

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS  
BEFORE THE COMMONWEALTH EMPLOYMENT RELATIONS BOARD

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In the Matter of

CITY OF LAWRENCE

and

MASSACHUSETTS NURSES  
ASSOCIATION

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Case No. MUP-14-3666

Date Issued: September 21, 2016

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CERB Members Participating:

Marjorie F. Wittner, CERB Chair  
Elizabeth Neumeier, CERB Member  
Katherine G. Lev, CERB Member

Appearances:

Robert D. Hillman, Esq. - Representing City of Lawrence

Olinda R. Marshall, Esq. - Representing Massachusetts Nurses Association

CERB Decision on Review of Hearing Officer's Decision

1

Summary

2       On June 10, 2016, a duly-designated Department of Labor Relations (DLR)  
3       Hearing Officer concluded that the City of Lawrence (City or Employer) failed to bargain  
4       in good faith by implementing a dress code and changing the City's parking policy for  
5       City employees without providing the Massachusetts Nurses Association (Association or  
6       Union) notice and an opportunity to bargain over the changes and thus, violated Section  
7       10(a)(5) and, derivatively, Section 10(a)(1) of M.G.L. c. 150E (the Law).

## Opinion<sup>2</sup>

## Dress Code

<sup>2</sup> The CERB's jurisdiction is not contested.

1 January 15, 2014, the City had not adopted a formal dress code applicable to members  
2 of the Association. On January 15, 2014, the Mayor sent a letter to all City employees  
3 (Dress Code letter) that required, among other things, that "all males working in an  
4 office environment regardless of the department," wear a tie for the purpose of  
5 maintaining a professional environment. On appeal the City argues that, within the  
6 context of a bargaining unit with only a single remaining member,<sup>3</sup> and who is a  
7 professional employee, this change is *de minimis* and thus, did not require bargaining  
8 prior to implementation. The City asserts that "a more appropriate rule" would be to  
9 recognize the City's right to set reasonable minimums on workplace attire without  
10 triggering a duty to bargain.

11 While we agree with the Employer that it is a fair inference from the stipulated  
12 facts that the employee in question was expected to adhere to, and did in fact adhere  
13 to, basic minimum expectations regarding appearance, we do not agree that adding the  
14 additional requirement of wearing a tie as part of his daily attire is merely a *de minimis*  
15 change, where the City had not previously adopted a dress code applicable to the  
16 Association's bargaining unit members and, as of the hearing, had not absolved public  
17 nurses from the full panoply of dress code requirements set forth in the Dress Code  
18 letter. Rather, we agree with the Hearing Officer that the fact that the Mayor's letter

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<sup>3</sup> The parties' stipulations do not expressly state that the Association's bargaining unit contains only one member. Assuming it does, however, the City cites no cases, and we decline to hold, that the Law permits an employer to make unilateral changes to terms and conditions of employment in situations where the change affects only a single bargaining unit member.

1 cites the policy reasons for the new standard does not obviate the City's duty to bargain  
2 over the change under the Law.

3 Parking Policy

4 The benefit of free parking is also a mandatory subject of bargaining.  
5 Commonwealth of Massachusetts, 27 MLC 11, 13, SUP-4378 (August 24, 2000) aff'd  
6 sub nom. Commissioner of Admin. and Fin. v. Labor Relations Commission, 60 Mass.  
7 Ap. Ct. 1122 (2004). As it did with respect to the Dress Code letter, the City argues that  
8 the Mayor's January 15, 2014 memorandum regarding employee parking did not  
9 constitute a material change to working conditions requiring bargaining. Again, we  
10 disagree.

11 Article VII, Section b of the parties' CBA states that "[t]he City will provide a  
12 parking sticker for the nurse's car to enable the nurse(s) to park in the area of City Hall  
13 during the course of their duties. To be used on days the nurse(s) must travel in the  
14 field, otherwise parking in the garage." Consistent with this provision, prior to January  
15 15, 2014, nurses were provided with parking placards enabling them to use parking  
16 spaces in the area of City Hall at no cost when travelling in the field. On January 15,  
17 2014, without giving the Union notice or an opportunity to bargain, the City's Mayor  
18 issued a memorandum (Parking Memorandum) stating that employees were "expected  
19 *not* to park in parking spaces" (emphasis in original), but instead to use "municipal  
20 garage or surfaced lots at your own expense." The Mayor further directed employees to  
21 "discontinue from using City placards." Because this directive eliminated the nurse(s)'

1 ability to park for free on days when they were travelling in the field, we disagree with  
2 the City that it was not required to bargain over this change. Id. We therefore affirm  
3 the Hearing Officer's determination that the City's unilateral implementation of the  
4 policies contained in the Parking Memorandum violated the Law for the period in which  
5 they remained in effect.<sup>4</sup>

### 6 Conclusion

7 For the reasons set forth above and in the Hearing Officer's decision, we  
8 conclude that the City violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of the  
9 Law when it unilaterally implemented a dress code and changed a parking policy on  
10 January 15, 2014. We therefore affirm the Hearing Officer's Decision and issue the  
11 following Order.

### Order

WHEREFORE, based upon the foregoing, IT IS HEREBY ORDERED THAT the City  
of Lawrence shall:

1. Cease and desist from:

- a. Failing and refusing to bargain in good faith with the Association over the decision to implement a dress code and the impacts of that decision on bargaining unit members' terms and conditions of employment.
- b. Failing and refusing to bargain in good faith with the Association over the decision to change a parking policy and the impacts of that decision on bargaining unit members' terms and conditions of employment.

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<sup>4</sup> The parties do not dispute that the placard system was reinstituted after the Union filed the Charge in this matter.

- c. In any like manner, interfering, restraining and coercing any employees in the exercise of their rights guaranteed under the Law.

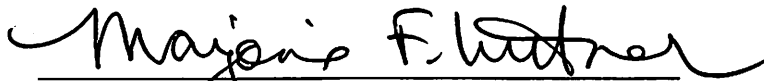
2. Take the following action that will effectuate the purposes of the Law:

- a. Rescind the dress code the Mayor implemented on January 15, 2014.
- b. Upon request of the Association bargain in good faith to impasse or resolution with the Association over the decision to implement a dress code and the impacts of that decision on bargaining unit members' terms and conditions of employment.
- c. Restore all terms of the free parking policy benefit for all bargaining unit members as in effect prior to the City's unilateral change thereto.
- d. Upon request of the Association, bargain in good faith to impasse or resolution with the Association over the decision to change a parking policy and the impacts of that decision on bargaining unit members' terms and conditions of employment.
- e. Make whole employees for economic losses suffered, if any, as a direct result of the City's actions, plus interest on any sums owed at the rate specified in M.G.L. c. 231, Section 6I, compounded quarterly.
- f. Sign and post immediately in all conspicuous places where employees usually congregate or where notices to employees are usually posted, including electronically, if the City customarily communicates with these unit members via intranet or email and maintain and display for a period of thirty (30) days thereafter signed copies of the attached Notice to Employees.

- g. Notify the DLR in writing of the steps taken by the City to comply with this decision within thirty (30) days of receipt of this decision.

**SO ORDERED.**

COMMONWEALTH EMPLOYMENT RELATIONS BOARD

  
MARJORIE F. WITTNER, CHAIR

  
ELIZABETH NEUMEIER, CERB MEMBER

  
KATHERINE G. LEV, CERB MEMBER

**APPEAL RIGHTS**

Pursuant to M.G.L. c. 150E, Section 11, decisions of the Commonwealth Employment Relations Board are appealable to the Appeals Court of the Commonwealth of Massachusetts. To claim such an appeal, the appealing party must file a notice of appeal with the Commonwealth Employment Relations Board within thirty (30) days of receipt of this decision. No Notice of Appeal need be filed with the Appeals Court.



THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS  
COMMONWEALTH EMPLOYMENT RELATIONS BOARD

**NOTICE TO EMPLOYEES**

**POSTED BY ORDER OF THE COMMONWEALTH EMPLOYMENT  
RELATIONS BOARD  
AN AGENCY OF THE COMMONWEALTH OF MASSACHUSETTS**

The Commonwealth Employment Relations Board has held that the City of Lawrence (City) violated Sections 10(a)(5) and, derivatively, Section 10(a)(1) of Massachusetts General Laws, Chapter 150E (the Law) when it unlawfully implemented a dress code and changed a parking policy without first giving the Massachusetts Nurses Association (Association) notice and an opportunity to bargain to resolution or impasse over those decisions and the impacts of those decisions.

Chapter 150E gives public employees the right to form, join or assist a union; to participate in proceedings at the Department of Labor Relations; to act together with other employees for the purpose of collective bargaining or other mutual aid or protection; and, to choose not to engage in any of these protected activities.

The City assures its employees that:

WE WILL NOT implement a dress code without first giving the Association notice and an opportunity to bargain to resolution or impasse over the decision and impacts of that decision.

WE WILL NOT change the parking policy without first giving the Association notice and an opportunity to bargain to resolution or impasse over the decision and impacts of that decision.

WE WILL NOT fail or refuse to bargain in good faith with the Union to resolution or impasse over the decisions and impacts of the decisions to implement a dress code or change the parking policy.

WE WILL rescind the dress code that applies to bargaining unit members and restore all terms of the free parking policy applicable to bargaining unit members.

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City of Lawrence

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Date

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED OR REMOVED**

This notice must remain posted for 30 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Department of Labor Relations, Charles F. Hurley Building, 1<sup>st</sup> Floor, 19 Staniford Street, Boston, MA 02114 (Telephone: (617) 626-7132).

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS

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In the Matter of

CITY OF LAWRENCE

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MASSACHUSETTS NURSES  
ASSOCIATION

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Case No.: MUP-14-3666

Date Issued: June 10, 2016

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Hearing Officer:

Zachary T. See, Esq.

Appearances:

Robert D. Hillman, Esq. – Representing City of Lawrence

Olinda R. Marshall, Esq. – Representing Massachusetts  
Nurses Association

HEARING OFFICER'S DECISION AND ORDER

SUMMARY

1 The issues in this matter are whether the City of Lawrence (City) violated Section  
2 10(a)(5) and, derivatively, Section 10(a)(1) of Massachusetts General Laws Chapter  
3 150E (the Law) by implementing a dress code and changing the City's parking policy for  
4 City employees without first giving the Massachusetts Nurses Association (Association)  
5 prior notice and opportunity to bargain to resolution or impasse about the decision to  
6 change the City's parking policy and implement a dress code and the impact of those  
7 decisions on employees' terms and conditions of employment. Based on the record  
8 and for the reasons explained below, I conclude that the City did fail to bargain in good

1 faith with the Association by implementing a dress code and changing the City's parking  
2 policy for City employees without providing the Association notice and an opportunity to  
3 bargain over the changes and thus, did violate Section 10(a)(5) and, derivatively,  
4 Section 10(a)(1) of the Law in the manner alleged.

5 STATEMENT OF THE CASE  
6

7 On April 29, 2014, the Association filed a Charge of Prohibited Practice (Charge)  
8 with the Department of Labor Relations (DLR) alleging that the City violated Section  
9 10(a)(5) and, derivatively, Section 10(a)(1) of the Law. Following an investigation, a  
10 duly-designated DLR Investigator issued a Complaint of Prohibited Practice (Complaint)  
11 on November 7, 2014, alleging that the City had failed to bargain in good faith with the  
12 Association by implementing a dress code and changing the City's parking policy for  
13 City employees without first giving the Union notice and an opportunity to bargain to  
14 resolution or impasse over the decision to implement a dress code and change the  
15 parking policy and the impacts of those decisions. On or around November 26, 2014,  
16 the City filed its Answer. On or around March 15, 2016, the parties jointly submitted  
17 stipulated facts and exhibits with the DLR in lieu of an evidentiary hearing. On May 6,  
18 2016, the City and the Union filed legal briefs regarding the issues.

19 STIPULATIONS OF FACT AND EXHIBITS  
20

- 21 1. The City is a public employer within the meaning of Section 1 of G. L. c. 150E  
22 ("the Law").  
23  
24 2. The Association is an employee organization within the meaning of Section 1 of  
25 the Law.  
26

- 1       3. The Association is the exclusive bargaining representative for public health  
2       nurses employed by the City.
- 3
- 4       4. The Association and the City have been parties to a series of collective  
5       bargaining agreements, the latest of which expired on June 30, 2010 (CBA).
- 6
- 7       5. On January 15, 2014, City Mayor Daniel Rivera issued a letter to all City  
8       employees. Mayor Rivera's January 15, 2014 letter provided as follows:
- 9

10           All City Employees,

11  
12           The City of Lawrence strives to offer its citizens a  
13           professional atmosphere to conduct business. Please keep  
14           in mind that local business people, along with tax news, visit  
15           the City Hall and other municipal public buildings, and the  
16           first impressions are lasting impressions.

17  
18           The preferred dress is office attire. All males working in an  
19           office environment, regardless of the department, are  
20           required to wear a tie. Jeans, sweat suits and pajamas are  
21           not appropriate style of dress for any employee. However, in  
22           the event that staff is scheduled to perform duties, which  
23           would damage professional clothing, jeans are acceptable if  
24           staff changes back to office attire at the completion of task.  
25           Your supervisor of the personnel department can provide  
26           you with a comprehension [sic] of safety standards.

27  
28           Certainly, no T-shirts, shorts, beach type footwear or clothing  
29           that falls below "business casual" attire should or will be  
30           allowed. All of us should produce pride in the work place,  
31           and pride in the City of Lawrence. A professional  
32           appearance goes hand-in-hand with that vision.

33  
34           The Mayor can declare certain days as "dress down days."  
35           On these days, jeans and other more casual clothing,  
36           although never clothing potentially offensive to others, are  
37           allowed but only when approved by Mayor Rivera. Yes,  
38           inappropriate slacks or pants include jeans, sweatpants,  
39           exercise pants, Bermuda shorts, short shorts, bib overalls,  
40           leggings, and any spandex or other form-fitting pants such  
41           as people wear for biking.

1 This administration also understands that several  
2 occupations listed in the class vacation structure of the  
3 charter, as well as Collective-Bargaining Units or Federal  
4 and State Laws, call for specific work clothing gear, such as  
5 Police Officers, Undercover Law Enforcement Officials, Fire  
6 Fighters, Carpenters, and many positions in the Department  
7 of Public Works. Some of these are allowed to wear jeans or  
8 clothing as specified in the Collective Bargaining Agreement  
9 that goes hand-in-hand with the work being performed. The  
10 Department Head will be the person who will provide further  
11 guidance on these employment practices.  
12

13 No dress code can cover all contingencies so employees  
14 most amount of judgment [sic] in their choice of clothing to  
15 wear to work. If you experience uncertainty about  
16 acceptable, professional business casual attire for work,  
17 please ask the Personnel Department prior to wearing such  
18 clothing.  
19

- 20 6. Prior to January 15, 2014, the City had not adopted a formal dress code  
21 applicable to members of the Association.  
22
- 23 7. T. Edmund Burke, Esq., works as an Associate Director for the Association.  
24 Burke's job duties include contract administration for the Association's bargaining  
25 unit in Lawrence.  
26
- 27 8. On January 17, 2014, Burke sent a letter to Mayor Rivera regarding the dress  
28 code. Burke's January 17, 2014 letter provided the following:  
29

30 Dear Mayor Rivera:  
31

32 Congratulations on your recent election. We look forward to  
33 working with your administration in improving the Public  
34 Health issues confronting the people of Lawrence.  
35

36 Recently you issued a letter regarding the establishment of a  
37 dress code. While this subject is not at issue with the Public  
38 Health Nursing Department, it is a mandatory subject of  
39 bargaining and any change must be bargained by the mutual  
40 parties. In this regard we look forward to full negotiations for  
41 the Public Health Nurses.  
42

1 9. The City did not respond to Burke's January 17, 2014 letter to Mayor Rivera.  
2

3 10. Following the issuance of Mayor Rivera's January 15, 2014 letter, nurse Brian  
4 Zahn, a bargaining unit member, expressed concerns to the City regarding the  
5 safety requirement that he wear a tie at work.  
6

7 11. The City has not relieved Zahn of the requirement to wear a tie at work or any  
8 other specific dress code requirement set forth in Mayor Rivera's January 15,  
9 2014 letter regarding the City's dress code policy. The City has permitted Zahn to  
10 not wear a tie at work and has not disciplined him for his failure to wear a tie.  
11

12 12. Article VII, Section b of the CBA provides as follows:

13 The City will provide a parking sticker for the nurse's car to  
14 enable the nurse(s) to park in the area of City Hall during the  
15 course of their duties. To be used on days the nurse(s) must  
16 travel in the field, otherwise parking in the garage.  
17

18 13. Prior to January 15, 2014, the City provided Public Health Nurses with parking  
19 placards enabling them to use parking spaces in the area of City Hall at no cost  
20 on days when the Public Health Nurses must travel in the field.  
21

22 14. On January 15, 2014, Mayor Rivera issued a memorandum to all City employees  
23 regarding employee parking. Mayor Rivera's January 15, 2014 letter regarding  
24 employee parking provided the following:  
25

26 City employees are highly encouraged to park at the Buckley  
27 Municipal Garage at a reduced rate. For more information on  
28 obtaining a parking pass for the Buckley Municipal Garage,  
29 please contact . . . Employees are expected *not* to park in  
30 parking spaces and utilize municipal garage or surfaced lots  
31 at your own expense.  
32

33 If you are utilizing your vehicle or a City owned vehicle to  
34 conduct official business you will not park in metered spaces  
35 for a duration of more than 15 minutes. The exception to this  
36 mandate is fire and police vehicles. If applicable, discontinue  
37 from using City placards.  
38

39 15. The City's January 15, 2014 parking policy applied to the Association nurse in  
40 the bargaining unit. Subsequent to the Association filing its prohibited practice  
41 charge in this matter, the City reinstituted a placard system for certain City  
42 employees, including the Association bargaining unit nurse.

1  
2 16. The City did not provide the Association with notice or an opportunity to bargain  
3 over the decision to eliminate Public Health Nurses' use of parking placards or  
4 the impacts of that decision prior to January 15, 2014.  
5

6 17. On April 29, 2014, the Association filed the prohibited practices charge with the  
7 DLR that is the subject of this case.  
8

9 DECISION  
10

11 The City violated the Law when it unilaterally implemented a dress code and  
12 changed a parking policy without providing the Association with notice and an  
13 opportunity to bargain to resolution or impasse over the decisions and impacts of the  
14 decisions on employee terms and conditions of employment.

15 **Dress Codes**

16 A public employer violates Section 10(a)(5) and, derivatively, 10(a)(1) of the Law  
17 when it unilaterally changes an existing condition of employment or implements a new  
18 condition of employment involving a mandatory subject of bargaining without first giving  
19 its employees' exclusive bargaining representative notice and an opportunity to bargain  
20 to resolution or impasse. Commonwealth of Massachusetts v. Labor Relations  
21 Commission, 404 Mass. 124 (1989); School Committee of Newton v. Labor Relations  
22 Commission, 388 Mass. 557 (1983). The Commonwealth Employment Relations Board  
23 (CERB) has held that grooming standards are a mandatory subject of bargaining. Town  
24 of Dracut, 7 MLC 1342, MUP-3699 (September 30, 1980) (town unilaterally  
25 implemented standards restricting police officer hair length, beards, and mustaches in  
26 violation of the Law.) The CERB has also found that the Law requires employers to give

1 unions notice and an opportunity to bargain before implementing a dress code that  
2 governs wearing pins and other accoutrements on uniforms. Sheriff of Worcester  
3 County, 27 MLC 103, 106, MUP-1910 (January 11, 2001) (Sheriff altered practice of  
4 allowing bargaining unit members to wear various pins on their uniforms, including  
5 union insignia pins.) The National Labor Relations Board (NLRB) has held that the  
6 implementation of a dress code is a mandatory subject of bargaining and that a change  
7 in dress code without giving the union an opportunity to bargain violates Section 8(a)(5)  
8 of the National Labor Relations Act. Transportation Enterprises, Inc. 240 NLRB 551,  
9 560 (February 5, 1979). See also St. Luke's Hospital, 314 NLRB 434, 440 (1994); Public  
10 Service Company of New Mexico, 337 NLRB No. 31 (2001) (appropriate wearing  
11 apparel at the workplace is a mandatory bargaining subject). The significance of  
12 appearance in the workplace underscores the value of dress codes as a mandatory  
13 subject of bargaining. See generally, Karl E. Klare, Power/Dressing: Regulation of  
14 Employee Appearance, 26 New Eng. L. Rev. 1395, 1426, 1447 (Summer 1992) (noting  
15 dress codes as a mandatory subject of bargaining and discussing the collectively  
16 bargained dress code as an approach to appearance regulation that enhances  
17 autonomy, welfare, and fairness regarding appearance practices in the workplace.)

18 Here, the City required employees to dress in "office attire," while carving out  
19 exceptions for staff scheduled to perform duties that would damage professional  
20 clothing. The Mayor's January 15, 2014 letter to employees prohibited jeans, shorts, T-  
21 shirts and specifically required male employees working in an office environment to

1 wear a tie as the City "strives to offer its citizens a professional atmosphere to conduct  
2 business." The City had not previously adopted a formal dress code applicable to any  
3 bargaining unit members of the Association. There is no dispute that the City has  
4 permitted an Association bargaining unit member to not wear a tie at work and has not  
5 disciplined him for his failure to wear a tie, yet the City has not absolved the bargaining  
6 unit member from the requirements of the dress code, nor provided the Association with  
7 notice and an opportunity to bargain over a dress code prior to implementation.

8 The CERB and the NLRB hold that dress codes are a mandatory subject of  
9 bargaining, thus prior to implementing a dress code an employer is required to provide  
10 the Association notice and an opportunity to bargain to resolution or impasse. See  
11 Sheriff of Worcester County, 27 MLC at 106; Public Service Company of New Mexico,  
12 337 NLRB No. 31. The City failed to comply with the Law in this instance. While the City  
13 argues that other states do not require bargaining over the adoption of a dress code that  
14 requires only modest changes in the standard of dress in a professional workplace,<sup>1</sup>  
15 Chapter 150E requires employers to provide notice and an opportunity to bargain over  
16 changes to a condition of employment concerning employee appearance and dress in  
17 the workplace. Town of Dracut, 7 MLC 1342; Sheriff of Worcester County, 27 MLC at  
18 106. Because appearance and dress codes in the workplace have a direct impact on  
19 employment conditions that matter to employees, they constitute mandatory subjects of

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<sup>1</sup> See, e.g., PSSU, Local 68, SEIU-CIO v. PLRD, 763 A.2d 560 (Pa. Cmwlth, 2000),  
American Train Dispatchers v. Burlington Northern R.R., 855 F. Supp. 168 (N.D. Tx,  
1994).

1 bargaining. Here, there is no dispute that the City unilaterally implemented a dress code  
2 on January 15, 2014. For the above reasons, I find that the City violated the Law by  
3 implementing a dress code without providing the Association prior notice and an  
4 opportunity to bargain to resolution or impasse over the decision and impacts of the  
5 decision on employee terms and conditions of employment.

### 6 **Parking Policies**

7 Section 6 of the Law provides, in relevant part, "[t]hat the employer and the  
8 exclusive bargaining representative shall . . . negotiate in good faith with respect to  
9 wages, hours, standards of productivity and performance, and any other terms and  
10 conditions of employment." An employer's failure to bargain in good faith constitutes a  
11 prohibited practice under Section 10(a)(5) of the Law. The CERB has consistently held  
12 that inherent in the duty to bargain is the obligation of the employer to refrain from  
13 changing established terms and conditions of employment without first bargaining with  
14 the exclusive representative. Town of North Andover, 1 MLC 1103, 1106, MUP-529  
15 (September 3, 1974); City of Boston, 3 MLC 1450, 1457, MUP-2646 (February 4, 1977);  
16 Boston School Committee, 4 MLC 1912, 1915, MUP-2611 (April 27, 1978). The CERB  
17 has specifically determined that free employee parking is a mandatory subject of  
18 bargaining. Commonwealth of Massachusetts, 27 MLC 11, 13, SUP-4378 (August 24,  
19 2000); Commonwealth of Massachusetts, 9 MLC 1634, 1638, SUP-2513 (February 9,  
20 1983).

1 Article VII, Section b of the parties' CBA states that: "[t]he City will provide a  
2 parking sticker for the nurse's car to enable the nurse(s) to park in the area of City Hall  
3 during the course of their duties. To be used on days the nurse(s) must travel in the  
4 field, otherwise parking in the garage." Prior to January 15, 2014, the City provided the  
5 nurses with parking placards enabling them to use parking spaces in the area of City  
6 Hall at no cost on days when the nurses must travel in the field. On January 15, 2014,  
7 the City's Mayor eliminated the nurses' use of parking placards without providing the  
8 Association with prior notice or an opportunity to bargain to resolution or impasse over  
9 the decision to eliminate the parking placards and the impacts of that decision on  
10 employee terms and conditions of employment. While the parties do not dispute that the  
11 City reinstituted a placard system for certain City employees, including the Union  
12 bargaining unit, subsequent to the Union filing its Charge in this matter, the City failed to  
13 provide the Union with notice or an opportunity to bargain over the decision to eliminate  
14 the use of parking placards or the impacts of that decision prior to January 15, 2014.  
15 Therefore, I find that the City violated the Law as alleged.

#### 16 CONCLUSION

17 Based on the record and for the reasons explained above, I conclude that the  
18 City violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of the Law when it  
19 unilaterally implemented a dress code and changed a parking policy on January 15,  
20 2014.

#### 21 REMEDY

1       Section 11 of the Law grants the CERB broad authority to fashion appropriate  
2 orders to remedy a public employer's unlawful conduct. Labor Relations Commission v.  
3 Everett, 7 Mass. App. Ct. 826 (1979). When an employer fails to bargain, the usual  
4 remedy includes an order to bargain, and to return the parties to the positions they  
5 would have been in if the violations had not occurred. Town of Dennis, 12 MLC 1027,  
6 1033, MUP-5247 (June 21, 1985).

7                               ORDER

8       Wherefore, based on the foregoing, it is hereby ordered that the City of Lawrence  
9 shall:

- 10  
11       1. Cease and desist from:
- 12       a. Failing and refusing to bargain in good faith with the Association
  - 13       over the decision to implement a dress code and the impacts of that
  - 14       decision on bargaining unit members' terms and conditions of
  - 15       employment.
  - 16       b. Failing and refusing to bargain in good faith with the Association
  - 17       over the decision to change a parking policy and the impacts of that
  - 18       decision on bargaining unit members' terms and conditions of
  - 19       employment.
  - 20       c. In any like manner, interfering with, restraining and coercing its
  - 21       employees in any right guaranteed under the Law.
  - 22
- 23       2. Take the following affirmative action that will effectuate the purpose of
- 24       the Law:
- 25       a. Rescind the formal dress code the Mayor implemented on January
  - 26       15, 2014.
  - 27       b. Upon request of the Association, bargain in good faith to impasse
  - 28       or resolution with the Association over the decision to implement a
  - 29       formal dress code and the impacts of that decision on bargaining
  - 30       unit members' terms and conditions of employment.
  - 31       c. Restore all terms of the free parking policy benefit for all bargaining
  - 32       unit members as in effect prior to the City's unilateral change
  - 33       thereto.
  - 34       d. Upon request of the Association, bargain in good faith to impasse
  - 35       or resolution with the Association over the decision to change a

1 parking policy and the impacts of that decision on bargaining unit  
2 members' terms and conditions of employment.

3 e. Make whole employees for economic losses suffered, if any, as a  
4 direct result of the City's actions, plus interest on any sums owed at  
5 the rate specified in M.G.L. c. 231, Section 6I, compounded  
6 quarterly.

7 f. Sign and post immediately in conspicuous places where employees  
8 usually congregate or where notices to employees are usually  
9 posted, including electronically, if the City customarily  
10 communicates to its employees via intranet or email, and maintain  
11 for a period of thirty (30) consecutive days thereafter signed copies  
12 of the attached Notice to Employees.

13 g. Notify the DLR in writing of the steps taken to comply with this  
14 decision within thirty (30) days of the steps taken by the City to  
15 comply with the Order.  
16

17  
18 SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS

/s/  
ZACHARY T. SEE  
HEARING OFFICER