

07 22 08 AFSCME Grievances

Call to Meeting to Order

Acceptance of Agenda

1. [Accept Agenda for the July 22, 2008 AFSCME Grievance Hearings](#)

Motions:

Motion to accept the Agenda for the July 22, 2008 AFSCME Grievance Hearings. - PASS

Vote Results

Motion: Margaret Lofton

Second: Tim Harris

Lori Cunningham - Absent

Kay Fields - Absent

Tim Harris - Aye

Margaret Lofton - Aye

Frank O'Reilly - Aye

Brenda Reddout - Aye

Hazel Sellers - Aye

Grievance

2. [Jackie Kelly: AFSCME Step V](#)

Attachment: [SKMBT_50008071515240KELLY.pdf](#)

Minutes:

AFSCME President, Tony Blair, stated the case was filed by current employee, Jackie Kelly, who was not selected for a radio dispatcher position. The position in the Maintenance Department was duly posted and 15 people, both current and non-employees, were tested for the position. Four persons passed the test with a score of 70 or better. A non-employee scored higher and was given the job.

Past practice had been that current employees were given the opportunity to test first before non-employees. Last year, as a cost savings measure for the district, AFSCME agreed to allow advertising and testing of current and non-employee applicants at the same time. Mr. Blair stated that it was his understanding that current employees' test scores would be determined first and if someone scored 70 or higher, the position would be offered to current staff.

Don Wilson, Attorney for Superintendent, reported that the person who was placed in the job was a School Board employee but not a member of AFSCME. According to the AFSCME Collective Bargaining Agreement, Section F, Article VIII: Seniority..."It is in the best interest of both the Employer and the Union that the most qualified individual be selected for all vacant positions." After granting a preference for bargaining unit employees who are qualified, that paragraph concludes, "However, the management has the right and responsibility to use management's best judgment in the selection process and shall consider such factors as seniority, performance evaluations, supervisors' recommendations," The Union applicant barely passed the test with a score of 70.03 and the non-Union School Board employee scored 100. The best qualified applicant was placed in the job.

School Board Attorney, Wes Bridges, clarified the language in the Collective Bargaining Agreement, "preference" is given to those that pass the test with a 70% or better. However, it further states that employees may retake the trade test to improve their scores.

Tim Harris requested clarification on the second Suggested Correction sought by the grievance: .."The second thing will be to no longer allow management to test all people at the same time, because management tends to think it gives them the right to hire anyone tested".

Mr. Blair suggested that past practice be reinstated or that the test scores of current AFSCME employees be determined first and if they have a score of 70 or better, no outside applicant should be brought into the process.

Mrs. Lofton stated that the School Board oversees the hiring of all employees: union and non-union. There is contract language in other Union agreements that allows us to hire teachers, principals and others that are determined to be the best qualified for a position.

Mr. O'Reilly commented that both employees took the test and were interviewed; one scored higher and was determined to be the best for that position. He will support the Superintendent's recommendation.

Wes Bridges read Article VIII, Section F1 of the Collective Bargaining Agreement .."It is in the best interest of both the Employer and the Union that the most qualified individual be selected for all vacant positions.....However, management has the right and responsibility to use management's best judgment in the selection process and shall consider such factors as seniority, performance evaluations, supervisions' recommendation, attendance and punctuality."

Mr. O'Reilly called for the question.

Motions:

Motion to uphold Superintendent's Recommendation to deny the grievance. - PASS

Vote Results

Motion: Frank O'Reilly

Second: Margaret Lofton

Lori Cunningham - Absent

Kay Fields - Absent

Tim Harris - Aye

Margaret Lofton - Aye

Frank O'Reilly - Aye

Brenda Reddout - Nay

Hazel Sellers - Aye

3. [Class Action: Benefits Administrator - AFSCME Step V](#)

Attachment: [SKMBT_50008071515250BENEFITS.pdf](#)

Minutes:

AFSCME President, Tony Blair, stated the grievance was filed to challenge the unilateral change of the third party administrator regarding insurance and other benefits by management without convening the Insurance Committee. AFSCME's current benefits contract is valid through 2010 and cannot be changed without negotiation. It is believed that management's actions violates the Union contract and creates an unfair labor practice.

Michael Temple, Union Representative (Tampa Office), reported that to date Sunbelt has

not received a letter of cancellation of their contract with the School Board. Initially, Sunbelt was a provider for AFSCME employees only and District staff requested they be allowed to offer the programs to all employees.

Manny Anon, Attorney for AFSCME Council 79, stated there is a signed 3-year contract dated October, 2007, renewable each year unless otherwise negotiated. Management is violating AFSCME's contract and refusing to negotiate the issue.

Sunbelt's services were provided at no cost to the Board. Management has decided they will take over the responsibilities which will be at a cost to the Board. Even though the Superintendent has the right to decide to cancel a contract with Sunbelt she does not have the right to deny the Union the right to use their benefits provider ...that is a negotiated item. He believes this constitutes an unfair labor practice.

Don Wilson, Attorney for Superintendent, reported that the issue is the administrative company that enrolls School Board employees for the type of insurance they want....the company then procures the insurance through outside vendors. There is no violation of the bargaining agreement.

Dr. Reddout agreed this is not a violation of the bargaining agreement and she is confident there is termination language in Sunbelt's contract. Benefits will remain the same; the real issue is that people are upset that we are no longer going to use Sunbelt as the benefits administrator.

Mr. Blair stated his desire is to have the best product at the best price. When he was asked earlier, Mr. Grey told him he could not say that this change will not be at a higher cost for employees.

Mark Grey commented that the District has never bid supplemental insurance products. He cannot tell if we are using the best company or receiving the best price and best benefits offered. Rates are based on individual medical needs and personal information. Sunbelt Worksite Marketing markets things for companies to purchase. The only process to be changed is who will be doing the enrolling during Open Enrollment: our employees or a third party company.

Mrs. Lofton asked if any former employees of AFSCME were employed by Sunbelt. Mr. Blair said there were not.

Mr. Harris commented that as a member of the Insurance Committee, it is his understanding the only issue is who will be handling the Open Enrollment: It is a process not a benefit.

Mr. Anon stated if that is true they will withdraw the grievance if the District will agree to negotiate the enrollment process.

Mr. O'Reilly called for the question.

Motions:

Motion to uphold Superintendent's recommendation to deny grievance. - PASS

Vote Results

Motion: Margaret Lofton

Second: Frank O'Reilly

Lori Cunningham - Absent

Kay Fields - Absent

Tim Harris - Aye

Margaret Lofton - Aye

Frank O'Reilly - Aye

Brenda Reddout - Aye

Hazel Sellers - Aye

Adjournment

The meeting adjourned at 11:33 AM. Minutes were approved and attested this 12th day of August, 2008.

Hazel Sellers, Vice Chairman

Gail F. McKinzie, Ph. D., Superintendent