

September 25, 2008

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, October 2, 2008
1:30 p.m., Commissioners Hearing Room
County-City Building, Room 112

A G E N D A

ITEM 1: Request to change the pay grade for the following classification:

<u>CLASS CODE</u>	<u>CLASS TITLE</u>	<u>CURRENT PAY GRADE</u>	<u>PROPOSED PAY GRADE</u>
9735	Mental Health Managed Care Coordinator	C08 (\$34,966.88 – \$44,788.64)	C10 (\$37,529.44 – \$48,070.88)

ITEM 2: Request to revise the following classification:

<u>CLASS CODE</u>	<u>CLASS TITLE</u>	
4921	Maintenance Supervisor	C09

ITEM 3: Request from EAT to revise Family and Medical Leave Act Personnel Policy Bulletin.

ITEM 4: Request from EAT to revise Catastrophic Illness Leave Donation Personnel Policy Bulletin.

ITEM 5: Request from EAT to amend Rule 19.3 of the Personnel Rules – Sick Leave.

ITEM 6: Request from EAT to amend Rule 19.12 of the Personnel Rules – Requirements as to Continuous Service.

ITEM 7: Request for grievance hearing – Kaela Howard — Corrections.

ITEM 8: Election of Chair.

ITEM 9: Election of Vice-Chair.

ITEM 10: Miscellaneous Discussion.

pc: Kaela Howard
Gary Young
Department Heads
Jeanne Sayers – EAT

LANCASTER COUNTY MAINTENANCE SUPERVISOR

NATURE OF WORK

This is supervisory work with responsibility for maintaining and repairing an assigned building or facility within the County.

Work involves supervising and participating in the performance of varied maintenance, repair, alteration and construction activities including prioritizing, scheduling and assigning work. Work also involves inspecting assigned buildings or facilities to determine maintenance requirements; initiating repairs in assigned buildings or facilities including obtaining necessary materials and supplies to complete the repairs; and monitoring and maintaining heating and cooling systems. General supervision is received from an administrative superior with work reviewed in the form of conferences and results achieved. An employee in this class is expected to exercise considerable initiative and independent judgment in assigning, reviewing and performing work. Supervision is exercised over subordinates involved in maintenance, repair and custodial work.

EXAMPLES OF WORK PERFORMED

Perform construction work in the remodeling of County facilities; coordinate with contractors, owners and occupants of the facility during the renovation or demolition process.

Schedule, prioritize and supervise the work of maintenance and custodial staff assigned to specific buildings; supervise and participate in the work of building maintenance, repair and construction tasks, and ground maintenance including minor concrete work, painting, turf care and underground sprinkler system maintenance.

May supervise personnel engaged in the operation of boilers or maintenance of system components including computer-operated energy management systems.

Monitor and maintain heating, cooling, plumbing, electrical, and energy management systems within assigned buildings or facilities; inspect assigned buildings or facilities to determine maintenance requirements; initiate repairs including obtaining necessary materials and supplies to complete the repairs.

DESIRABLE KNOWLEDGE, ABILITIES AND SKILLS

Considerable knowledge of the standard practices, processes, materials and equipment used in the maintenance and repair of buildings and related equipment.

Considerable knowledge of building code and safety requirements.

Considerable knowledge of the hazards involved in building maintenance and repair work and of precautionary and safety measures to be taken.

Ability to inspect buildings and other facilities and to determine maintenance and repair requirements.

Ability to work from sketches, blueprints and oral and written instructions.

Ability to make accurate estimates as to time and materials required for repair and maintenance work.

Ability to plan, organize and supervise the work of trade workers, custodial staff and related workers.

Ability to perform heavy lifting.

Skill in the use of tools and in the operation of machines and equipment used in one or more building trades and facility systems.

DESIRABLE TRAINING AND EXPERIENCE

Graduation from a senior high school or equivalent and experience in one or more of the building trades including some supervisory experience in building maintenance and repair work plus experience in asbestos abatement activities. A journeyman electrician's and/or plumber's license is desired.

MINIMUM QUALIFICATIONS

Graduation from a senior high school or equivalent and experience in one or more of the building trades plus some experience in asbestos abatement activities or any equivalent combination of training and experience which provides the desirable knowledge, abilities and skills.

NECESSARY SPECIAL REQUIREMENTS

Possession of a valid State of Nebraska driver's license when operating a vehicle is necessary to the satisfactory performance of assigned duties.

Possession of such certifications required by law as necessary for the satisfactory performance of assigned duties.

Must obtain State and Federal certifications in asbestos handling upon employment, and annually pass recertification tests. As per Title 178, Chapter 21 of Nebraska Asbestos Control Act and Environmental Protection Agency regulations.

Must obtain a lead abatement risk assessor and supervisor licenses and applicable licenses for mold abatement.

SPECIAL NOTICE

Smokers who are exposed to asbestos occupationally have a greatly increased risk of contracting lung cancer as compared to smokers who are not exposed to asbestos occupationally and non-

smokers who are exposed to asbestos occupationally. This is according to OSHA (29 CFR, parts 1910 and 1026) and EPA (40 CFR, part 763) research.

Approved by: _____
Department Head Personnel Director

Revised: 9/08

PS4921

MEMORANDUM

To: Karen Eurich, Personnel

From: Jeanne Sayers, Employee Advisory Team Secretary

Re: EAT Request for Personnel Policy Board Agenda Item

Date: September 24, 2008

EAT is requesting these 4 items (attached) be added to the October Personnel Policy Board Agenda for discussion.

Thank You.

**Recommendations for Rule Revisions, 2008
Employee Advisory Team**

Proposal of the following change:

Family and Medical Leave Act of 1993 (FMLA) and 29 C.F.R. Part 825

5. General Information and Affect on County Paid Leaves.

FMLA leave will be unpaid leave and counted ~~concurrently with~~ consecutively to other paid leaves (sick leave, personal holidays, vacation, injury leave, workers' compensation leave and/or catastrophic leave). ~~Therefore, the 12 weeks of leave will be paid to the extent the employee has other paid leaves available. After all applicable paid leaves are exhausted, any remaining FMLA leave will be unpaid.~~ If leave is for an employee's own serious health condition, the employee must use all of his or her sick leave and may utilize personal leave or accrued vacation leave. An employee may then request up to twelve (12) weeks of unpaid FMLA leave. If the leave is requested for ay of the other reasons listed in section 4 above, an employee must use all of his or her accrued family sick leave and may utilize accrued vacation time. An employee may then request up to twelve (12) weeks of unpaid FMLA leave.

Recommendations for Rule Revisions, 2008
Employee Advisory Team

Proposal of the following change:

Catastrophic Illness Leave Donation Policy

1. The employee must be suffering from a catastrophic illness or non-work related injury which has resulted in the exhaustion of all the employee's paid leave ~~and which extends for at least one week after the exhaustion of such leave.~~

**Recommendations for Rule Revisions, 2008
Employee Advisory Team**

Proposal of the following change:

Personnel Rule 19.3 Sick Leave

- (d) Immediate family for the purpose of sick leave usage is defined to be spouse, child, grandchild, parent, step-parent, sister, brother, employee's grandparents and the parents of the employee's spouse. Immediate family will also include any other family member, whether it be by blood or legal marriage, or legal adoption or foster children, residing in the same household.

**Recommendations for Rule Revisions, 2008
Employee Advisory Team**

Proposal of the following change:

Personnel Rule 19.12 Requirements as to Continuous Service (Revised 11/02)

Length of service requirements for increased vacation leave and for other purposes, as specified in these rules, shall be based on the employee's continuous service with the County. Continuous service with the County means employment without a break or interruption; provided that any absence or authorized leave without pay or by reason of layoff for thirty (30) ~~consecutive calendar~~ working days or less shall not affect the continuity of service. Leaves without pay and layoffs for a period in excess of thirty (30) ~~consecutive-calendar~~ working days shall be deducted in computing the total length of service with the County and the employee's eligibility date will be adjusted accordingly.

LAW OFFICES OF
KEATING, O'GARA, NEDVED & PETER, P.C., L.L.O.

CON M. KEATING
ROBERT M. O'GARA
GARY J. NEDVED
PAUL J. PETER
ANNE E. WINNER
JEFFERSON DOWNING
DOUGLAS J. PETERSON
GARY L. YOUNG
TRACY A. FOLLMER
JOEL D. NELSON
JOEL BACON

530 SOUTH 13th STREET, SUITE 100
LINCOLN, NEBRASKA 68508-2795

Telephone (402) 475-8230
Toll Free (888) 234-0621
Fax (402) 475-8328
www.keatinglaw.com

OMAHA OFFICE:
13445 CRYER AVENUE
OMAHA, NEBRASKA 68144
(402) 502-7386

OF COUNSEL:
JANE E. BURKE
DONALD R. STADING

September 15, 2008

Don Taute
Lancaster County Personnel Director
555 S. 10th Street
Lincoln, NE 68508

RE: Grievance of Kaela Howard

Dear Don:

On August 29, 2008, Corrections Officer Kaela Howard filed her grievance with the Department Head of Lancaster County Corrections, Mike Thurber. Mr. Thurber subsequently denied the grievance, and the response of the Department was received on September 11, 2008.

A copy of that grievance is attached hereto, which we are resubmitting to the County Personnel Board.

Very truly yours,


Gary L. Young
FOR THE FIRM

GLY:km
ENCLOSURE
Cc: Brett Wheeler; Kaela Howard

Kaela Howard
1621 N. 60th Street
Lincoln, NE 68505

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COPY

Louis Osburn
8-29-08

IN RE GRIEVANCE OF KAELA HOWARD AND FOP 32)
)
)
)

Date: August 29, 2008

TO: Department Head Mike Thurber
FROM: Kaela Howard and FOP #32, her Union

COMES NOW Kaela Howard and FOP #32, her Union and for their grievance state as follows:

NATURE OF GRIEVANCE AND ACTS OF COMMISSION OR OMISSION GRIEVED:

Kaela Howard is a Corrections Officer ("C.O.") with Lancaster County Corrections. She is an 8 year County Employee.

Open slots in the employee shift schedule are assigned on a semi-annual bid process provided for in the FOP 32 contract with Lancaster County. When a slot becomes open before the next semi-annual bid, Article 17, Section 8, of the contract indicates that:

"Officers may request to change days off on their shifts as positions become available. Each officer will be allowed only one change between each bid. Where more than one officer requests an opening, seniority and male/female positions will be the determining factor. This change of days off will not require a two (2) week notice."

Article 17, Section 8.

Kaela Howard works the first shift at the jail, and her current days off are Thursday and Friday. When former C.O. Dave Henry separated from service with the County, his position on first shift schedule became open. This position is known in the Department by the shorthand of "CO4." On August 16, 2008, Kaela Howard requested to be placed in this opening until the next bid, for the reason that it has Friday and Saturdays off. A copy of the request is attached hereto as Exhibit 1 to this grievance.

On August 19, 2008, Kent Griffiths, the LCF Administrator who manages the schedule for Corrections, sent Kaela Howard a notice that she had been placed in the slot she requested. A copy of that email is attached here to as Exhibit 2 to this grievance.

On August 20, however, Kent Griffiths called Kaela Howard and notified her that the Department was refusing to place her in the open slot, because she was a

female, and she was currently in a female-only spot in her current shift. He followed this-phone call up with an email confirming this. A copy of that email is attached here to as Exhibit 3 to this grievance.

This decision violates Article 17, Section 8 of the agreement between Lancaster County and FOP #32. There are 18 officers on first shift, with 15 males and 3 females on her shift. Each of the females occupies a "female-only" slot, which is a slot that is reserved for females to ensure there is at least a minimum number of females on each shift to address matters with inmates that need to be addressed by female officers. Kaela Howard is currently in a female-only position on her shift.

However, the Department has a large number of female probationary employees available to fill the female-only position currently held by Kaela Howard. These employees have no rights to control their shift assignments, and have much less seniority than Kaela Howard. For example, there are 3 probationary female C.O.s currently on Second shift, and 3 probationary female C.O.s on third shift. Many of these have substantial experience and could fill the female-only position on first shift. In fact, probationary employees currently fill other female-only positions throughout the Department.

The refusal of the Department to place Kaela Howard in the CO4 position violates Article 17, Section 8 of the FOP 32 contract, which gives priority to senior officers in the selection of days off when slots become open between bids.

DATE OF ACTION GRIEVED: Kaela Howard first received notice of this action on August 20, 2008,

IDENTITY OF GRIEVING PARTIES: Kaela Howard and FOP #32

IDENTITY OF PERSONS ALLEGED TO HAVE CAUSED GRIEVANCE: Kent Griffiths

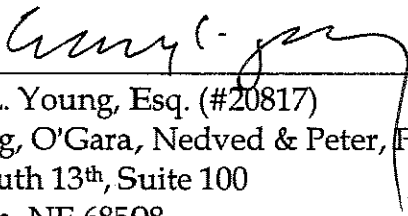
PROVISIONS OF AGREEMENT THAT WERE VIOLATED: Article 17, Section 8

REMEDY SOUGHT: That the Department place Kaela Howard in the CO4 slot she requested immediately.

Respectfully submitted this 29th day of August, 2008.

KAELA HOWARD and FOP #32, Her Union

BY:



Gary L. Young, Esq. (#20817)
Keating, O'Gara, Nedved & Peter, P.C., LLO
530 South 13th, Suite 100
Lincoln, NE 68508
Ph: (402) 475-8230
Fax: (402) 475-8328
Attorney for the Grievants

LANCASTER COUNTY CORRECTIONS DEPARTMENT

605 SOUTH TENTH STREET
LINCOLN, NE 68508
(402) 441-7530
FAX: 441-8946

MICHAEL THURBER, DIRECTOR

September 8, 2008

Gary Young
Keating, O'Gara, Nedved & Peter, P.C.
530 South 13th Street, Suite 100
Lincoln, NE 68508

RE: Kaela Howard and F.O.P. 32 Grievance received August 29, 2008

Dear Mr. Young:

This letter will serve as a response to a grievance dated August 29, 2008, regarding Correctional Officer Kaela Howard's request to change days off on first shift. On August 16, 2008, Officer Howard requested to be placed in the "CO4" slot on first shift which would give her Friday and Saturday off. On August 20, 2008, LCF Administrator Kent Griffith denied her request because Officer Howard was in a female-only position on the shift schedule. Officer Howard and the F.O.P., Lodge 32, have alleged a violation of Article 17, Section 8, of the 2005-2009 Bargaining Agreement between F.O.P., Lodge 32 and the County (the FOP Agreement).

Article 17, Section 8, specifically states:

Officers may request to change days off on their shifts as positions become available. Each officer will be allowed only one change between each bid. Where more than one officer requests an opening, seniority and male/female positions will be the determining factor. This change of days off will not require a two (2) week notice.

Pursuant to Article 4, Section 2, of the FOP Agreement, Management has the right to "manage and supervise all operations and functions of the [Corrections Department]", "establish, allocate, schedule, assign, modify, change, and discontinue [Corrections Department] operations, work shifts, and working hours", and "establish, modify, change, and discontinue work standards." It is clear that the Department has the ability to set and determine operating requirements and minimum staffing needs at the Lancaster County Correctional Facility.

At the time of Officer Howard's request to change days off, Kent Griffith reviewed the official first shift schedule at the Jail. As noted by Officer Howard's grievance, Mr. Griffith initially approved Officer Howard's request, but later realized that he had failed to check if Officer Howard held a female-only position. Upon further review, Mr. Griffith realized that Officer Howard was in a female-only position on the first shift schedule. At the time of Officer Howard's request, there were no females on first shift at the Jail to fill her female-only position had her request to change days off been granted. Officer Howard and F.O.P. 32 allege that the Department's decision to refuse Officer Howard's request violated Article 17, Section 8, of the FOP

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Agreement "which gives priority to senior officers in the selection of days off when slots become open between bids." However, such allegation ignores the plain language of Article 17, Section 8, which states in relevant part: "seniority **and** male/female positions will be the determining factor." The determination as to whether an officer may change days off is based on seniority and male/female positions, not solely seniority as Officer Howard and FOP 32 seem to allege. As previously stated, Mr. Griffith's decision to deny Officer Howard's request was precipitated in large part by the fact that there were no other females on first shift to fill her female-only position.


Additionally, Article 17, Section 8, states that "Officers may request to change days off **on their shifts** as positions become available..." The ability of correctional officers to change days off is limited to days off on their shifts, as is the process of filling the vacant positions once a request is considered. Although Officer Howard's grievance alleges that there are a large number of female probationary employees available to fill Officer Howard's female-only position, the fact that they are female probationary employees on second and third shift justifies the Department's decision not to re-assign one of the female probationary employees to fill Officer Howard's position. Article 17, Section 1, states in relevant part:

In the interest of staff training and development for Correctional Officers, the department reserves the right to assign or re-assign any Correctional Officer with less than one year's experience to any open position or positions held by a Correctional Officer with less than one year's experience.

Moreover, Article 4, Section 2, of the FOP Agreement provides Management the right to "hire, examine, classify, promote, train, transfer, assign and retain employees..." The Department has the authority under both Article 17 and Article 4 of the FOP Agreement to limit the ability of correctional officers to change days off only on their shifts, and to determine when the assignment or re-assignment of probationary officers is acceptable based upon the interest of staff training and development. Mr. Griffith's decision to deny Officer Howard's request to change days off was also precipitated in large part by the fact that re-assigning a female probationary employee from second or third shift, to first shift, was not consistent with the FOP Agreement, nor beneficial for the training and development of those particular female probationary employees.

The denial of Officer Howard's request to change days off was based on legitimate operational needs and minimum staffing needs set by the Department; specifically, ensuring there was a minimum number of females on first shift, and ensuring the request to change days off and the subsequent process of filling a possible vacancy was limited to first shift. For the foregoing reasons, I must deny the grievance.

Sincerely,



Michael Thurber
Corrections Director

MT/lo

cc: Don Taute, Personnel Director
Kristy Bauer, Deputy County Attorney
Terry Weber, Jail Administrator
Kent Griffith, LCF Administrator
Personnel File