



Duval County Public Schools

January 14, 2015, Grievance Committee

ATTENDANCE AT THIS GRIEVANCE COMMITTEE MEETING: All Grievance Committee Members were present - Ms. Cheryl Grymes, Chairman, Mr. Scott Shine, Member, Ms. Paula Wright, Member

CALL MEETING TO ORDER

[Call Meeting To Order](#)

Minutes: The Chairman of the Grievance Committee called the meeting to order at 1:36 p.m.

GRIEVANCES TO BE DISCUSSED

[STEP III GRIEVANCE BY LABORERS INTERNATIONAL UNION OF NORTH AMERICA \(LIUNA\) LOCAL 630 - VICKY OLSON](#)

Minutes:

Present for this Grievance Hearing were:

Grievance Committee Members:

Ms. Cheryl Grymes
Ms. Paula Wright
Mr. Scott Shine

Present on behalf of Staff:

Mr. Michael B. Wedner, Senior Assistant General Counsel, Office of General Counsel, City of Jacksonville
Ms. Sonita Young, Chief Human Resource Services Officer
Mr. Jim Culbert, Executive Director, Information Technology
Mr. Tom Britton, Director, Information Technology Operations

Mr. James Moore, Supervisor, Enterprise Operations

Present on behalf of Grievant:

Ms. Vicky Olson, Senior Computer Specialist, Grievant

Mr. Dan Williams, Attorney

Mr. Gerald Simpson, Special Representative, LIUNA

Mr. Kip Hamilton, Senior Computer Specialist/Steward Local 630

Others Present:

Ms. Karen Chastain, Chief of Legal Services

Officer Tony Ewest, DCSB Police

The Chairman of the Grievance Committee explained the process.

Opening Statement by Grievant:

Mr. Williams questioned the Grievant as follows:

Ms. Vicky Olson has a computer job and is required to work more than one job resulting in an overload of work which affects her performance. In the Collective Bargaining Agreement (CBA) 25.5, work that is reassigned is to go to volunteers first. The department had a volunteer but did not assign the work to that person. If there are no volunteers, they are to base their assignment on seniority, which was not done. Other people with the same seniority and skill set could have taken on the work on a rotating basis, but it was all assigned to Ms. Olson. She has been written up and threatened with termination as a result of the overload.

Mr. Wedner, at this point, brought up a procedural concern he had. This is a Step III Grievance appeal meaning there is not to be new information presented that was not in Step I or II. The City objects to the Board listening to anything past page 9 of the 64 page grievance.

Mr. Williams argued that the information past page 9 is just additional detail further supporting evidence that was presented in Step I.

Ms. Chastain recommended that in the interest of moving forward, Mr. Wedner can object if at any time he feels new material is being introduced.

Ms. Olson gave a description of her professional skills and background. She has worked for the school district since 2005. She currently works in the Network Operation Center (NOC) which involves taking calls from the Help desk, lots of data entry, basic tasks like manually creating 30 computer accounts which is clerical and menial in nature. Prior to her being assigned to the secondary NOC job during the summer of 2013, the duties were rotated among personnel. She now does the secondary NOC job, fills in for the primary person doing the NOC job in addition to her regular job.

Mr. Wedner objected to Mr. Williams leading the witness.

Ms. Olson testified that those duties added to her prior responsibilities

makes her job overwhelming. She never asked for the NOC position. She explained that someone else with a similar skill set as hers (Yuriy Mikhaylenko) but with less seniority volunteered for the position via an email (see attached). His request was not granted. She doesn't know why. She then named other people in the department with the same skill set as her but with less seniority who were not assigned to the NOC position. She indicated she would be willing to rotate the duties which is what she prefers. Rotation would not be as overwhelming. The current overwhelming condition prevents her from learning more professional development to enable her to keep her job.

Ms. Olson testified she has been written up for not doing things a certain way. She claims she wasn't trained. Even though she was told to use written instructions, they are very basic and don't cover issues that come up. She tries to figure things out on her own. If it isn't right, it will come back to her and she'll find a different way to do things. When asked if the NOC job matched her position any more closely than those of less seniority, she feels it does not.

Mr. Williams yielded the remainder of his time for rebuttal later in the hearing.

Mr. Shine asked Ms. Chastain for more clarity of what evidence is and is not permitted in this setting.

Mr. Wedner asked Ms. Olson if she is the Director of the department that does the work assignments. She answered that she is not. Has she requested overtime? No, she has not.

Mr. Wedner yielded the balance of his time back for the rebuttal later.

Mr. Williams asked Ms. Olson why she has not requested overtime and if it was permitted. She answered she doesn't want overtime and doesn't think it is permitted.

The hearing took a 5 minute recess.

Mr. Wedner questioned Mr. Culbert. Through his questioning, he established that it is not part of Ms. Olson's job description to assign work; instead, it is part of his job as head of the department. He then asked Mr. Culbert to explain how the department used to be structured, how it is structured today and the reason for the changes. Mr. Culbert explained that prior to the change in structure, each person had specific tasks. The problem with that structure is when a person wasn't there, it was difficult to find another person who could fill in. With the new structure, each set of tasks was expanded and would have a least two people who could do those tasks. Mr. Wedner asked if any of the tasks at NOC are menial. Mr. Culbert testified no--that the creation of email accounts was to only be done by Senior Computer Specialists. Mr. Culbert said his supervisors are authorized to assign overtime when it is necessary.

Mr. Wedner distributed Exhibit 1 (see attached) which Mr. Williams objected to since he had not seen it before the hearing. The Chairman overruled the objection.

Mr. Culbert explained the tasks Ms. Olson has and the approximate amount of time it takes to do them. He also testified that the grievance was not filed in a timely way but that they granted an extension the first time it was requested, but not the second time. He did not agree with the position of the claim based on standards set up by the union contract. The criteria used in making a work schedule change is skill set first, volunteering second, then seniority after that. Mr. Wedner indicated Ms. Olson briefly mentioned an EEO she filed in the past. Was Mr. Culbert aware of that claim? Yes, but Mr. Culbert didn't know the outcome of it. Mr. Wedner explained it mentioned multiple times of Ms. Olson being harrassed or retaliated against. Did Mr. Culbert do that in making his decision about her grievance claim? Mr. Culbert answered no. Did Mr. Culbert ever observe Mr. Moore or Mr. Britton do anything of a harassing, punitive or retaliatory nature toward Ms. Olson? Mr. Culbert replied no.

Mr. Culbert testified that since filing the grievance, Ms. Olson's latest job performance shows she needs improvement. Every employee has opportunity for training online and is encouraged to spend an average of 4 hours a week on that system. Ms. Olson has been sent to training in the past. The last time it was offered to her, she declined saying she had appointments, but they insisted she go. If the department were to only consider seniority every time a position opens, the department would have to shift nearly 36 people due to the domino effect.

Mr. Wedner asked if the department would have to hire another employee if Ms. Olson's grievance were granted. Mr. Williams objected, stating the question is whether the CBA was violated, not whether it is inconvenient to the department to abide by it. Ms. Chastain recommended the Chair overrule the objection, then define the credibility to the answer within the confines of the issue at hand.

Mr. Culbert answered that granting Ms. Olson her grievance would result in her all her work requiring approximately 2.5 hours a week and another employee needing to be hired to do the rest of what she is currently doing.

Mr. Wedner called Ms. Sonita Young, Assistant Superintendent of Human Resources to the microphone for questioning. Ms. Young reviewed the four steps involved in filing a grievance:

1. File with the department head
2. File with Human Resources
3. File with the School Board
4. Go to arbitration

Mr. Wedner asked Ms. Young if she believed Steps 2 and 3 were appeals. Mr. Williams objected--the document speaks for itself.

Ms. Young identified the document handed to her by Mr. Wedner as her response to the Grievance. He then asked Ms. Young to explain her response and how she arrived at it. There was a question as to the timeliness of the filing in Step 1 but that the merits of the complaints would still be addressed. After reading through the allegations and references to discrimination, she didn't feel there was enough specificity to support those claims; that instead, the decision made by management was based on business reasons. When she looked at the schedule change, she felt proper procedure was followed by looking first at skill set before looking at volunteers and seniority. The Senior Computer Specialist position allows for lots of different types of work which enables management to reassign people in those position very fluidly.

In Step II the complaint indicated work conditions were not safe and unclean. Ms. Young responded to each item but ultimately denied the requested relief.

Mr. Wedner asked what she would have done if she found retaliation or harassment of Ms. Olson. Ms. Young answered she would have turned the case over to the district Equity and Inclusion Office. Ms. Young is unaware of any complaints against Mr. Culbert. She knows that the number of complaints has declined under his leadership.

Mr. Williams called Ms. Olson to the microphone as a rebuttal witness to ask if she agrees that the NOC duties only require 2.5 hours per week. She does not and explained what the duties entail. Her coworker was hospitalized in August of 2013 and was out for four months. She covered NOC duties for both her and her coworker as well at the duties she had before being assigned to NOC. Now that her coworker is back, the NOC duties still require more than 2.5 hours per week. While her coworker was hospitalized, the school year began which generated a high volume of heat tickets--125 at one point. If she or her coworker is out, other people are rotated in to only answer phones. Mr. Williams asked how people with less seniority than her compare to her skill set. Ms. Olson feels her skill set is not any better or less than theirs. Prior to Ms. Olson being assigned to NOC permanently, the others with less seniority rotated in to NOC and did the duties there.

Mr. Wedner continued questioning Ms. Olson by asking if others rotated into NOC during her coworker's absence. She said they only rotated in while she was at lunch and were told to only answer phones; not to do any of the other duties. Mr. Wedner asked her to verify that she has also filed other EEO complaints against more than one supervisor, including one that complained about moving her work station 5 feet. Mr. Williams objected to the relevance of the question.

CLOSING ARGUMENTS:

Mr. Williams pointed out to the committee that 25.5 of the CBA isn't limited to a work schedule change but also include work area change. It doesn't say workers have to have the identical set of skills; just have the same skill set. It's clear that others with less seniority who had already

worked the NOC duties could have been assigned to NOC and were not. They also had a volunteer that they could have taken. Instead they assigned all the duties to Ms. Olson. Mr. Williams suggested the decisions were made that violated the CBA was done as a form of retaliation to Ms. Olson's EEO claims. Ms. Olson testified that the NOC duties require much more than 2.5 hours a week. The one other witness today who disputes that is not Ms. Olson's direct supervisor. Her direct supervisor is not present today.

Mr. Wedner closed by pointing out Ms. Olson's nature of being a "never ending story." She has multiple EEO claims she has filed against multiple supervisors and complained in one about having to move 5 feet. The length of complaints and repetitiveness support that view. Ms. Young did not find retaliation or harassment when she investigated. The District doesn't have the money to pay Ms. Olson full time pay and benefits to do part time work.

Deliberations:

Board members asked for clarification of details given during today's hearing.

Chairman Grymes preferred to hold off on making a motion until both sides submit orders.

Ms. Chastain suggested a deadline of 5 p.m. on Thursday, February 5th, 2014 for both sides to submit materials to her office. There was discussion about what the materials would cover.

ADJOURNMENT

Adjournment

Minutes:

The hearing was adjourned at 4:30 p.m.

LBL

Superintendent

Chairman