

IN THE NEBRASKA COMMISSION OF INDUSTRIAL RELATIONS

NEBRASKA ASSOCIATION OF	)	
PUBLIC EMPLOYEES LOCAL 61	)	
of the AMERICAN FEDERATION	)	
OF STATE, COUNTY, AND	)	
MUNICIPAL EMPLOYEES,	)	
	)	
	)	
Petitioner,	)	CASE NO.
	)	
v.	)	BRIEF IN SUPPORT OF
	)	MOTION FOR TEMPORARY
COUNTY OF RICHARDSON a	)	RELIEF
political subdivision, and	)	
RICHARDSON COUNTY	)	
BOARD OF COMMISSIONERS,	)	
JOHN J. CAVERZAGIE, BOB	)	
CAMPBELL, RICK KARAS,	)	
	)	
Respondent.	)	

The Petitioner has filed a motion for temporary relief pursuant to Neb. Rev. Stat. 48-816(1)(a). On or about July 7, 2026, the Petitioner filed a prohibited practices petition alleging that the Respondent had engaged in prohibited practices by implementing the use of GPS and/or AI tracking technology to monitor the Road Department employees. The Respondent is pending formal service of this Petition, but has been provided courtesy notice via email of the Petition filed contemporaneously with this Motion.

The Respondent recently began use of the GPS tracking of Petitioner member employees. Prior to approximately June 2026, and absolutely prior to March 20, 2026 , the Respondent had not required any Petitioner employee to submit to GPS or AI tracking technology despite it being installed in Respondent machines as early as 2012.

On or about March 20, 2026, Petitioner employees were notified that they would begin to be subjected to GPS tracking. Upon notice of the intention to subject member employees to GPS tracking, which had been available, but unused as far back as 2012, the Union demanded to bargain over those terms and conditions of employment. The Respondent has refused to bargain claiming management authority to implement new technology and new policies.

Respondent has required member employees to be subject to GPS and/or AI tracking since at least June 2026. The Petitioner seeks an order specifically directing the Respondent that the NAPE/AFSCME members not be required to submit to GPS technology.

Accordingly, the Petitioner requests an order temporarily preserving the status quo pursuant to Neb. Rev. Stat. §48-416.

The statute states,

48-816.

Preliminary proceedings; commission; powers; duties; collective bargaining; posttrial conference.

(1)(a) After a petition has been filed under section [48-811](#), the clerk shall immediately notify the commission which shall promptly take such preliminary proceedings as may be necessary to ensure prompt hearing and speedy adjudication of the industrial dispute. The commission may, upon its own initiative or upon request of a party to the dispute, make such temporary findings and orders as necessary to preserve and protect the status of the parties, property, and public interest involved pending final determination of the issues. In the event of an industrial dispute between a public employer and a public employee or a labor organization when such public employer and public employee or labor organization have failed or refused to bargain in good faith concerning the matters in dispute, the commission may order such bargaining to begin or resume, as the case may be, and may make any such order or orders as appropriate to govern the situation pending such bargaining. The commission shall require good faith bargaining concerning the terms and

conditions of employment of its employees by any public employer. Upon the request of either party, the commission shall require the parties to an industrial dispute to submit to mediation or factfinding. ... To bargain in good faith means the performance of the mutual obligation of the public employer and the labor organization to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation

does not compel either party to agree to a proposal or require the making of a concession.

The CIR has jurisdiction to enter such orders under Neb. Rev. Stat. § 48-819.01 which states,

Commission; power to make findings and enter orders; when.

Whenever it is alleged that a party to an industrial dispute has engaged in an act which is in violation of any of the provisions of the Industrial Relations Act, or which interferes with, restrains, or coerces employees in the exercise of the rights provided in such act, the commission shall have the power and authority to make such findings and to enter such temporary or permanent orders as the commission may find necessary to provide adequate remedies to the injured party or parties, to effectuate the public policy enunciated in section [48-802](#), and to resolve the dispute.

The Petitioner has satisfied the procedural requirement having filed a Prohibited Practices Petition and as such there is an industrial dispute properly before the Commission.

The Nebraska Supreme Court has addressed temporary orders entered by the CIR. In *Transportation Workers Union Local 223 v. Transit Auth. of Omaha*, the Court found,

[I]f the CIR has authority to make temporary orders to protect "the status of the parties," it obviously must have authority to do something more than simply make sure that the employer does not fire the employee, as referred to in [§ 48-811](#). And, likewise, protecting the property and public interest obviously means something more than preserving the employment status. It may very well be that it is in the public interest to be assured that public employees, who do not have the [\[*459\]](#) right to strike or hinder, delay, limit, or suspend the continuity or efficiency of governmental services, should continue to receive their previous salaries or be afforded the same terms and conditions of employment while the employer, the employee, and the CIR attempt to resolve the differences. See [Neb. Rev. Stat. § 48-821](#) (Reissue 1978). Whatever preserving and protecting the public interest may mean, it obviously means something more than simply preventing the discharge of a public employee by a public employer.

...

[Section 48-819.01](#) provides: "Whenever it is alleged that a party to an industrial dispute has engaged in an act which is in violation of any of the provisions of [sections 48-801 to 48-838](#), or which interferes with, restrains, or coerces employees in the exercise of the rights provided in [sections 48-801 to 48-838](#), the commission shall have the power and authority to make such findings and to enter such temporary or permanent orders as the commission may find necessary to provide adequate remedies to the injured party or parties, to effectuate the public policy enunciated in [section 48-802](#), and to resolve the dispute." It seems clear to us that reducing employees' wages or changing the hours or terms and

conditions of employment during an industrial dispute might interfere with or coerce employees attempting to exercise their right to bargain under the provisions of the act. That would explain the reason the Legislature granted to the CIR the authority to enter temporary orders necessary to retain the status quo of the parties while the dispute is resolved. See University Police Officers Union v. University of Nebraska, 203 Neb. 4, 277 N.W.2d 529 (1979).

Transp. Workers Union Local 223 v. Transit Auth. of Omaha, 216 Neb. 455, 344 N.W.2d 459 (1984). The Supreme Court has then gone further in holding, "It may very well be that it is in the public interest to be assured that public employees, who do not have the right to strike or hinder, delay, limit, or suspend the continuity or efficiency of governmental services, should continue to receive their previous salaries or be afforded the same terms and conditions of employment while the employer, the employee, and the CIR attempt to resolve the differences. Int'l Union of Operating Eng'rs Local 571 v. City of Plattsmouth, 265 Neb. 817, 660 N.W.2d 480 (2003)(internal citations omitted). The Court has held that "It is the public interest in having uninterrupted public service that is principally sought to be protected by the creation of the Act and not the creation of a specialty forum for the trying of breach of contract cases by public employees." Transp. Workers of Am. v. Transit Auth. of Omaha, 205 Neb. 26, 286 N.W.2d 102 (1979).

As alleged in the petition, the requirement that NAPE/ AFSCME employees must undergo mandatory (and arbitrary) GPS surveillance, and that Respondent will then be the sole arbiter of how that GPS technology is used without any standard policy or procedure, and no protection for the employees, is a change to the terms and conditions of employees.

This commission has outlined what constitutes mandatory subjects of bargaining previously,

In order to establish working guidelines as to what constitutes a mandatory subject of bargaining, the Nebraska Supreme Court in

Wafetro Technical Community College Education Ass 'n set forth the following test:

- A matter which is of fundamental, basic, or essential concern to an employee's financial and personal concern may be considered as involving working conditions and is mandatorily bargainable even though there may be some minor influence on educational policy or management prerogative. However, those matters which involve foundational value judgments, which strike at the very heart of the educational philosophy of the particular institution, are management prerogatives and are not a proper subject for negotiations even though such decisions may have some impact on working conditions. However, the impact of whatever decision management may make in this or any other case on the economic welfare of employees is a proper subject of mandatory bargaining."

Metropolitan Tech. Community College Educ. Ass 'n v. Afetropolitan Tech. Community College Area, 203 Neb. 832, 842 (1979).

The Commission has used a relationship test in determining bargaining issues. "Whether an issue is one for bargaining under the Court of Industrial Relations Act depends upon whether it is primarily related to wages, hours and conditions of employment of the employees, or whether it is primarily related to formulation or management of public policy." *See Coleridge Educ. Ass 'n v. Cedar County Schoo/Dist. No. 1-1-0541. a/kla Coleridge Community Schools*, 13 CIR 376 (2001).

NAPE/AFSCME v. NDCS - CIR No. 1448 (2018).

The use of GPS and AI tracking technology vitally effects the terms and conditions of the NAPE/AFSCME employees, and therefore is a mandatory subject of bargaining.

The facts of this dispute are similar yet distinguishable from two matters that have been before this commission, both between NAPE/ AFSCME and the Nebraska Department of Correctional Services. One was a dispute over body-worn cameras, the other related to the use of body scanning technology. The use of the body-worn camera and the body-scan technology both at least were related to the implementation of detailed policies regulating the use of those technologies. In this instance, there is not even a written policy governing the use of the GPS and AI technology.

This Commission at No. 1448 found that “the implementation of body-worn cameras is a mandatory subject of bargaining.” Similarly, by the logic outlined in the opinion and order, the use of the GPS and AI technology is also a mandatory subject of bargaining. The Commission declined to determine if the technology was “new” or not because it had been used on a trial basis. This Commission at No. 1583 did enter a temporary order hedging a bit on the public safety exceptions related to the use of body scan technology, but did enter a temporary order requiring bargaining between the parties related to this new use of installed technology.

Both cases are distinguishable from the facts at hand in that there were well defined policies related to the use of each, which importantly addressed the use of the technology related to discipline of member employees. In the specific instance, there is no written policy and the Respondent is arbitrarily using the technology to subject employees to discipline. This use may be more egregious than that of either case as this is technology that has not been utilized by the Respondent since 2012 at the latest.

The use of GPS technology is widely litigated regarding the use of such in the employment context. The take-away almost always is that the specific use dictates the restrictions, and that the purpose for the tracking certainly impacts the necessity to bargain, as do requirements related to the notice provided and what is required under specific labor agreements. The Labor Center at the University of California Berkley has compiled a comprehensive listing related to this type of issue.

<https://laborcenter.berkeley.edu/negotiating-tech/governance-of-workplace-technology-applications/electronic-monitoring-and-surveillance-technologies/union-rights-and-employer-obligations-for-monitoring-and-surveillance/>

The use of GPS technology has been addressed by Courts across the country going back over fifteen years. In an unpublished California opinion, the Court of Appeals of California even approved the use of a GPS device to address the behavior of a single employee, but condemning the fleet-wide use of GPS tracking without bargaining. 2009 Cal. App. Unpub. LEXIS 1976 *

Given the fact that the dispute is properly before the Commission, and vitally effects the terms and conditions of employment for covered employees, coupled with the Respondent's refusal to abide by the provisions of Neb. Rev. Stat. § 48-811, which prohibited the Respondent from subjecting NAPE/AFSCME employees to GPS Surveillance, without bargaining, it is necessary that this commission enter an order specifically prohibiting Respondent from using GPS and/or AI surveillance on covered employees during the pendency of this dispute.

DATED, July 7, 2026.

NEBRASKA ASSOCIATION OF
PUBLIC EMPLOYEES LOCAL 61 of
the AMERICAN FEDERATION OF
STATE, COUNTY, AND
MUNICIPAL EMPLOYEES,
Petitioner

By: *s/Abby Osborn*_____
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