



Arbitrator Orders Back-pay with Interest, Calls Unpaid Leave Discipline

We have prevailed in a long, tough legal battle with the City and County of San Francisco over the termination of member Carlos Ferreira almost two years ago. Not only did our outstanding labor attorney, Kate Hallward, manage to win an order of reinstatement with interest bearing back-pay from Arbitrator Luella Nelson, but she also proved the City's use of unpaid administrative leave is a form of discipline and a violation of our Memorandum of Understanding.

The case centered on the investigation and termination of Ferreira, a Street Inspector with the Department of Public Works. In the spring of 2005, the City began investigating him for what it claimed was a violation of City rules as he was going home for lunch in a City vehicle. Instead of informing the member that the conduct was unacceptable, however, the City hired private investigators to follow him while he performed his work. In May 2005, the City proposed a 30-day suspension and scheduled a pre-disciplinary Skelly Hearing on the proposed discipline, but the hearing never took place. On the day scheduled for the Skelly Hearing the City instead placed Ferreira on unpaid administrative leave for 30 days claiming it needed to investigate possible misuse of City property. In June, the City terminated him based on 10 alleged violations.

In the arbitrator's decision, which was released last week, she dismissed seven of the ten most serious allegations cited in the termination. Further, she found that instead of taking immediate actions to correct the alleged transgressions, the City instead engaged in a game of "gotcha" in its attempt to terminate our member.

A very important aspect of the case was the arbitrator's remedy to our grievances. First and foremost, our member is being reinstated with full

back-pay of two years with interest. Second, she found that the City's charge of going home for lunch by a Street Inspector is not in violation of any City policy. Third, the arbitrator found that unpaid administrative leave is the same as discipline and violates our MOU Article I.E.9 which specifically lays out pre-disciplinary rights. This is very important as we have challenged the use of this form of leave repeatedly.

In ordering back-pay with interest, the Arbitrator faulted the City for not taking quick corrective action on alleged violations and for "assertions on brief that had no factual basis."

The City went to great lengths to delay justice in this matter. The City at first refused to arbitrate our separate grievance over the violation of Skelly rights and the pre-disciplinary procedures of our MOU. We had to go to Superior Court where we won an "Order to Compel" arbitration. The Arbitrator then ruled that the issue was subject to the grievance procedure and ultimately ruled in our favor on the merits of the grievance.

The hearing originally scheduled for two days ran to five days of hearings that stretched over more than three months. The City used four Deputy City Attorneys on this case and our single lawyer, along with the hard work of Carlos and staff, put together a case that was based on fact.

Computer Use Reminder

We want to again remind all of our members that your work issued computer is the property of the City and County of San Francisco and that any activity that you engage in using your work computer can be viewed by your appointing officers.

We have been informed that management has stepped up its monitoring of employees and what websites are visited in given periods of time. This means that one must be cautious and mindful in what websites are visited and for how long.

[turn over — continues on back]

If you are unsure about what is acceptable use of your computer, ask your appointing officer for a copy of the Employee Handbook or a description of the department's computer use policy.

San Francisco Unified School District Reaches Agreement on Retroactive Pay

After five years of working under an expired contract and months of negotiations, our members at the San Francisco Unified School District (SFUSD) have reached a major settlement on retroactive pay, compensating for a multi-year wage freeze. An overwhelming majority of chapter members ratified the school district's offer that would afford 9.5% in net combined back pay to employees dating back to 2001.

The agreement consists of a 3% increase effective July 1, 2001, another 2.5% as of July 1, 2002, 2% from July 1, 2006, and a 9.5% increase beginning May 2, 2007, of which 7.5% will be paid back to the district in the form of employee-share retirement costs. SFUSD employees will receive a lump sum payment and adjustment to their salaries in their second May 2007 paychecks.

SFUSD has experienced a consistent decline in enrollment since 1999, which directly corresponds to the amount of state funding the district receives. Despite the rate of attrition, the workload and cost of living for employees at the district has steadily increased. Before the retroactive wage increase, district employees made a combined average of 39% less than their counterparts in the City and County of San Francisco.

Representatives from the bargaining team and Local 21 will re-open negotiations with SFUSD in June 2007 to discuss a wage increase for a successor agreement that would take into consideration, at minimum, fiscal years 2007 to 2008, as well as developing more equitable work environments and strategies for effective employee retention and development.

Know Your Rights: Catastrophic Illness Program

The City and County of San Francisco has an

established program to help employees deal with 'catastrophic' illnesses, both personally and within the immediate family. The T.J. Anthony Catastrophic Sick Leave Policy allows employees to utilize paid leave that is donated from other employees to extend leave with pay for serious illnesses.

This policy allows City employees to donate a portion of accumulated sick leave or vacation credits to individual employees or a pool of employees who are designated as being catastrophically ill. The policy also allows employees to donate vacation credits to another employee to care for a family member who is catastrophically ill.

To receive donation time you must be eligible to accumulate and use sick leave, have been designated as being catastrophically ill, and have exhausted all of your available paid leave. If you must care for a catastrophically ill family member, you must be eligible to accumulate and use sick leave, have a catastrophically ill family member and you must be required to take off time from work to care for that individual. (A family member is a spouse, registered domestic partner, or another dependent).

A great way to participate in this program is to donate extra paid leave to an individual employee or to the City-wide pool. To donate sick leave or vacation credits you must not be catastrophically ill, must be eligible to accumulate and use either sick leave or vacation credits, and must retain a minimum of 64 hours sick leave for your own personal use.

To apply for this program or get more information, please contact the Department of Human Resources at 554-2587 or visit this website: http://www.sfgov.org/site/uploadedfiles/sfdhr/forms_documents/CatastrophicLeaveInfo.pdf

San Francisco Council Meeting
Come hear about what your Local is engaged in and meet fellow members!!
Date: May 16, 2007
Time: 12:00 p.m.
Location: Local 21 Main Office



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