

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Borough of Sharon Hill,	:	
Appellant	:	
	:	
v.	:	
	:	
International Brotherhood of	:	
Teamsters,	:	No. 1710 C.D. 2024
Teamsters Local 107	:	Submitted: March 3, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE STELLA M. TSAI, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE TSAI

FILED: August 31, 2026

The Borough of Sharon Hill (Borough) appeals from the November 12, 2024 order of the Court of Common Pleas of Delaware County (trial court) denying the Borough's petition to vacate the arbitrator's award, confirming the arbitrator's award reinstating Desmond Forresster (Grievant) following the termination of his employment for sexual harassment, and entering judgment. The Borough argues that the trial court erred because the arbitrator's award violated public policy. We now reverse the trial court's order and vacate the arbitration award..

I. BACKGROUND

Briefly, the Borough entered into a collective bargaining agreement (CBA) with the International Brotherhood of Teamsters, Local Union No. 107 (Union) effective January 1, 2020. Reproduced Record (R.R.) at 42a. The Borough employed Grievant as a maintenance operator in the Borough's Public Works Department since 2019. *Id.* at 31a. On May 17, 2023, a female employee of the

Borough (Complainant) submitted a complaint to the Human Resources Department alleging that Grievant had sexually harassed her. *Id.* at 33a. Complainant and Grievant worked in different departments. *Id.* at 31a, 33a. After an investigation, the Borough placed Grievant on administrative leave on May 19, 2023. *Id.* at 34a. The Borough subsequently terminated Grievant's employment on May 26, 2023. *Id.* at 35a. The Union filed a grievance on Grievant's behalf, asserting that the Borough's employees often engaged in banter that was sometimes sexually oriented, that Grievant was the only employee disciplined, that Grievant had no prior discipline, that Grievant did not receive progressive discipline, that the Borough's investigation of the sexual harassment claim was flawed, and that the Borough's penalty of termination of employment was excessive. *Id.* at 31a.

An arbitrator conducted a hearing on February 21, 2024, and issued an opinion and award on April 18, 2024. *Id.* at 31a-39a. In this opinion, the arbitrator referred to relevant provisions of the parties' CBA, including provisions relating to Just Cause, Immediate Discharge, and the Borough's Disciplinary Program. *Id.* at 32a-33a. The arbitrator also cited to the Borough's Anti-Harassment Policy, contained in the Borough's Employee Handbook. *Id.* at 33a.

The arbitrator made findings of fact as to Complainant's written complaint and testimony. Specifically, the arbitrator found that Complainant represented that Grievant implied several times that Complainant was having an affair with her supervisor and that Grievant joked about the difference between the ages of Complainant and her supervisor. *Id.* Further, Complainant stated that her supervisor was present on one occasion where Grievant made that joke, and the supervisor responded that it was not true. *Id.* Complainant also described comments by Grievant that Complainant's jumpsuit made it seem as if she was wearing body paint

rather than clothes and inquiries by Grievant as to whether a person referred by her for employment was her boyfriend. *Id.* at 33a-34a.

As to comments that Complainant claimed Grievant made to her at a Borough-sponsored event, the arbitrator found that Complainant stated that Grievant asked Complainant if she had children, if she used birth control, and if she knew what a Jezebel was. *Id.* at 34a. Grievant laughed when he asked these questions, and Complainant replied that his questions were inappropriate. *Id.* In addition, the arbitrator found that Complainant testified that in May of 2023, Grievant walked into Complainant's work area, "picked up a pamphlet[,] and joked that he had [her] 'STD [sexually transmitted disease] results and it wasn't looking good.'" *Id.* He also made additional inappropriate comments about her body. *Id.*

Finally, as to Complainant's testimony, the arbitrator found that Complainant testified that she did not ask Grievant about his personal life; she told Grievant that his comments about her personal life were inappropriate. *Id.* She also told her supervisor about her concerns, and her supervisor helped her write the complaint letter that she submitted to the Borough. *Id.* The arbitrator found that, on cross-examination, Complainant testified that no one else makes inappropriate comments, she denied making inappropriate comments about Grievant, and the Borough conducted a workplace training seminar on its Anti-Harassment Policy with all employees about one month after her complaint. *Id.*

With regard to Grievant's testimony, the arbitrator found that Grievant testified that he signed an acknowledgment form that he received the Borough's Anti-Harassment Policy when he was hired. *Id.* at 35a (arbitrator's findings), 76a (anti-harassment policy set forth in Borough's employee handbook), 100a (Grievant's signed acknowledgment of his receipt of Borough's employee

handbook). He also testified that he, Complainant, and other Borough employees often engaged in banter, which was sometimes sexual in nature. *Id.* at 35a. Specifically, he stated that Complainant referred to him and his coworkers as “homos” and she would greet him “What’s up little wee wee.” *Id.* Grievant admitted making a joke to Complainant about her STD test results, but he denied telling her that her jumpsuit looked like she was wearing body paint. *Id.* He maintained that he did not ask Complainant about her boyfriend, as she volunteered that information. *Id.* Finally, Grievant testified that Complainant did not tell him that his comments made her feel uncomfortable. *Id.*

Based on those findings, the arbitrator concluded that the Borough had “established that [Grievant] violated the Anti-Harassment Policy by making sexually explicit comments to [Complainant] in the workplace,” noting that Grievant “acknowledged that he made most of the comments.” *Id.* at 37a. The arbitrator also credited Grievant’s testimony that “sexually explicit banter among himself, his [f]oreman, [Complainant’s supervisor, and Complainant] occurred regularly, and no one told him his comments were offensive prior to [Complainant] filing a complaint with” the Borough’s Human Resources Department. *Id.*

The arbitrator concluded:

Article 15.2 [of the CBA] sets forth the reasons for immediate discharge[,] and sexual harassment is not one of them. Article 15.3 sets forth the Disciplinary Program for infractions that do not warrant immediate discharge and outlines a progressive discipline process that includes verbal and written warnings as well as a suspension before discharge. The Union provided unrefuted evidence that [Grievant] had no prior discipline and received no progressive discipline for making sexually explicit comments. Thus, it is clear that the [Borough] did not follow the progressive discipline process outlined in the CBA.

Id.

The arbitrator further concluded that the Borough’s investigation was flawed because the Borough did not question the other three employees involved about whether they had made sexually explicit comments in the workplace. *Id.* at 37a-38a. Lastly, the arbitrator concluded that the Borough imposed excessive discipline by terminating Grievant’s employment because the Borough failed to provide anti-harassment training, singled Grievant out for discipline, and did not follow the progressive discipline process set forth in the CBA. *Id.* at 38a. Therefore, the arbitrator ordered the Borough to reinstate Grievant “with backpay and benefits[] and [to] reduce his discipline to a documented verbal warning.” *Id.* at 39a.

The Borough filed a petition to vacate the arbitration award, and the Union filed a cross-petition to confirm the arbitration award with the trial court. The trial court entered an order confirming the arbitration award and entered judgment. The Borough filed a timely notice of appeal.

II. ISSUE

On appeal,¹ the Borough argues that the trial court erred by affirming the arbitrator’s award because the award violated the public policy against workplace sexual harassment.

¹ “Our standard of review of labor arbitration awards under the Public Employee Relations Act (PERA)[, Act of July 23, 1970, P.L. 563, *as amended*, 43 P.S. §§ 1101.101-1101.2301,] is the ‘essence test.’” *Allegheny Cnty. Prison Emps. Indep. Union (ACPEIU) v. Allegheny Cnty. (Cnty. Jail)*, 313 A.3d 358, 365 (Pa. Cmwlth. 2024) (citation and footnote omitted). The essence test is a two-part test. First, this Court must “determine if the issue is encompassed within the terms of the CBA.” *Id.* at 365. “Second, if the issue is embraced by the agreement[] and[,] thus, appropriately before the arbitrator, the arbitrator’s award will be upheld if the arbitrator’s interpretation can rationally be derived from the collective bargaining agreement.” *Apollo-Ridge Sch. Dist. v. Apollo-Ridge Educ. Ass’n*, 799 A.2d 911, 913 (Pa. Cmwlth. 2002) (quoting *State Sys. of Higher Educ. (Cheyney Univ.) v. State Coll. Univ. Pro. Ass’n (PSEA-NEA)*, 743 A.2d 405, 413 (Pa. 1999)). However, when this Court examines whether the public policy exception to the essence test applies, our standard of review is *de novo*, and our scope of review is plenary. *See*

III. DISCUSSION

The Borough observes that the arbitrator found that Grievant “violated [the Borough’s] Anti-Harassment Policy by making sexually explicit comments to his female coworker in the workplace.” Borough’s Brief at 20. The Borough notes that it provided an employee handbook, which contained the Borough’s Anti-Harassment Policy, to Grievant upon his hiring and that Grievant signed a form acknowledging that he had received the employee handbook. *Id.* at 24-25 (citing R.R. at 100a).

The Borough argues that the arbitrator’s award violates “the well-defined, dominant public policy to eradicate unlawful sexual harassment in the workplace and an employer’s mandatory obligation under state and federal law.” *Id.* at 16; *see also id.* at 23 (arguing that there is a dominant public policy imposing a duty on public employers “to protect employees from sexual harassment”). The Borough contends that, “[e]ven where an arbitration award satisfies the essence test, our Supreme Court has delineated a discreet [sic] exception whereby a reviewing court may still vacate the award if it violates public policy. Pennsylvania courts have consistently held ‘that an arbitration award will not be upheld if it contravenes public policy.’” *Id.* at 17 (quoting *Slippery Rock Univ. of Pa., Pa. State Sys. of Higher Educ. v. Ass’n of Pa. State Coll. & Univ. Faculty*, 71 A.3d 353, 364 (Pa. Cmwlth. 2013)).

Additionally, the Borough explains that in *PHA*, our Supreme Court “recognized the existence of a well-defined and dominant public policy against sexual harassment in the workplace.” *Id.* at 21-22. The Borough argues that the

Philadelphia Hous. Auth. v. Am. Fed’n of State, Cnty. & Mun. Emps., Dist. Council 33, Loc. 934, 52 A.3d 1117, 1121 (Pa. 2012) (*PHA*).

PHA Court recognized that public employers have the authority to take action to vindicate this public policy. *Id.* at 22. The Borough contends that courts have vacated arbitration awards compelling public employers to reinstate employees who had been terminated for workplace sexual misconduct. *Id.* (citing *Neshaminy Sch. Dist. v. Neshaminy Fed’n of Teachers*, 171 A.3d 334, 343 (Pa. Cmwlth. 2017) (*en banc*) (*Neshaminy*); *PHA*, 52 A.3d at 1125). Further, the Borough notes that in *PHA*, the Supreme Court concluded that the arbitration award reinstating an employee who had been discharged for committing sexual harassment “encourages individuals who are so inclined to feel free to misbehave in egregious ways, without fear of any meaningful consequence.” *Id.* at 23 (quoting *PHA*, 52 A.3d at 1128); *see also id.* at 29 (arguing that a “public employer must be permitted to do more than engage in adjectival condemnation when faced with this sort of employee misconduct” (quoting *PHA*, 52 A.3d at 1128)). Therefore, the Borough concludes that the arbitrator’s award reinstating Grievant with a lesser sanction violates public policy and must be reversed.

The Union responds that the arbitrator’s award draws its essence from the CBA, which provides “a specific list of reasons for immediate discharge” that does not include “any activity that is related to sexual harassment.” Union’s Brief at 10-11. Further, the Union contends that because “the parties did not agree that sexual harassment warranted immediate discharge,” the arbitrator relied on the disciplinary procedure set forth in the CBA and the sexual harassment policy set forth in the employee handbook. *Id.* at 11. The Union asserts that, “[w]hile the [a]rbitrator found that [Grievant’s] conduct violated the Borough’s policy, she did not find that his conduct warranted discharge.” *Id.* at 12. The Union argues that the arbitrator’s award reinstating Grievant, along with a documented warning, is

consistent with the discipline provisions of the CBA and the employee handbook. *Id.* at 11-12.

The Union acknowledges that “the Commonwealth of Pennsylvania has a well-defined and dominant public policy against sexual harassment.” Union’s Brief at 14. However, the Union argues that the public policy exception does not apply here. *Id.* at 12-17. Specifically, the Union claims that although “the [a]rbitrator found that [Grievant’s] conduct violated the Borough’s policy, she did not find that his conduct warranted discharge.” *Id.* at 12. The Union maintains that “the [a]rbitrator carefully examined Grievant’s conduct[] and applied it to the Disciplinary Program that was negotiated by the Borough with the Union.” *Id.* at 13 (some formatting altered). Additionally, the Union observes that the arbitrator found that “[Grievant], along with [Grievant’s foreman], [Complainant’s supervisor], **and** [Complainant], engaged in similar conduct.” *Id.* (emphasis in original).

The Union also argues, apparently in the alternative, that Grievant’s conduct did not constitute sexual harassment. *Id.* at 14-15. Specifically, the Union claims that “teasing, offhand comments, and isolated incidents do not constitute sexual harassment.” *Id.* at 15 (quoting *Snyder Cnty. Prison v. Teamsters Loc. Union 764* (Pa. Cmwlth., No. 443 C.D. 2013, filed Oct. 11, 2013), slip op. at 11-12, 2013 WL 5614246).² Additionally, the Union contends that termination is not warranted under the Borough’s Anti-Harassment Policy, because it is not a “zero tolerance” policy. *Id.* at 16. The Union observes that the Borough’s Anti-Harassment Policy “provides that an offender could receive a ‘written warning and/or suspension, and/or discharge.’” *Id.* (quoting R.R. at 33a).

² Unreported panel decisions of this Court issued after January 15, 2008, may be cited as persuasive authority. See Commonwealth Court Internal Operating Procedure § 414(a), 210 Pa. Code § 69.414(a).

As noted above, “[t]he first prong of the essence test requires the reviewing court to determine whether the issue decided was properly before the arbitrator.” *Millcreek Twp. Sch. Dist. v. Millcreek Twp. Educ. Support Pers. Ass’n*, 210 A.3d 993, 1003 (Pa. 2019) (*Millcreek*). Our Supreme Court has explained that “the reviewing court must give deference to the arbitrator’s interpretation of the CBA[,] including for purposes of the first prong of the essence test.” *Id.* at 1004. This approach “is consistent with the highly deferential spirit of” the essence test. *Id.* “Under the second prong [of the essence test], we ask whether the award itself can rationally be derived from the CBA.” *Id.* at 1006. “Accordingly, even though an arbitrator is not permitted to ignore the CBA’s plain language in fashioning an award, the arbitrator’s understanding of the plain language must prevail. A reviewing court ‘should not reject an award on the ground that the arbitrator misread the contract.’” *Id.* (quoting *United Paperworkers Int’l Union, AFL-CIO v. Misco, Inc.*, 484 U.S. 29, 38 (1987)).

As to the public policy exception, our Supreme Court “note[d] that not only is the public policy exception ‘exceptionally narrow’ in its own right, but it is also an exception to the essence test, which is itself a narrow exception to the doctrine that arbitration awards are final and binding.” *Millcreek*, 210 A.3d at 1011 (internal citations omitted). Thus, “[a] baseline recognition that the public policy exception is a narrow exception to a narrow exception must guide a reviewing court’s analysis.” *Id.* Moreover, “application of the public policy exception has developed primarily in the context of employee discipline grievances.” *Id.* at 1010.

Our Supreme Court has set forth a three-part test to determine if the public policy exception applies:

First, a reviewing court must identify precisely what **remedy** the arbitrator imposed. Next, the court must inquire into whether that

remedy implicates a public policy that is well-defined, dominant, and ascertained by reference to the laws and legal precedents and not from general considerations of supposed public interests. Finally, the reviewing court must determine if the arbitrator's award compels the employer to violate the implicated policy, given the particular circumstances and the factual findings of the arbitrator. We emphasize that the arbitrator's interpretation of the contract controls during this entire analysis, which is only triggered upon the reviewing court's determination that the award satisfies the essence test, and should be upheld absent a clear violation of public policy. The burden is on the party that opposes the award to demonstrate that it violates public policy.

Id. at 1011 (citations and quotation marks omitted) (emphasis in original); *see also Rose Tree Media Secretaries & Educ. Support Pers. Ass'n v. Rose Tree Media Sch. Dist.*, 136 A.3d 1069, 1078-79 (Pa. Cmwlth. 2016) (stating that “only the award itself, and the legal authority supporting the implication of the public policy, are relevant to a public policy exception inquiry. To hold otherwise would result in routine review of the entire factual record every time a public employer raises the public policy exception”). “Further, an arbitrator's award will violate public policy if it poses an unacceptable risk that it will undermine the implicated policy and cause the public employer to breach its lawful obligations or public duty, given the particular circumstances at hand and the factual findings of the arbitrator.” *Pa. State Sys. of Higher Educ. v. Ass'n of Pa. State Coll. & Univ. Facs.*, 98 A.3d 5, 15 (Pa. Cmwlth. 2014) (*PASSHE*) (citation and quotation marks omitted).

In *PHA*, our Supreme Court explained that there is “a well-defined and dominant public policy against sexual harassment in the workplace, a public policy which is grounded in both federal and state law against sex discrimination in employment, including Title VII,³ the regulations of the [Equal Employment

³ Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-15.

Opportunity Commission (EEOC),^{4]} and this Commonwealth’s own [Pennsylvania Human Relations Act (PHRA)^{5]}.” *PHA*, 52 A.3d at 1123.

This Court has acknowledged that “courts are to give arbitration awards deference and are not to second-guess an arbitrator’s findings of fact or interpretations. But these awards are not ‘entitled to a level of devotion that makes a mockery of the dominant public policy against sexual harassment.’” *Neshaminy*, 171 A.3d at 340 (quoting *PHA*, 52 A.3d at 1127-28) (additional citation omitted).

In *PHA*, the complainant testified that another employee (the harasser) inappropriately touched the complainant on several occasions in addition to making “numerous sexually explicit comments and actions toward her.” *PHA*, 52 A.3d at 1118. On one occasion, the complainant and the harasser engaged in a verbal altercation, which was broken up by a supervisor. *Id.* at 1119. Further, that supervisor ordered the harasser not to touch complainant and not to yell at her again. *Id.* Eventually, the union filed a grievance on behalf of the complainant, and the matter went to arbitration. *Id.* at 1118-19. The arbitrator found the complainant’s testimony credible and the harasser’s not credible; the arbitrator specifically stated that the harasser’s behavior was “lewd, lascivious[,] and extraordinarily perverse.” *Id.* at 1119. The arbitrator also found that the harasser had received adequate notice of PHA’s policy prohibiting sexual harassment. *Id.* Nevertheless, the arbitrator concluded that PHA did not have just cause to terminate the harasser and ordered his reinstatement. *Id.* at 1119-20.

⁴ See 29 C.F.R. § 1604.11(a) (“Harassment on the basis of sex is a violation of . . . Title VII.”)

⁵ Act of October 27, 1955, P.L. 744, *as amended*, 43 P.S. §§ 951-963.

PHA filed a petition to vacate the arbitrator's award, which the court of common pleas denied. *Id.* at 1120. On appeal, this Court reversed the order of the trial court, thereby vacating the arbitration award. *Id.*

As stated above, our Supreme Court in *PHA* granted discretionary review and held that “the arbitrator’s award forcing PHA to take [the harasser] back with full back pay—without any sanction at all—violates a well-defined and dominant public policy against sexual harassment in the workplace, a public policy which is grounded in both federal and state law against sex discrimination in employment.” *Id.* at 1123.

The Supreme Court further explained:

PHA’s formal sexual harassment policy strictly prohibits discrimination or harassment on the basis of sex, and a notice posted in PHA’s workplace advises that sexual harassment on the job violates Title VII. The notice warns that a finding of sexual harassment could result in a range of disciplinary measures, including oral or written warnings, demotion, suspension, or even discharge. The arbitrator expressly found that this notice “provided adequate information to [the harasser] concerning the prohibition against sexual harassment/misconduct.”

...

[W]e do not hold that termination was required under the circumstances here, [and] we likewise reject the arbitrator’s and [the] appellant’s counter-assertion that a public employer can be precluded from taking such decisive action against an employee following its investigation. A public employer should be empowered to implement a zero[-]tolerance policy when appalling, assaultive, repeated sexual harassment is at issue. The arbitration award to the contrary in this case affirmatively encourages—indeed it rewards—sexual harassment in the public workplace.

Id. at 1124 (citations omitted).⁶

⁶ The Borough’s anti-harassment policy defines sexual harassment as “[u]nwelcome or unwanted sexual advances, requests for favors[,] or other visual, verbal[,] or physical conduct”

The *PHA* Court stated that “[t]he award in this case encourages individuals who are so inclined to feel free to misbehave in egregious ways, without fear of any meaningful consequence. . . . [T]he arbitrator ultimately divorced [the harasser’s] conduct[] and his failure to accept responsibility[] from any consequence” by holding that PHA did not have “just cause” to fire the harasser. *Id.* at 1128. The Court explained that “the rational way to approach the question [of whether the arbitrator’s award violates public policy] is to **recognize the relationship between the award and the conduct; and to require some reasonable, calibrated, defensible relationship between the conduct violating dominant public policy and the arbitrator’s response.**” *Id.* (emphasis added). Therefore, the *PHA* Court affirmed this Court’s order vacating the arbitrator’s award. *Id.*; *see also Slippery Rock Univ.*, 71 A.3d at 355-56, 365-66 (vacating the arbitration award which reinstated a university professor who had been terminated for making sexual comments or using profanity to undergraduate students on three separate occasions because the arbitration award violated the public policy against sexual harassment).

Subsequently, in *Neshaminy*, this Court again considered the public policy exception in the context of a sexual harassment claim. In that case, the school board terminated a teacher based on allegations that this teacher had created a hostile work environment for his coworkers and that the teacher had made “lewd and suggestive statements to students.” *Neshaminy*, 171 A.3d at 336. A grievance was filed pursuant to the applicable CBA, and the matter proceeded to arbitration. *Id.* The arbitrator found the complainant’s testimony to be credible and that the terminated teacher had created a hostile work environment. *Id.* at 336-37. The arbitrator concluded that the school board did not have just cause to terminate the teacher and

and provides that the penalties for an employee who violates the anti-harassment policy “may include written warning and/or suspension[] and/or discharge.” R.R. at 76a.

that a twenty-day suspension without pay was an appropriate amount of discipline. *Id.* at 337. Therefore, the arbitrator issued an award reinstating the teacher with back pay—less twenty days—and authorizing the school district to require the teacher to attend sexual harassment training. *Id.*

The school district, in *Neshaminy*, filed a petition to vacate the arbitration award with the trial court, which the trial court granted. *Id.* The union then appealed to this Court. *Id.* On appeal, the union did not dispute the arbitrator’s finding that the teacher had engaged in sexual harassment, but the union argued that the arbitrator’s award was “a reasonable and calculated response” and did “not undermine the public policy against sexual harassment.” *Id.* at 338-39. The union also noted that, under *PHA*, “termination is not required in all sexual harassment cases.”⁷ *Id.* The *Neshaminy* Court disagreed with the union’s position, explaining that under the public policy standard “we do not completely remove consideration of the underlying conduct from the inquiry. Rather, courts are to consider both aggravating and mitigating factors in determining whether an award pose[s] an unacceptable risk that a clear public policy will be undermined if the award is implemented.” *Id.* at 340 (citation and quotation marks omitted). The *Neshaminy* Court explained that the arbitrator had found the complainant’s testimony about “the **continuous** nature” of the teacher’s sexually explicit comments to be credible and the teacher’s “**ongoing** sexual harassment of” the complainant created a hostile and offensive work environment. *Id.* (citations omitted) (emphases in original). Lastly, this Court rejected the union’s arguments that the school district had targeted the

⁷ Further, this Court has explained that we “may not infer that public policy demands only the most severe penalty where an arbitrator has imposed substantial discipline,” and we concluded that an arbitrator-imposed penalty of a 180-day suspension without pay did not violate public policy. *Clarion Cnty. Career Ctr. v. Clarion Cnty. Career Ctr. Educ. Ass’n* (Pa. Cmwlth., No. 847 C.D. 2021, Dec. 12, 2022), slip op. at 14-15, 2022 WL 17574178 (*Clarion Cnty.*).

teacher for greater punishment because of the teacher's involvement in union activities, explaining that "[f]urther analysis of how and why [the school district] investigated [the teacher's] behavior is largely irrelevant to our determination that the [a]ward here violates the well-established public policy against sexual harassment." *Id.* at 343.

In *Snyder County Prison*, the arbitrator explicitly found that the grievants "had not engaged in sexual harassment and that the Prison did not have 'just cause' to terminate their employment." *Snyder Cnty. Prison*, slip op. at 6-7; *see also id.* at 11 (explaining that the arbitrator found that conduct at issue "occurred on a single day" and did not constitute sexual harassment). Therefore, this Court upheld the arbitrator's award in favor of the grievants, which reinstated their employment with back pay and expunged the complaint from their personnel files. *Id.* at 7, 14.

Turning to the merits, here, the remedy at issue is the arbitration award reinstating Grievant's employment with back pay and a documented verbal warning. R.R. at 39; *see also Millcreek*, 210 A.3d at 1011. Next, we consider whether that remedy implicates a well-defined, dominant public policy. *See id.* As discussed above, it is well established that this Commonwealth has a well-defined and dominant public policy against sexual harassment. *See PHA*, 52 A.3d at 1123; *Neshaminy*, 171 A.3d at 340; *Slippery Rock Univ.*, 71 A.3d at 364. We must next, therefore, determine "if the arbitrator's award compels the employer to violate the implicated policy, given the particular circumstances and the factual findings of the arbitrator." *Millcreek*, 210 A.3d at 1011.

Here, the arbitrator found that Grievant made comments of a sexual nature to Complainant on at least three separate occasions. *See R.R.* at 33a-34a. The arbitrator further found that Grievant violated the Borough's Anti-Harassment

Policy. *Id.* at 37a. The arbitrator also found that sexually explicit banter was common among Grievant, Complainant, and their coworkers. *Id.* However, the arbitrator concluded that the Borough imposed excessive discipline by terminating Grievant's employment because the Borough failed to provide anti-harassment training, singled Grievant out for discipline, and did not follow the progressive discipline process set forth in the CBA. *Id.* at 38a.

To the extent that the Union relies on *Snyder County Prison* for the proposition that "teasing, offhand comments, and isolated incidents do not constitute sexual harassment," *Snyder Cnty. Prison*, slip op. at 11-12, this Court must give deference to the arbitrator's factual findings. *See Neshaminy*, 171 A.3d at 340. Therefore, we conclude that *Snyder County Prison* is distinguishable from the instant case because the arbitrator here did not find that Grievant's conduct constituted teasing or offhand comments of an isolated nature; rather, the arbitrator found that Grievant sexually harassed Complainant on multiple occasions with comments and/or jokes of a sexual nature. R.R. at 37a.

Based on the facts as found by the arbitrator, we conclude that there is not a "reasonable, calibrated, defensible relationship between" this arbitrator's award of reinstatement with a verbal warning, the lowest level of discipline provided for in Article 15.3 of the CBA, and Grievant's conduct, the sexual harassment of another Borough employee. *PHA*, 52 A.3d at 1128; *see also* R.R. at 37a (the arbitrator found that the Borough had proven that Grievant violated the Borough's anti-harassment policy). Therefore, we vacate the arbitration award because the reinstatement of Grievant "poses an unacceptable risk that it will undermine" the well-established

policy against sexual harassment.⁸ *PASSHE*, 98 A.3d at 15 (citation omitted); *see also Millcreek*, 210 A.3d at 1011 (explaining that an arbitration award violates public policy if the award “compels the employer to violate the implicated policy, given the particular circumstances and the factual findings of the arbitrator”); *Neshaminy*, 171 A.3d at 335 (holding that an arbitration award which reinstated a terminated employee with a suspension without pay for twenty days violated public policy).

IV. CONCLUSION

For the reasons set forth above, we reverse the trial court’s order confirming the arbitrator’s award and vacate the arbitrator’s award as violative of public policy.

STELLA M. TSAI, Judge

⁸ We reiterate that public policy does not require that the arbitrator impose the most severe penalty available and, under particular factual circumstances, lengthy suspensions without pay can comport with public policy. *See, e.g., Clarion Cnty.*, slip op. at 14-15. However, for the reasons stated above, the penalty imposed by the arbitrator here does not comport with public policy.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Borough of Sharon Hill,	:	
Appellant	:	
	:	
v.	:	
	:	
International Brotherhood of	:	
Teamsters,	:	
Teamsters Local 107	:	No. 1710 C.D. 2024

ORDER

AND NOW, this 31st day of August, 2026, the order of the Court of Common Pleas of Delaware County is REVERSED, and the arbitrator's award is VACATED as being against public policy.

STELLA M. TSAI, Judge