDIA

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## **SOCIAL MEDIA**

Ronda works in the public works department of Steeler Township. She is a bargaining unit member with a rocky relationship with management. When Ronda goes home at night, she posts a series of derogatory comments and complaints about Township administration, including her direct supervisor, the Township Manager, and several members of the Board of Commissioners. Township administration learns about these postings.

1. Does Ronda's social media rant qualify as protected activity?
2. Can the Township take disciplinary action against Ronda?
3. Would anything be different if Ronda was a police officer?



QUESTIONS?

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# THANK YOU



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