

04 08 2010 Grievance Hearing

Call to Meeting to Order

1. [Grievance of Amanda Craven, Shawn Killets and Glenn Rutenbar](#)

Acceptance of Agenda

Grievance

2. [SPEAKERS](#)

Minutes:

FOR THE GRIEVANTS:

John Frost, Attorney for Grievants, Glenn Rutenbar, Amanda Craven, and Shawn Killets, stated that the Grievants have been unfairly punished for violation of an unwritten, unpublished, unknown rule or regulation. He stated that there is no district policy or written procedure written that a Guidance Counselor cannot check the grades of any student. In Polk County, Guidance Counselors are provided the capability to check grades of any student. The Federal and State law says that Guidance Counselors may check the grades of any student as long as it is of educational interest. They were punished for an unauthorized checking of records. We feel that cheating is of an educational interest.

Mr. Frost provided an Affidavit of Renalia Dubose, Lawyer, adjunct professor of School Law at the University of South Florida and Saint Leo University, which states that under Florida Statue 1002.22... 'the educational records of a student may be accessed and released to school officials who have legitimate educational interests in same. The determination of whether a student is academically eligible to participate in interscholastic sports activities constitutes a legitimate educational interest for which school officials should be permitted to access and release the educational records of said student.' Ms. Dubose also states that upon her review of the documents of the case, in conjunction

with applicable Florida and Federal law, she concludes that the grievants did not violate Florida Statute 1002.22, or any provision of the Family Educational Rights and Privacy Act (FERPA). The Grievants did not violate any of the policies, procedures or rules of the Polk County School Board. The Grievants acted reasonably in checking the eligibility of athletes for compliance with Florida Statutes and reporting the discovered violations to the appropriate school officials in the county office. She also states that given the fact that the grievants discovered violations of the Florida Statutes supports the reasonableness of their reasoning. She could find no basis for the imposition of disciplinary sanctions against the grievants by the Polk County School Board.

The Guidance Counselor at Kathleen High School violated Florida Statute and School Board Policy by allowing an unqualified athlete to play (low grade average and grade forgiveness). It is the belief of the District staff that this was a simple human error. Yet, the Bartow High School Guidance Counselor, in checking the grades of the player, found them to be incorrect and reported the findings to her immediate supervisor as stated in policy. A meeting was scheduled with Bartow High School Principal Ron Pritchard but Ron Ciranna, Assistant Superintendent of Human Resource Services, sent a letter instructing him not to act upon any grievance by his staff because of his prior knowledge of the facts and participation in the investigation.

Therefore, no informal meeting (STEP 1) was held. If grievance still exists after STEP 1, the grievance is to be filed to the District Office within 10 days. According to the Collective Bargaining Agreement, the STEP II should have been heard by the Superintendent; no one else is mentioned or assigned. Don Wilson, Attorney for Superintendent, stated in a January letter that Dr. Bruce Tonjes will hear the STEP II and that this is the practice of the District. Why is it that District Office staff who have prior knowledge of the facts and have been a part of the investigation are able to preside over the various step hearings; yet, Bartow High School Principal Ron Pritchard was denied the opportunity to hear STEP 1 because he had prior knowledge of the facts and participated in the investigations?

The actions of the grievants led the District to investigate the procedures of the other high schools and found that Auburndale High School was also reporting eligibility incorrectly. An e-mail from David Lewis stated that this was a wide-spread issue and a meeting was held to discuss the rules with all high school principals.

If you read the record, the law, and the actions taken against the grievants by the District Office staff, it is an act of bullying. If the actions of Kathleen High School have been identified as human error, why weren't the actions of the grievants?

FOR THE SUPERINTENDENT:

Don Wilson, Attorney for Superintendent, reported that grievance procedures were designed, intended, and has always operated as a process to review disciplinary actions. The first two steps are clearly management /administration's opportunity to look at what has happened and determine if it is reasonable and appropriate.

There is not a complete list of dos and don'ts for employees. The rule says that educational records should not be used except for legitimate educational purposes. This should mean that you cannot use educational records to change athletic records.

What really happened is that a losing team used the educational records of students at another school to conduct an investigation without authorization. If the grievants felt that there might have been ineligible players in the game they lost, they should have reported it to the people who would have carried out the investigation. It is universally known that you cannot use student records to conduct an investigation of team members of another school.

Mrs. Sellers asked how the School Board would know that it is universally known by staff that they are not allowed to check grades of students of other schools? Mr. Wilson replied that we have standards and conducting an investigation of the eligibility of players of another school is not a legitimate educational need.

Mr. Frost rebutted that a major concern for the School Board is that the Florida law on eligibility should be followed. If every coach knew that schools would check the grades of the players, they would be sure that all their players were eligible. Why isn't that an educational interest? It is not universally known and there is no written rule or procedure.

Mrs. Lofton stated that the School Board is concerned with following State Statute. The big issue to her is the definition of 'educational purpose'. There was no educational purpose; it was a purpose of eligibility to play sports. She understands there is no written policy that the grievants have violated. Mrs. Lofton asked for clarification on 'educational' interest.

Mr. Wilson reported that State Statutes address the educational interests of students. In this case the interest was in changing the football record. An educational interest would be when a student is transferring to that school; the school had no academic interest in the student until after they lost the football game.

Mr. Frost reminded the School Board the affidavit of Ms. Dubose where she states that the Family Educational Rights and Privacy Act and Florida Statute 1002.22 provide that the educational records of a student may be accessed and released to school officials who have legitimate educational interests in same. The determination of whether a student is academically eligible to participate in interscholastic sports activities constitutes a legitimate educational interest for which school officials should be permitted to access and release the education records of said student.

Mrs. Fields commented that Mr. Killets should have gone to his supervisor, who should report it to the principal, who then should have asked the District Office to investigate. She does not believe the grievance was about the educational interests of students.

Mrs. Sellers supports the grievants and does not think this would be upheld if it should be appealed to a higher level.

Mr. Harris questioned who and when is an appropriate time to check the eligibility of players. The team that loses is usually the one who files a protest and they can only do so if they have knowledge of wrong doing. Mr. Frost reported that schools can challenge the academic eligibility at any time.

Mr. Wilson commented that when the coach received the anonymous tip, he should have

immediately contacted the principal.

Mr. Harris asked the Superintendent if the information had gone to Mr. Pritchard, would he be the investigator or would he report it to the District for an investigation.

In her prior experience, the Principal, through the Athletic Director, would check on the eligibility and then notify the District. And, the Principal could have asked his guidance counselor to check the records. It is not uncommon for guidance counselors to check the grades of student enrolling from other schools.

Glenn Rutenbar reported that Coach Killets received an anonymous phone call about the eligible student. He (Rutenbar) receives calls all the time about students living out of zone; he does not take those to the principal because it would be a lot. He has never been told that he was to report it to the principal.

Mr. O'Reilly does not think this investigation of the student's grades is in the educational purpose.

Mrs. Sellers commented she is not pleased with the process of how this issue has been handled by both sides. The fault is on both sides. There is no evidence that we have clearly provided manuals or training for staff on the proper process/procedures.

Mrs. Lofton stated that the absence of any School Board policy makes this extremely difficult. She values the jobs of grievants. She believes the facts presented and the affidavit of Ms. Dubose. We have no School Board policy regarding viewing grades for 'educational purposes'. She will support the grievance.

Wes Bridges, School Board Attorney, clarified that the Family Educational Rights and Privacy Act specifies that districts will lose funds if they have a policy or practice of permitting the release of education records (or personally identifiable information) of students without the written consent of their parents to any individual, agency, or organization, other than to the following:

(a) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required.

The question for the School Board members is if you believe the employee violated the statute by viewing the academic records of the athletes at another school.

Mr. Harris commented that the ability to challenge is always written in the rules. There has to be some mechanism of reporting instances when violations occur. He agrees that mistakes have been made by both sides.

Mrs. Fields stated that she does not feel that Kathleen High School purposely played ineligible players.

3. [Step III Grievance Hearing - Bartow High School Staff: Amanda Graven, Shawn Killets, and Glenn Rutenbar](#)

Attachment: 4-8-10 Step III BHS Supts Grievance Summary.pdf (Confidential Item)

Attachment: [BHS Grievance.pdf](#)

Attachment: [BHS Step III Grievance Events.pdf](#)

Motions:

Motion to uphold Superintendent's recommendation that the Grievance be denied. - FAIL

Vote Results

Motion: Frank O'Reilly

Second: Kay Fields

Lori Cunningham - Absent

Dick Mullenax - Absent

Kay Fields - Aye

Tim Harris - Nay

Margaret Lofton - Nay

Frank O'Reilly - Aye

Hazel Sellers - Nay

Motions:

Motion to uphold the grievance of Amanda Craven, Shawn Killets, and Glenn Rutenbar. - PASS

Vote Results

Motion: Margaret Lofton

Second: Tim Harris

Lori Cunningham - Absent

Dick Mullenax - Absent

Kay Fields - Nay

Tim Harris - Aye

Margaret Lofton - Aye

Frank O'Reilly	- Nay
Hazel Sellers	- Aye

Motion Minutes:

Mr. Harris commented that due to the conversations and statements made during the hearing, it is clear that policies need to be created on identifying who has access to student grades for educational purposes and eligibility of athletic players.

Mrs. Fields stated that she strongly believes that access to student grades and records should be clearly identified.

Dr. McKinzie responded that recently guidance counselors received access to grades because of transferring issue. David Lewis, Senior Director of Secondary Education, is currently reviewing that access.

Mr. O'Reilly stated he felt that there was no educational interest involved in checking the eligibility of athletes in a lost game. It is an ethical and moral issue.

Adjournment

Meeting adjourned at 11:47 AM. Minutes were approved and attested this 27th day of April, 2010.

Kay Fields, Board Chair

Gail F. McKinzie, Ph. D., Superintendent