



Duval County Public Schools

October 30, 2012, Grievance Committee Meeting

ATTENDANCE AT THIS GRIEVANCE COMMITTEE MEETING: All Grievance Committee Members were present - Mr. W. C. Gentry, Chairman, Ms. Paula D. Wright, Member and Ms. Becki Couch, Member.

CALL MEETING TO ORDER

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Minutes: The Chairman of the Grievance Committee called the meeting to order at 10:12 a.m.

GRIEVANCES TO BE DISCUSSED

[1. GRIEVANCE BY SCHOOL MAINTENANCE EMPLOYEES AND ASSOCIATES UNION, INC. - SECTION VIII\(K\)\(4\) OF THE COLLECTIVE BARGAINING AGREEMENT](#)

Minutes:

The Chairman of the Grievance Committee explained the process and everyone present introduced themselves.

Present for this Grievance Hearing were:

Grievance Committee Members:

Mr. W. C. Gentry, Chairman

Ms. Paula D. Wright

Ms. Becki Couch

Present on behalf of Staff:

Ms. Sonita Young, Chief Human Resource Services Officer

Mr. Walter Carr, Director, District Staffing, Labor Relations
Ms. Susan Thorburn, Supervisor, District Staffing, Labor Relations
Ms. Wendy Mummaw, Office of General Counsel
Mr. Stephen Bright, Executive Director, Business Services
Mr. Brian McDuffie, Executive Director, Policy and Compliance
Mr. Danny Foye, Supervisor, HR District Staffing
Mr. Greg King, Director, Facilities Maintenance
Mr. Paul Soares, Chief Officer, Operations Support

Present on behalf of Grievant:

Mr. John F. Kattman, Kattman & Pinaud
Mr. Joe Roberts, Director of Business Development, IBEW Local Union 177
Mr. Herb Sang, Former Chief Negotiator for School Maintenance Employees & Associates, Inc.
Mr. Shawn Mitchell, Electrician, IBEW Local Union 177

Others Present:

Ms. Karen Chastain, Chief of Legal Services
Mr. Brian McDuffie, Executive Director, Policy and Compliance

Opening Statement by Grievant: Mr. John Kattman presented on behalf of the Grievant (the School Maintenance Employees & Associates Union), as follows:

The union negotiated with the Duval County School District for a collective bargaining agreement under which the terms and conditions of employment for members of the bargaining unit were established. Under the CBA, the union secured a provision which entitles its members to receive a wage increase equal or greater to any wage increases received by other unions bargaining with the school district during the same period of time. The provision in the school maintenance employees union's CBA is different than those contained in the collective bargaining maintenance employees with that of any other union receiving an increase in wages.

The school district negotiated a collective bargaining agreement with the Duval Teachers Union for the members of the UOPD Unit. The UOPD contract provides that the members of that unit would receive a step raise during each of the years of the collective bargaining agreement. The step raise is greater than the \$500 one-time payment paid to the members of the School Maintenance Employees & Associates Union. Although a single-year step raise may not have equaled or exceeded the \$500 paid to members of the School Maintenance Employees & Associates, the cumulative effect and the effect on the pension for members of the UOPD creates a much greater benefit for members of the UOPD than the \$500 paid to the members of the School Maintenance Employees Union.

Section VIII(K)(4) of the Collective Bargaining Agreement states:

"School Maintenance Employees & Associates will receive \$500 in lieu of a permanent increase in the base rate of pay for the 2010-2011 school year. If any other employee group, not yet settled (as of January 20, 2011), receives additional money above \$500, and/or receives any days off with pay, School Maintenance Employees & Associates will receive the like."

Remedy Requested:

The School Maintenance Employees & Associates Union respectfully requests that the pay of its members be increased and the step raises instituted in the same fashion that the step raises were instituted for members of the UOPD Bargaining Unit. The union requests that any and all back wages be paid as a result of this grievance to members of the School Maintenance Employees & Associates Union.

Opening Statement by District: Ms. Wendy Mummaw, Office of General Counsel, made the following presentation:

Ms. Wendy Mummaw referenced the June 12, 2012 letter addressed to Mr. Tad Delegal, Law Offices of Tad Delegal from Sonita Young, Chief Human Resource Officer. This letter stated the actual provision of \$500, a one-time lump sum, and Ms. Mummaw referenced testimony from Mr. Walter Carr regarding the negotiations. Ms. Mummaw stated that Mr. Sang tentatively agreed with the \$500 lump sum. Ms. Mummaw also stated that there was no offer of time off (3 days). And Ms. Mummaw stated that during the negotiations, the district represented that there was no authority for any step increases. The Board approved a step increase with UOPD (\$250 on top) after CBA language was tentatively agreed on. Teachers and paraprofessionals had received a step before the negotiations with School Maintenance; only UOPD received a step increase after the negotiations and settlement. The Maintenance Unit is not entitled for step increase as Ms. Young explained when she denied the Step II grievance. Instead, the district only had authority for the one-time lump sum of \$500 as was offered to the union by Mr. Carr. The district is, therefore, asking the Grievance Committee to deny the grievance because the district's language was that if anyone received a greater bonus or days off, then the Maintenance Unit would receive the additional bonus or days off. There was no mention about a step increase in the tentative agreement.

Discussion:

Mr. Gentry permitted discussion. Mr. Sang was placed under oath for his testimony, and he provided his experience in representing unions during negotiations. Mr. Sang described the negotiations that occurred with the district representative Walter Carr, noting that this negotiation was among the first among all bargaining units in the district, and he described his intended meaning of the closing term of this union's tentative agreement "...will receive the like."

During the testimony, Mr. Gentry clarified, for the record, that no one was disputing the grievance procedural history to date for this matter.

Mr. Walter Carr testified for the district that during the negotiations that his intended meaning was that if another bargaining unit received a bonus more than \$500, that this union would receive the same amount; and that the negotiations covered the 3 days leave issue. Mr. Carr stated that the negotiations could not have included any step increases because he had no authorization to negotiate for step increases.

Mr. Gentry asked Ms. Mummaw about the parol evidence rule, which provides that prior negotiations and oral discussions merge into the written language of the agreement,

and a written agreement cannot be subsequently changed by parol evidence in the absence of a mistake or fraud in the written agreement. In this case, the plain language of the tentative agreement is unambiguous, so why are the presentations resorting to oral testimony to construe the written words? Mr. Gentry stated his sensitivity to the district employees' economic status; however, he believes the district has to be governed by the written language absent evidence that it means something different than what it says.

Ms. Couch asked Mr. Carr several questions, and she noted that the tentative agreement addressed one school year, and not the cumulative effect of a step increase, year after year.

Grievance Committee Member Wright stated that her concern is that there seems to be a feeling of mistrust and that concerned her. When the board gives directives, the charge is to be conducted accurately. Ms. Wright noted that the intent of the heart and mind, but the language is clear as to what the district represented with the word "like". That's the purpose of the grievance and that's why the parties are here, today.

Chairman Gentry asked if anyone had any questions or felt someone has been misled? Unfortunately, there's a misunderstanding and a lesson to be learned, and noted that district staff should not use differing language than its custom (in this case, the inclusion of the term "the like"). He expressed his sorrow that the union members have differing expectations than what the documents says.

Mr. Kattman said that after this Step III grievance procedure, there is a Step IV in the grievance procedure.

Chairman Gentry said we would recommend this to the Board and they will vote if you want the time to enter the Order, formally, that day; if you want the entire Board.

Ms. Mummaw said that Step IV is to go to arbitration next.

Mr. Kattman said we need to do something within ten work days after the written decision or after the next Board meeting (November 5, 2012). Ms. Sonita Young, Chief Human Resource Services Officer, stated there would be no further action by the Board.

Discussion ensued and the parties stipulated to the following: The Grievance Committee shall enter a Final Order on behalf of the Duval County School Board. Such Order shall not be entered prior to the next regularly scheduled Board meeting on November 5, 2012. Upon receipt of the written Order, the grievant shall have ten work days to file notice for a Step IV in the grievance process.

Motion: That the Step III Grievance to be denied.

Vote: PASS

Motion passes 3-0.

Motions:

That the Step III Grievance be denied. - PASS

Vote Results

Motion: Paula Wright

Second: Rebecca Couch

Martha Barrett - Not Present

Betty Burney - Not Present

Rebecca Couch - Aye

William Gentry - Aye

Thomas Hazouri - Not Present

Fred Lee - Not Present

Paula Wright - Aye

Motion Minutes:

ADJOURNMENT

[ADJOURNMENT](#)

Minutes:

The Grievance Hearing adjourned at 11:05 a.m.

Isd

Superintendent

Chairman