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Butler County Children Services Workers Strike for Fair Contract

By Paul Henry,
PGO Field Representative

Negotiations in Butler County between the children services workers and county commissioners have reached total impasse. The county is taking a hard line, refusing to consider any compromise with the workers .

The Butler County Children Services Independent Union (BBCSIU) says that the impasse is about more than just money. The union has raised concerns about low wages, high turnover, and massive caseloads. These concerns have fallen on deaf ears and the county refuses to consider anything other than its initial proposal: no wage increases and no improvements to working conditions.

To break the impasse, the BCCSIU requested a fact finding hearing. The state appointed fact finder agreed with union's position finding that the workers are grossly underpaid and should receive a cost of living increase. Even with the fact finder supporting the union's position as reasonable, the county summarily rejected the recommendations and refused to make any movement. These workers have not had a wage increase in five years! Despite the fact that the county gave managers and supervisors significant raises this year, its only offer to workers is a $500 lump sum and rejection of the workers other concerns.

When the negotiations failed, the BCCSIU threatened to strike. The county ignored the warning and continued to refuse to bargain in good faith. Having no other alternative, the union made good on its promise and hit the streets on August 18.

The workers were disappointed that it had come to this, but stand resolute in defense of their cause. Tim Thilberg, a recent college graduate and newly employed social worker, defiantly walked the picket line this week. Because of the low wages paid by the county, Tim must work a second job and sell plasma in order to keep up with his student loan payments. When asked, he stated "It's not even about the money. It's about standing up for the county investing in good workers to provide services for our families."

This continues to be a recurring story: workers are treated as if they have little or no worth; managers and supervisors are given lavish raises while workers are given little or nothing. Impasse is inevitable when workers are not respected. Sadly, workers are left with only two options: surrender or fight. BCCSIU chose to fight for a fair contract. PGO supports the efforts of the workers in Butler County and hopes for a positive outcome for the BCCSIU.

Public Records? Forget About It!

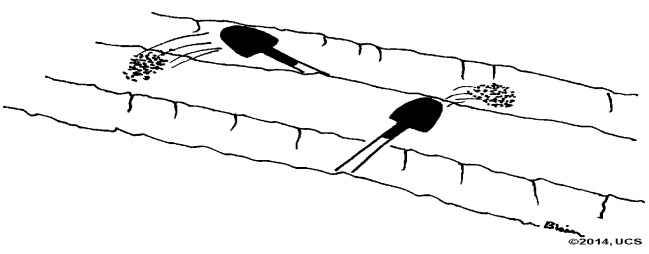
By Paul Henry, PGO Field Representative

The Toledo Blade reported results of a recent audit examining the efficiency of Ohio's counties in processing public records requests. For many who have ever made such requests, the results were not surprising. Most counties did a poor job responding to public records requests. Montgomery and Greene Counties ranked near the top of the list of the worst offenders in providing timely information. PGO represents employees in both of these counties.

This audit was sponsored by the Ohio Newspaper Association's Coalition for Open Government. The study revealed that record-seekers often run into trouble when seeking financial or salary information about public employees. Despite the fact that this information is public record, many agencies drag their feet on providing the information or even question the requester about the need for the information.

Obtaining public records from Montgomery county has certainly been a chore for PGO. When the county switched to a self-funded insurance plan seven years ago, PGO decided to investigate how these funds were being handled. Consistent with the study, the Union has had to go to great lengths to acquire information pertaining to the insurance fund. For years, PGO has had to fight to get information on the insurance funding from the county's human resources department. It took the threat of a law suit to finally get the county to provide some of the requested information. Even then, the records that were provided were heavily redacted and buried in thousands of pages of extraneous documents.

Over time, and with considerable effort, PGO has been able to distill some valuable information from these records. The Union is now compiling this information on a new blog dealing exclusively with Montgomery County's self-funded insurance program. The website is still under construction, but can be found at http://www.professionalsguildblog.wordpress.com/. Check it out.



Just Cause? What's That?

By Nicole Jackson, Esq., PGO Field Representative

Many union contracts mandate that bargaining unit employees will not be disciplined except for just cause. Many people, however, are unaware of what exactly the term "just cause" means. Arbitrators typically consider seven basic principles to determine whether your employer had just cause to impose discipline. Every situation is different, but it is important to be aware of these seven principles so that you can personally assess whether your employer has just cause to discipline you.

1) **Fair Notice** - An employer may not discipline an employee for violating a rule or standard whose nature and penalties have not been made known. This notice requirement includes notice of penalties. Employers often state the work rule, but not the penalty.

2) **Prior Enforcement** - an employee may not be penalized for violating a rule or standard that the employer has failed to enforce for a prolonged period of time. A new manager is not a valid excuse for invoking a rule or standard that the employer has not enforced for several years. The new manager should give fair notice that the rule will now be enforced before issuing discipline.

3) **Due Process** - Employees must be afforded the opportunity to respond to charges before they are disciplined. At a minimum, an employer must conduct an investigation before issuing discipline, take action promptly, and list the charges precisely. Once assessed, discipline may not be increased, because that would be "double jeopardy" and in violation of the just cause standard.

4) **Substantial Proof** - The charges must be proven by substantial and credible evidence. "Hearsay" is not enough.

5) **Equal Treatment** - Unless a valid basis justifies a higher penalty, an employer may not assess a considerably stronger punishment against one employee than it assessed against another known to have committed the same or a substantially similar offense.

6) **Progressive Discipline** - When responding to misconduct that is short of egregious, an employer must issue at least one degree of discipline that allows the employee an opportunity to improve.

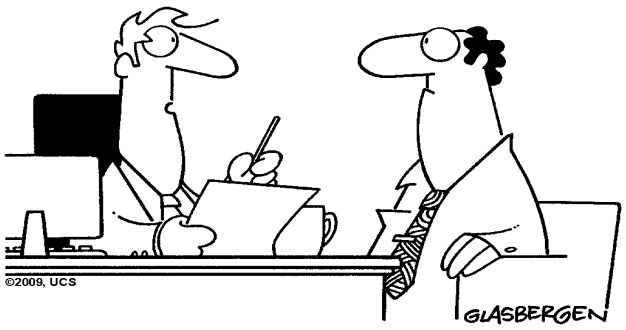
7) **Mitigating and Extenuating Circumstances** - Discipline must be proportional to the gravity of the offense, taking into account any mitigating, extenuating, or aggravating circumstances.

Social Security Cuts?

By Paul Henry, PGO Field Representative

Social Security, the safety net which has allowed the elderly and the disabled to remain independent, may be undergoing some drastic changes. The Social Security Administration is debating implementation of a new program called "Vision 2025." This program would force many Social Security field offices to close. Not only would this deprive those seeking Social Security benefits from face to face contact and assistance, it would force the layoff of close to 30,000 field office employees.

Witold Skwierczynski, the head of the workers' union bargaining council, stated "Americans are going to be cheated out of what they deserve. Every Social Security beneficiary deserves the personal assistance they have paid for their entire lives." With the elimination of these positions, more and more social security applicants and beneficiaries would be required to pursue their claims through the Social Security Administration's 800 number or through its website. Both of these options pose problems.



"The environment is a top priority for our company. Upon retirement, would you be willing to have yourself composted?"

"My compliments to the photographer."

The 800 number has been plagued with long wait times. Some even fear that if no field offices exist and only call centers are utilized, the SSA may attempt to outsource the call center positions to other countries. The website has often been described as "confusing." Social Security documents which are often needed to obtain mortgages, apply for jobs, and qualify for federal aid programs, could be obtained by going to a field office and requesting copies. With Vision 2025, beneficiaries will be required to go online and request the information. This could prove to be problematic in a time sensitive situation as the requested documentation could take up to a week to arrive. If a beneficiary applies for coverage online, the current system is not designed to catch his/her errors. A simple mistake could deprive an applicant from receiving any benefits at all.

There has been some movement in opposing this plan. The American Federation of Government Employees (AFGE) is backing H.R. 3997 which would put a moratorium on Vision 2025 until the Social Security Administration provided justification for closing its field offices. This bill would also allow communities to provide input on potential closures. For additional information, you can visit the AFGE's website to find out what else can be done to oppose the closure of the Social Security field offices. The web address is: www.afge.org/saveoursocialsecurity.

Am I Entitled to a Reasonable Accommodation?

By Nicole Jackson, Esq., PGO Field Representative

The American with Disabilities Act (ADA), as amended by the ADA Amendments Act of 2008 (ADAAA), prohibits discrimination on the basis of a disability in employment. Many workers are unaware that they may qualify as having a disability and thus entitled to a reasonable accommodation under the ADA.

Under the ADA, there are two basic parts to having a disability: 1) you must actually have what is considered a "physical or mental impairment," and 2) the impairment must "substantially limit one or more of your major life activities." It is important to note that under the ADA not everything that restricts your activities qualifies as an impairment. The impairment must substantially limit one or more of your major life activities such as standing, walking, lifting, reaching, bending, breathing, concentrating, or speaking, among other activities.

If a worker has a qualified disability under the ADA, the employer is required to provide a reasonable accommodation to that worker unless it creates an undue hardship. Among the possible reasonable accommodations that an employer may have to provide are:

- making existing facilities accessible;
- job restructuring;
- changing tests, training materials, or even policies;
- providing qualified readers or interpreters; and,
- reassignment to a vacant position.

Absent an undue hardship, the employer has an obligation to provide a reasonable accommodation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, disruptive, or those that would fundamentally alter the nature or operation of the business.

It is the employee's responsibility to request a reasonable accommodation under the ADA. The worker does not need to mention the ADA or even use the phrase "reasonable accommodation." The request also does not need to be in writing, but it is advisable to put it in writing and send it via email or certified mail.

When a request is made, the employer must engage in an informal process to clarify what the individual needs and identify the appropriate accommodation. The employer is not required to provide the reasonable accommodation that the individual chooses; however, the employer may choose among reasonable accommodations as long as the chosen accommodation is effective. For example, the employer may choose the accommodation that is less expensive or burdensome as long as it is effective.

The ADA specifically lists "reassignment to a vacant position" as a form of a reasonable accommodation. This type of accommodation must be provided to an employee who, because of a disability, can no longer perform the essential functions of his or her position, with or without a reasonable accommodation, unless the employer can show that reassignment would be an undue hardship.

Also, the employer must reassign the worker to a vacant position that is equivalent in terms of pay and status if the worker is qualified for the job. Reassignment does not include giving an employee a promotion, thus the worker must compete for any vacant position that would constitute a promotion. Generally, however, reassignment means that the worker gets the vacant position that he or she is qualified for, and does not have to compete for open positions that are lateral moves.

In conclusion, if you need a reasonable accommodation, request one in writing to your supervisor and human resources department. Also, remember that your employer has certain legal obligations it must fulfill before denying your request. As always, contact your PGO representative if you have questions or concerns regarding your particular situation.

"Life isn't fair, but I find the more money you have, the fairer it is."