

FRONTLINES:

STEWARDS NEWS-MAKING JUSTICE HAPPEN!

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Arbiter Overturns Termination for NMCD Employee, State Appeals to District Court

New Mexico Corrections Department has appealed an Arbitrator's opinion and award finding NMCD did not have just cause to terminate grievant Marco Coca on August 30, 2011. The burden of proof will be on the state to show that Arbiter Danile J. Pagnano acted 'fraudulently, arbitrarily, or capriciously,' or not "in accordance with the law."

AFSCME's position prevailed during arbitration that the state attempted to compel Mr. Coca to undergo a polygraph examination by threatening termination. During testimony, NMCD Regional manager Bobchak said she concluded a suspension, not a termination, was justified.

Never mind that Mr. Coca's supervisor initially found the charges to be without merit, or that extenuating circumstances of broken timelines and sworn testimony by Mr. Coca's coworkers exonerated him, the state's fight against Mr. Coca continues.

Over the course of investigation, Mr. Coca invoked his rights under Rule 11-707G NMRA, that "No witness shall be compelled to take a polygraph examination over objection." By ordering the grievant to take a polygraph examination, AFSCME argued that NMCD had departed significantly from its own policy on investigation.

Primarily, the investigator failed to interview Coca's coworkers who were present during the alleged incident, thereby ignoring rules of the polygraph procedure that, "all reasonable investigative techniques shall be exhausted prior to the Department requiring a Department employee to submit to a polygraph examination."

Interviewing Mr. Coca's coworkers could have established that the individuals alleging they had witnessed Mr Coca's actions weren't, in fact, present during the alleged incident.

NMCD investigators also failed to consider substantial evidence calling into question whether persons leveling



allegations had credibility or could reasonably be believed to be reliable.

Quite simply, Corrections Department investigators retaliated against Mr Coca for invoking his rights and attempted to intimidate him into submitting to polygraph examination by threatening termination.

Right of refusal is protected by policy, as confirmed by the arbiter. AFSCME cannot let stand Mr Coca's termination for feelings of hostility toward the investigation of his job performance.

AFSCME's legal position continues to be, and has always been, that policies do matter.

Regardless of extenuating circumstances that were supportive of the grievant's defense, the state's justification for terminating Mr Coca is malicious and retaliatory.

On Sept 5, the case was scheduled to be heard, but State Attorneys failed to appear. The Court reluctantly rescheduled. AFSCME is fed up with the state's continued waste of tax payer dollars and disrespect to the Court.

STEWARD ESSENTIALS:

Steward Grievances Arrive at Supreme Court

The New Mexico Supreme Court Decision affirming that SPO violated the AFSCME contract and owes up to \$30 million dollars in back pay to Union employees did not originate in the AFSCME Counsel Legal Offices. This tremendous victory started at a STEP ONE Grievance and escalated over four years to the highest court in New Mexico. What are the lessons?

- ★ Know your contract, policies, and deadlines
- ★ Clearly state the violation
- ★ Document your supporting facts
- ★ Cross your T's and dot your I's (spellcheck!)
- ★ Frivolous grievances do not build power for the union
- ★ Right is right, your step 1 grievance could end up benefiting workers everywhere!

Bright Ideas: Doing What it Takes to be a Leader

Gain Credibility

- ★ Be honest with members, co-workers and managers; a steward who bluffs, misleads or skirts the truth won't remain credible for very long.
- ★ Be reliable. If you are asked a question and you don't know the answer, say "I don't know" — then get the information and get back to the person as soon as possible. When you say you are going to do something, follow through.

- ★ Be knowledgeable about the contract, the work rules and policies, co-workers in your area, supervisors and managers, issues impacting the workers, etc.
- ★ Be supportive. When co-workers approach you with their concerns and complaints, offer understanding, encouragement and help or guidance in addressing their problems.
- ★ Be committed to the labor movement and the goals of AFSCME — gaining respect, dignity and fair treatment on the job, and providing a voice in determining working conditions.

Listen

- ★ Pay attention to what the member, non-member or manager is saying.
- ★ Show interest in the issue, problem or complaint that is being described; maintain eye contact.
- ★ Concentrate and don't fake attention or allow yourself to be distracted.
- ★ Don't interrupt. It's impossible to listen when you are also talking.
- ★ Ask questions if you are unclear or confused or don't understand something the person is saying.

Labor / Management Committees Can Be a Success

Increasingly, as AFSCME find itself across the negotiating table from for-profit consultants and union busters, Labor Management teams are emerging as an essential tool to meet management on neutral ground and address workplace issues.

Some Locals are witnessing contract bargaining evolve away from the mission of getting the "business" of public services done. Anti-worker politicians exploit the collective bargaining process to score political points, slash spending, and diminish the political power of unions. Cavalier actions like this jeopardize services and endanger worker safety.

However, even in the most anti union administrations, there are men and women in upper level management responsible for making sure public services continue uninterrupted and are effective. These are the individuals who AFSCME leaders sit down with in the spirit of good will to address issues and hammer out beneficial solutions to workplace challenges.

Labor Management Committees provide powerful opportunities to level the playing field. Every local steward should be aware of what contractual rights their local has for these meetings, ensure that the meetings are happening, well attended, and meeting outcomes are shared with membership.

AFSCME Local 1536 (Bernalillo County Juvenile Detention Center) LMC Keeps Up Dialogue

President William Martinez, Chief Steward Steve Rodarte, Dir. Craig Sparks, and Asst. Dir. Dan Kern meet bi-weekly on Monday's at 9am. These meetings are very beneficial for both sides. They tackle issues early before they become major problems. Management gives insight into



Critical Listening Skills are a mandatory part of the job description for AFSCME Stewards.

upcoming policy changes and areas of focus that the committee take back to the membership so they can respond and be more prepared when changes do come.

Frequently the LMC will table issues over several meetings before they come to an acceptable resolution for both parties. Between meetings lists of issues are collected for the committee to clarify and address. "We lay issues out on the table at the meetings and start hitting the ball back and forth." Youth Program Officer Rodarte.

We tackle issues early, before they become major problems.

**Steve Rodarte
Local 1536 Chief Steward
Bernalillo Co Juvenile Det. Ctr.**

Local President William Martinez says, "We are able to work through most issues. Other more contentious issues require we use the grievance process to reach resolution."

Local 1536 LMC has addressed and/or settled the following issues:

- Compromise to establish a rotating involuntary hold list recognizing seniority
- Bid process will be changing to a paper ballot system with union oversight

- Updated escorting rules making it easier and safer for staff and residents
- Safe staff to resident ratios

AFSCME Local 3422 (State Dept. Corrections) LMC Meeting Highlights

NMCD Cabinet Secretary Gregg Marcantel opened a recent LMC meeting by recognizing that conflict was inevitable, but that meaningful dialogue was essential to put issues on the table for discussion. Sec Marcantel directed wardens and regional managers to maintain regular local LMC meetings.

AFSCME and Management addressed dozens of issues, including huge safety policies at the meeting.

- staffing levels / vacancies
- inmate crowding / timelines for inmate transfers
- policy on handling of level 6 inmates (most dangerous)
- staff tuition assistance program
- pay, new positions, time off Fridays

Contact your Local President for more information on your LMC meetings.

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