11 16 2010 Grievance No. 270

Call to Meeting to Order

Acceptance of Agenda

1. [Accept Agenda of November 16, 2010 Grievance Hearing](#)

Motions:	
Motion to accept the agenda for the November 16, 2010 Grievance Hearing.	- PASS
Vote Results	
Motion: Lori Cunningham	
Second: Hazel Sellers	
Lori Cunningham	- Aye
Kay Fields	- Aye
Tim Harris	- Aye
Dick Mullenax	- Aye
Frank OReilly	- Aye
Hazel Sellers	- Aye
Debra Wright	- Aye

Grievance

2. [Grievance 270, Brian Whitten](#)

Attachment: PEA Grievance 270 - B. Whitten.pdf

Minutes:

Lee Littlefield, Polk Education Association Representative, provided a recap of the Official Grievance of Brian Whitten. Mr. Whitten began working with the school district in the EERS (Electronic Equipment Repair Service) Department which is not a part of the Collective Bargaining Agreement. He left to work for a charter school and when he returned to the District, it was in a collective bargaining position. Mr. Whitten left the district earning $45,000, when he returned, he was placed at the beginning teacher salary of $33,000. Brian had the expectation that he would be placed at his former salary of $45,000.

Employee Benefit Policy 3.007 (d) states that employees shall maintain the same time level as when leave commenced in: Credit on the salary schedule; credit for seniority; credit for accumulated sick leave; and maintenance of membership in the sick leave bank.

3.007 (f) Other terms and Conditions. Charter school leave shall further be subject to the terms and conditions contained in the appropriate collective bargaining agreement, the applicable charter school contract entered into as between a charter school and the School Board, any other contractual agreement as between a charter school and the School Board.

Mr. Littlefield reported that even though Mr. Whitten left the district in a non-teaching position,   as the network manager at Mulberry High, Mr. Whitten and his students benefit from his prior experience in EERS. Therefore, he should receive credit for his 9 years of prior experience.

Don Wilson, Attorney representing Dr. Sherrie Nickell, Superintendent. Legally, the question that must be answered first is the timing of the grievance. Mr. Whitten knew the salary of the position he applied for upon leaving the charter system three (3) years ago. An employee has 15 days of the offense (the time he knew he wasn't going to receive prior experience in the teaching position) to file a grievance. There are no provisions for a professional technical employee who leaves and returns to a collective bargaining position.   There has been no prior instance of a professional technical employee receiving teaching credit in a salary level.

Mrs. Sellers voiced concern with Mr. Whitten's three year delay in filing the grievance. If we allow a delayed filing in this case, we will have to allow any and all employees who wish to file on a past offense the opportunity to do so. Another point is that Mr. Whitten left the district as a 12- month employee and returned as a 10-month employee.

Mrs. Cunningham questioned Mr. Whitten on the delay of his filing. Mr. Whitten replied that he was not a part of PEA when he returned and felt that he could represent himself in his earlier discussions with Human Resource Services. He was not aware of the 15 day limit until after he joined the Union and they suggested he file the grievance.

Mrs. Fields asked for clarification on union membership and 15-day limit to file a

grievance.

Mr. Wilson stated that union membership is not a requirement to file a grievance.

Motions:

Motion to uphold the Superintendent's Recommendation to deny Grievance No. 270, Brian Whitten.   - PASS

Vote Results

Motion: Frank OReilly

Second: Lori Cunningham

Lori Cunningham	- Aye
Kay Fields	- Aye
Tim Harris	- Not Present
Dick Mullenax	- Aye
Frank OReilly	- Aye
Hazel Sellers	- Aye
Debra Wright	- Not Present

Adjournment

Grievance Hearing adjourned at 10:38 AM. Minutes were approved and attested this 14th day of December, 2010.

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Kay Fields, Board Chair   Sherrie B. Nickell, Ed. D, Superintendent