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STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

AFSCME IOWA COUNCIL 61, Complainant, and STATE OF IOWA (DEPARTMENT OF CORRECTIONS), Respondent .	)	CASE NO. 102466

DECISION AND ORDER

This case is before the Public Employment Relations Board (PERB or Board) on the State of Iowa's appeal of a proposed decision and order issued in PERB Case No. 102466. AFSCME Iowa Council 61 ("AFSCME") filed a prohibited practice complaint pursuant to Iowa Code section 20.11 and PERB rule 621—3.1. The complaint alleges the State of Iowa, Department of Corrections (DOC), committed a prohibited practice within the meaning of Iowa Code section 20.10(2)(*a*) through (*d*) when a member of management made statements discouraging union membership and subsequently filed a defamation lawsuit against the local union vice president who reported his statements to the DOC.

The ALJ held an evidentiary hearing on October 5, 2021, and issued a proposed decision on February 22, 2022, in which the ALJ concluded the DOC committed a prohibited practice within the meaning of Iowa Code section 20.10(2)(*a*) but AFSCME failed to show the DOC committed a prohibited practice complaint under 20.10(2)(*b*)–*(d*).

On February 25, 2022, the DOC appealed the proposed decision.

Counsel for the parties, Nathan Reckman for the DOC and Mark Hedberg for AFSCME, presented oral arguments via video conference to the Board on September 7, 2022.

On Board review the Board has the same power it would have had if the Board had initially made the determination except that the Board may limit the issues with notice to the parties or by rule. The Board "may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law that the agency finds to be in error." Iowa Code § 17A.15(3). Pursuant to PERB rule 621—9.5 on this appeal to the Board, we have utilized the record as submitted to the ALJ.

After a review of the ALJ's proposed decision, the record, and the parties' briefs and arguments, we find AFSCME has demonstrated the State of Iowa (DOC) has committed a prohibited practice within the meaning of Iowa Code Section 20.12(2)(*a*) but not 20.12(2)(*b)–(d*).

The ALJ's findings of fact, as set forth in the proposed decision and order attached as "Appendix A," are fully supported by the record. We adopt the ALJ's factual findings as our own.

CONCLUSIONS OF LAW

We agree with the ALJ's determinations as set out in Appendix A and adopt them as our own.

Accordingly, we issue the following:

ORDER

The State of Iowa, Department of Corrections, is ordered to cease and desist from further violations of Iowa Code section 20.10(2)(*a*). The State is further ordered to post copies of the Notice to Employees attached to this document in the locations customarily used for the posting of information to employees for a period of thirty (30) days.

The cost of reporting and of the agency-requested transcript in the amount of $203.70 is assessed against the State of Iowa, Department of Corrections pursuant to PERB rule 621–3.12. A bill of cost will be issued in accordance with PERB subrule 621—3.12(3)

DATED at Des Moines, Iowa this 22nd day of September 2022.

PUBLIC EMPLOYMENT RELATIONS BOARD

Erik M. Helland, Board Member

Cheryl Arnold, Board Member

Filed electronically.
Parties served via eFlex.

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

AFSCME IOWA COUNCIL 61, Complainant, and STATE OF IOWA (DEPARTMENT OF CORRECTIONS), Respondent.	CASE NO. 102466

PROPOSED DECISION AND ORDER

On September 10, 2020, AFSCME Iowa Council 61 filed a prohibited practice complaint with the Public Employment Relations Board (PERB) pursuant to Iowa Code section 20.11 and PERB rule 621—3.1. The complaint alleges the State of Iowa, Department of Corrections (DOC), committed a prohibited practice within the meaning of Iowa Code section 20.10(2)(*a*) through (*d*) when a member of management made statements discouraging union membership and subsequently filed a defamation lawsuit against the local union vice president who reported his statements to the DOC.

Pursuant to notice, an evidentiary hearing on the complaint was held virtually on October 5, 2021. AFSCME was represented by Mark Hedberg. The State was represented by Nathan Reckman. The parties submitted post-hearing briefs on November 19, 2021.

Based upon the entirety of the record, and having reviewed and considered the parties' arguments, I conclude the State committed a prohibited practice within the meaning of Iowa Code section 20.10(2)(*a*).

1. Findings of Fact

1.1 Background Information

AFSCME Iowa Council 61 is an employee organization within the meaning of Iowa Code section 20.3(4). The State of Iowa is a public employer within the meaning of section 20.3(10). AFSCME is certified by PERB to represent correctional officers employed at various DOC institutions.

The events underlying the instant complaint involved certain employees of the DOC while they were employed at the Iowa State Penitentiary (ISP). AFSCME's local affiliate, AFSCME Local 2989, represents union-covered employees at ISP. At all times relevant to this complaint, Local 2989's officers were Neil LeMaster as president, Todd Eaves as vice president, and Christina Harn as the secretary. All three are employed by ISP as correctional officers.

Upon hire, all correctional officers go through a six-week orientation and training program. One of the subjects taught during the training is property rules and procedures. During the May/June 2020 new officer training, Captain Mark Pepper was the instructor for the property class. It is unknown how many new correctional officers were participating in the May/June training class.

1.2 Claims of Negative Comments about the Union

For approximately six to 12 months prior to May 2020 the union heard that a member of management was making negative comments about the union to new hires during the training class. The management member told officers not to join the union because it could not do anything for them and that it was a

waste of money. The union could not identify who was making these reported statements. When the union asked the new hires to identify who made the comments, the employees declined to identify the person by name and just generally said it was a "supervisor" or "administration." The new hires were on a six-month probationary period, and some specifically told the union they feared identifying the person due to their probationary status. The union chose not to push the issue with the new employees.

In June 2020, the union received information from two new employees that identified the member of management who made comments about the union. While escorting several new officers to their training in June 2020, Harn asked whether anyone had talked to them about joining the union. The officers said they heard the union was a waste of money and the union could not do anything for them because of collective bargaining rights. When Harn asked who made those comments, some employees stated they did not recall. Others referenced their probationary status and not wanting to take any chance of getting fired, thus declining to identify who made the statement.

Although hesitant at first, two of the employees Harn spoke to—AN and SL—eventually came forward and identified Captain Mark Pepper as the individual who made the statements. AN and SL were both new correctional officers and attending the ISP training academy in May/June 2020. Harn personally spoke to both employees regarding their recollection of Pepper's statements. The employees also provided written statements to the union of the

same. In addition to AN and SL, the union also spoke to three or four other new officers who made the same claim, that Pepper said the union could not do anything for them and the union was a waste of money. The individuals did not want to provide written statements because they were in their probationary period.

The union reported their concerns about Pepper's statements to ISP management. The union also provided management with the written statements they obtained from AN and SL. The employees' statements were received into evidence over the State's lack of foundation objection.

The statement AN provided identified her as the author, but she did not sign the statement or date it. However, evidence and testimony received at hearing established that both AN and SL were new correctional officers going through the training in June 2020, and their statements were provided to the DOC to independently investigate and confirm with the reporting employees. AN's statement provides:

> I, [AN] was attending the ISP Academy class. During the academy we had property training that was instructed by Captain Mark Pepper. During this training Captain Pepper made the statement saying "Don't join the union because since the union lost their rights they will never be able to protect your job and all the union wants to do is collect your money." I didn't know a lot about the union so I asked if this was true. Captain Pepper then made the statement saying "The union is a complete waste of time and the union just wants to steal your money." Since I didn't know a lot about the union I wrote in my notes "the instructor of the property training Captain Pepper said to not join the union."

Along with her statement, AN provided a page out of her notes from property class. Her class notes identify Pepper as the instructor. In addition to notes pertaining to property training, AN noted: "Union: can't protect your job since they lost there (sic) rights. Out to steal money. The instructor said not to join the union. It can not help you."

Employee SL emailed her written statement to the union. Her statement provides:

> While in academy, Captain Pepper warned our class that the Union at ISP (AFSCME IOWA 2989) was not worth our time as they lost all collective bargaining rights, had no benefits, and wouldn't be able to protect our jobs. I knew Todd Eaves was the vice president and trusted him over Capt Pepper's work, so I joined when I got hired, but I know many others in my academy class were reluctant and chose to opt out due to the statements made by our instructor during class.

By the time of hearing on the union's complaint, AN and SL had voluntarily left employment at ISP and were not called to testify by either side.

Harn testified about the impact of Pepper's statements on union membership. Part of Harn's role as the union secretary was to provide information to new hires regarding the union and sign up those that chose to join the union. Harn testified that a lot of new hires were not willing to join the union because of the bad information Pepper provided, namely that the union could not do anything for them and was there just to take their money. She testified that the number of employees joining the union changed after Captain Pepper was reassigned to Mount Pleasant Correctional Facility (MPCF). While

Pepper was still at ISP, Harn testified the union gained only 10-15 percent of new hires as members. After Pepper was reassigned to MPCF, Harn testified that about 80 percent of new hires chose to join the union.

1.3 DOC's Investigation

After the union made ISP aware of its findings and concerns, the DOC investigated Pepper for his alleged comments. Pepper was placed on administrative leave during the investigation. An investigator from the DOC's Office of Inspector General and a correctional treatment director from MPCF conducted the investigation.

The State did not offer into evidence any of the investigative materials obtained or interviews conducted. However, based on testimony received at hearing, the DOC interviewed a total of 14 individuals as part of its investigation, including: Pepper, Pepper's property class co-instructor, LeMaster, Eaves, Harn, and employees AN and SL. The DOC investigators had a copy of AN and SL's written statements obtained by the union. It is unclear who the remaining seven employees interviewed were, but it appears they were the new correctional officers who were in the same class as AN and SL in May/June 2020.

As the interviews were not offered into evidence, the precise statements given by the employees interviewed is unknown on this record. However, through the testimony of Warden Chris Tripp, it is known that during the investigation, AN and SL maintained that Pepper made the statements alleged. Only one employee, Pepper's co-instructor in the class, told the investigators she did not

recall the statements and that they did not happen. The rest of the employees interviewed did not affirmatively state whether the statements were said or not, but only stated they did not recall them being said. Ultimately, the DOC concluded there was "insufficient evidence to support the allegations that Captain Pepper made inappropriate comments during the new employee orientation class."

1.4 Captain Pepper's Defamation Lawsuit

On July 28, 2020, Pepper filed a legal action against local union vice president Eaves alleging that Eaves coerced false statements from new officers in training and knowingly reported false statements to Pepper's supervisors with the intent to have Pepper terminated. Pepper retained private counsel to initiate the lawsuit. The DOC was not involved in the lawsuit in any way. Testimony received at hearing indicates the State offered the union legal counsel to defend against Pepper's lawsuit. The State determined to transfer Pepper to MPCF following the filing of the lawsuit. Other than the initial filing, the record contains no other information pertaining to this lawsuit.

2. Issue Presented and Parties' Arguments

The issue to be addressed in the instant complaint is whether the statements made by Pepper amount to a prohibited practice within the meaning of sections 20.10(2)(*a*) through (*d*), and if so, a determination of what constitutes an appropriate remedy to address the founded violations.

The union contends Pepper's conduct actively discouraged new employees from joining the union because he made statements that the union provides no benefits to the employees and is just a waste of money. The union further argues Pepper's anti-union statements had a chilling effect on union participation and caused employees to fear retaliation from management. Finally, it contends that Pepper's filing of a frivolous defamation lawsuit intimidated, coerced, and infringed upon protected rights of the union and its members. Pepper specifically targeted a union officer in his personal capacity because of concerns the union officer brought to management in his capacity as a union officer.

The State asserts the union failed to prove a violation under any of the alleged 20.10(2) provisions. The State primarily argues the union failed to establish that Pepper made the alleged statements. It highlights that the DOC's investigation concluded the evidence was insufficient to find Pepper made the alleged statements. The State questions the reliability of AN and SL's statements given the employees did not testify. For AN's statement specifically, the State argues it should be given no or very limited weight because the statement is unsigned and undated. It further argues, when compared to SL's statement, AN alleged more inflammatory statements not repeated by SL, thus arguing the statements are inconsistent with each other. Ultimately, the State asserts the DOC's more thorough investigation that obtained a full accounting of the situation should be afforded greater weight of the evidence when compared to the employee statements it deems unreliable and inconsistent.

Alternatively, if the statements are taken at face value, the State argues the statements still do not prove Pepper's actions violated chapter 20. The two employees generally allege Pepper said the union lost its collective bargaining rights, had no benefits, and would not be able to protect the employees' jobs. The State argues these are factual statements. The State reasons the statements could refer to the fact that the union can no longer bargain over certain benefits, such as insurance, and that the union cannot protect the employees' jobs because grievance procedures are no longer part of the union contract. The State thus argues these factual statements cannot amount to a prohibited practice.

Finally, in response to the union's allegation about the defamation lawsuit, the State argues the union failed to prove Pepper was acting as the employer's designated representative in that context as required by 20.10(2).

3. Conclusions of Law and Analysis

In prohibited practice complaints, the complainant has the burden of establishing each element of the charge. *United Elec. Radio Mach. Workers of Am., Local 896 (COGS) and State of Iowa, Bd. of Regents*, 2019 PERB 100800 & 100814, at 17. The statutory provisions pertinent to the instant complaint provide, in relevant part:

> **20.10 Prohibited Practices.**
>
> ***
>
> 2. It shall be a prohibited practice for a public employer or the employer's designated representative to:
>
> (*a*) Interfere with, restrain, or coerce public employees in the exercise of rights granted by this chapter.
>
> (*b*) Dominate or interfere in the administration of any employee organization.

> (*c*) Encourage or discourage membership in any employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment.
>
> (*d*) Discharge or discriminate against a public employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under this chapter, or because the employee has formed, joined, or chosen to be represented by any employee organization.

AFSCME contends that Pepper violated 20.10(2)(*a*) through (*d*) in two ways: (1) when he made disparaging comments about the union to new officers, discouraging them from joining the union, and (2) when Pepper filed a defamation lawsuit against the local union vice president after he reported Pepper to the DOC in his capacity as a union officer.

3.1 Pepper's Defamation Lawsuit

Under this record, the union has failed to show Pepper was acting as the employer's designated representative when he filed the defamation lawsuit.

To establish a prohibited practice under 20.10(2), the complainant must establish the prohibited conduct was committed by the employer or the employer's designated representative. Here, all the evidence pertaining to the defamation lawsuit plainly shows Pepper initiated a cause of action in his capacity as a private citizen, not as an employee of the DOC. While both Pepper and the local union vice president are DOC employees, and the cause of action is related to events that occurred at ISP, the employer has no control over or the authority to prevent private lawsuits its employees choose to initiate. As such, the record is insufficient to establish the threshold

requirement under 20.10(2), that Pepper was acting as the employer's designated representative when he filed the defamation lawsuit.

3.2 Pepper's Statements During New Officer Training

3.2.1 Sufficiency and Reliability of Complainant's Evidence

Prior to delving into AFSCME's remaining allegations, it must first be addressed whether the union established that Pepper made the alleged statements. The State posits several different arguments in an effort to disregard or minimize the weight of the union's evidence.

First, the State argues the DOC conducted a more thorough investigation into the allegations and thus its conclusion that the evidence was insufficient should be considered. While I recognize the DOC investigated the matter, the DOC's investigatory conclusion is not binding on my decision in this case. My finding whether Pepper made the alleged statements rests on the testimony and evidence presented in the record before me.

The State has chosen not to admit into evidence any of the 14 interviews from the investigation or any other investigatory materials, including the reasoning behind the DOC's conclusion. However, the Warden's testimony in this proceeding confirmed that the two employees, AN and SL, maintained that Pepper made the alleged statements. The Warden identified that only the co-instructor affirmatively stated Pepper did not make the alleged statements. This presents a conflict in evidence obtained during DOC's investigation that is unaddressed in the record before me. Specifically, the State has not provided

the investigators' rationale for disregarding AN and SL's statements and ultimately concluding the evidence was insufficient to support their allegations. Given that my record does not contain the evidence upon which the DOC based its conclusion or the rationale for its conclusion, I do not find the DOC's ultimate conclusion has any persuasive weight in this proceeding.

The State also questions the admissibility and reliability of the written statements provided by the employees. It argues the employees did not testify to confirm the statements provided and, in the case of AN's statement, the written statement is unreliable because it was not dated or signed.

As an initial matter, given this is a contested case proceeding, the statements were properly received into evidence under Iowa Code section 17A.14(1), which only excludes irrelevant, immaterial, or unduly repetitious evidence. This section further directs that findings in contested cases "shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial." Testimony received at hearing established the statements provided were written by the employees named. The union had first-hand conversations with and obtained the statements directly from the employees. The union provided the DOC a copy of the statements when it reported the allegations. The employees were interviewed by the DOC as part of its investigation and the employees personally confirmed to the DOC investigators that Pepper made the alleged

statements. Therefore, under the record as a whole, the State's attack on the admissibility and reliability of the statements as evidence is without merit.

Finally, the State argues the statements should be given no or very limited weight because the two employees gave conflicting statements. On a plain reading of the statements provided, I find no inconsistency. Both employees alleged Pepper made the same type of statements, namely that the union is a waste of money because the union has no benefits and cannot protect their jobs. In comparing the two statements, SL's statement is a general recitation of what Pepper stated during class based on her recollection. AN's statement provides specific quotes that she had contemporaneously noted during the training in her class notes. Additionally, the DOC interviewed both of these employees and presumably had the opportunity to address any perceived inconsistencies between their allegations. Under the record presented here, the State provided no indication that it found the employees' statements inconsistent during the DOC's investigation.

Ultimately, the decision in this case rests on the evidentiary record established in this proceeding. Based on the evidence presented, the union has demonstrated Pepper made negative statements about the union and the union's ability to provide any benefit or protection to the employees. The State has not presented any evidence to demonstrate the employees' statements were false, or given any indication that its own internal investigation concluded the employees lacked credibility. For the reasons discussed, the written statements

in conjunction with the testimony received at hearing is sufficient to establish that Pepper made the alleged statements while serving as an instructor during the new officer training.

3.2.2 Section 20.10(2)(a) Claim

The union alleges that Pepper's statements during the new officer training constitute a prohibited practice under 20.10(2)(*a*).

To establish a violation under 20.10(2)(*a*), the complainant must show the employer or its designated representative engaged in conduct that interfered, restrained or coerced public employees in the exercise of rights granted by chapter 20. Under section 20.8, public employees are granted certain rights, including:

> **20.8 Public employee rights**
> Public employees shall have the right to:
> 1. Organize, or form, join, or assist any employee organization.
> ***
> 3. Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection insofar as any such activity is not prohibited by this chapter or any other law of the state.

The employer's motive is immaterial when evaluating interference, restraint or coercion claims under 20.10(2)(*a*). It is also immaterial whether the employer's interference, restraint, or coercion failed or succeeded. *AFSCME Iowa Council 61 and State of Iowa*, 2013 ALJ 8465 at 6; *AFSCME Iowa Council 61 and City of LeClaire*, 2012 ALJ 8161 at 19. Instead, the determinative test is whether the employer engaged in conduct which reasonably tended to interfere,

restrain, or coerce employees in their free exercise of rights guaranteed by chapter 20. *Id.*

Under the record presented, the union has established that Pepper's statements during the new officer training amounted to a prohibited practice under 20.10(2)(*a*). Public employees have a right to support and join a union, as well as seek the assistance of the union for mutual aid and protection. Pepper's statements had a clear message against association with the union, telling employees the union is a waste of time and money, and that it provides no benefits or protections.

In addition to the actual statements, it is also critical to consider the context in which the statements were said. Pepper informed the class he was a captain at ISP and thus was presented as a representative for management. Furthermore, he was teaching a class of newly hired employees all of whom were on probationary status. Most new employees declined to identify who made the statements about the union, and some specifically identified their probationary status as the reason. Under this record, Pepper's conduct cannot be said to be a direct interference or restraint on the employees' protected rights, *i.e.* a management directive not to join or seek the union's assistance. However, when his statements are considered within the context of an audience of newly hired probationary employees, the conduct created a situation that reasonably tended to interfere, restrain, or coerce employees in the exercise of their protected rights.

The State contends that general statements such as that the union lost its collective bargaining rights and that the union provides no benefits could be seen as factual statements in light of changes to public sector collective bargaining. As such, it argues such factual statements cannot be a basis for finding a prohibited practice. Under the record presented, the State's position is unavailing.

While I recognize that Pepper's statements appear to be prompted by statutory changes to the public sector collective bargaining law, the message behind the statements has a clear anti-union slant. Pepper did not state that the union cannot bargain over insurance benefits with the employer or that the collective bargaining agreement no longer contains grievance procedures, as the State's argument suggests. Instead, Pepper stated the union has "no benefits," that union membership is a "waste," and that the union has no ability to "protect" the employees' jobs. None of these can be seen as factual statements in light of statutory changes to public sector collective bargaining.

For the reasons discussed, the union has established that Pepper's conduct amounted to a violation of Iowa Code section 20.10(2)(*a*).

3.2.3 Section 20.10(2)(b) Claim

The union generally alleges a violation of Iowa Code section 20.10(2)(*b*), but has failed to present specific arguments as to how Pepper's statements made during the training violated this provision.

Under 20.10(2)(*b*), the employer and its designated representatives are prohibited from dominating or interfering in the administration of the employee organization. In addressing 20.10(2)(*b*) domination and interference claims, PERB has found:

> Generally speaking, prohibited "domination" exists when the organization is controlled or directed by the employer, rather than by the employees. "Interference" is found when the employer does not, in the eyes of the employees, control the employee organization but nonetheless exercises some lesser form of influence in the determination of union policy.

Pub. Prof'l & Maint. Emps., Local 2003 and Black Hawk Cty., 2012 PERB 8216, at App. 7 (internal citations omitted). In this case, the union has not presented evidence or argument to demonstrate how Pepper's statements during the training dominated or interfered with the administration of AFSCME's affairs. As such, AFSCME has failed to establish the commission of a prohibited practice within the meaning of section 20.10(2)(*b*).

3.2.4 Sections 20.10(2)(c) Claim

The union contends Pepper's statements during the training discouraged union membership in violation of 20.10(2)(*c*).

Under 20.10(2)(*c*), the complainant is required to establish the employer's designated representative discouraged membership in an employee organization "by discrimination in hiring, tenure, or other terms or conditions of employment." While the record establishes that Pepper's comments discouraged union membership, the record lacks any evidence that the DOC or

Pepper, as its designated representative, engaged in discriminatory practices in hiring, tenure, or other terms or conditions of employment in an effort to discourage union membership. As such, the union has failed to establish a violation of 20.10(2)(*c*) based on the statements Pepper made about the union during the new officer training.

3.2.5 Section 20.10(2)(d) Claim

The union generally contends that Pepper's conduct violated 20.10(2)(*d*), but does not provide a specific argument as to how his statements during the training violated this provision.

Under 20.10(2)(*d*), the employer and its designated representatives are prohibited from discharging or discriminating against employees because the employees engaged in protected activity under chapter 20, including filing a complaint or providing information, or because the employees formed, joined, or chose to be represented by an employee organization. Under the record presented, there is no evidence to suggest the DOC or Pepper, in his capacity as the employer's designated representative, discharged or discriminated against employees who engaged in protected activity under chapter 20 or chose to join and be represented by the union. As such, the union has not established a violation of 20.10(2)(*d*) based on the statements Pepper made during the new officer training.

In accordance with the findings of fact and legal conclusions reached in this case, I hereby propose the following:

ORDER

The State of Iowa, Department of Corrections, is ordered to cease and desist from further violations of Iowa Code section 20.10(2)(*a*). The State is furthered ordered to post copies of the Notice to Employees contained below in locations customarily used for the posting of information to employees for a period of thirty (30) days commencing on the date this proposed decision and order becomes final agency action.

The cost of reporting and the agency-requested transcript in the amount of $203.70 is assessed against the State of Iowa, Department of Corrections, pursuant to PERB rule 621—3.12. A bill of costs will be issued in accordance with PERB subrule 621—3.12(3).

The proposed decision will become PERB's final decision in accordance with PERB rule 621—9.1 unless, within 20 days of the date below, a party aggrieved by the proposed decision files an appeal to the Board or the Board, on its own motion, determines to review the proposed decision.

DATED at Des Moines, Iowa this 22nd day of February, 2022.

/s/ Jasmina Sarajlija
Administrative Law Judge

Electronically filed.
Served via eFlex.

NOTICE TO EMPLOYEES
POSTED PURSUANT TO A DECISION OF THE PUBLIC EMPLOYMENT RELATIONS BOARD

The Iowa Public Employment Relations Board (PERB) has determined that a designated representative of the State of Iowa, Department of Corrections, committed a prohibited practice within the meaning of Iowa Code section 20.10(2)(*a*).

The violation occurred in June 2020 when a representative of management made negative statements about the union to a group of correctional officers during new officer training. The statements indicated the union could not provide any benefits, had no ability to protect the employees' job and that union membership was a waste of money. These statements interfered with, restrained, and coerced public employees in the exercise of their protected rights to engage in concerted activity for the purpose of mutual aid and protection as granted by **Iowa Code section 20.8**.

The section of the Iowa Public Employment Relations Act found to have been violated provides:

> **20.10 Prohibited practices.**
> 2. It shall be a prohibited practice for a public employer or the employer's designated representative to:
> *a.* Interfere with, restrain, or coerce public employees in the exercise of rights granted by this chapter.

To remedy this violation, the State has been ordered to:

- Cease and desist from further violations of Iowa Code chapter 20;
- Post this notice in a prominent place in its main offices accessible to the general public and in conspicuous places customarily used for the posting of information to employees in the affected bargaining units, for a period of not less than 30 days.

Any questions regarding this Notice or the State's compliance with its provisions may be directed to:

Public Employment Relations Board
510 East 12th Street • Suite 1B
Des Moines IA 50319-0203
515/281-4414

POSTING DATE: 03/15/2022