September 24, 2015

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, October 1, 2015
1:30 p.m., Commissioners Hearing Room
County–City Building, Room 112

A G E N D A

ITEM 1: Request to create the following classification:

CLASS CODE	CLASS TITLE	PROPOSED PAY GRADE
0914	Social Worker	E16 ($52,509.60 - $67,258.88)

ITEM 2: Request for appeal hearing – Dave Meredith – Corrections

ITEM 3: Miscellaneous Discussion

pc: Joe Nigro
Tom McCarty
Dave Meredith
Kristy Bauer
Mike Thurber

SOCIAL WORKER

NATURE OF WORK

This is advanced social service work providing program services to the Public Defender clientele.

Work involves responsibility for client case management including assessment, planning, advocacy and follow-up; coordinating, managing and evaluating services; networking with community agencies and developing outreach contacts on behalf of and in support of clients. Supervision is received from an administrative superior with work being reviewed in the form of reports, conferences, achievement and effectiveness of program goals.

EXAMPLES OF WORK PERFORMED

Provide professional social work services; arrange for assistance with problems related to substance abuse, mental health, food, shelter, transportation, employment, personal and family development, parenting, child care, and education.

Interview clients to obtain information related to their family and personal history, educational and employment background, financial resources; assess their eligibility for social services programs.

Perform mental health assessment and substance abuse evaluations.

Match eligible clients with appropriate services; make referrals to other social service agencies when appropriate.

Interact with clients to assess the impact of the services that have been received, review the client's progress; assess the need for additional services.

Communicate with representatives of other social service/community agencies to share program information, coordinate services and resolve problems.

Maintain thorough records regarding services provided to clients; prepares reports.

May supervise interns.

Performs related work as required.

DESIRABLE KNOWLEDGE, ABILITIES AND SKILLS

Knowledge of the principles, practices and techniques of executing social service work and delivering programmatic services.

Knowledge of sociological, behavioral and cultural factors influencing the behavior and attitudes.

Knowledge of the functions, programs and services provided by various community agencies.

Some knowledge of program development, management and evaluation within a larger organizational structure.

Ability to interpret standards and regulations which impact programs or program areas and compose relative policies and procedures.

Ability to establish and maintain effective working relationships with coworkers, clients and families in adverse circumstances, community agencies and service providers and the general public.

Ability to communicate effectively both orally and in writing including facilitating meetings and delivering presentations and reports.

Ability to maintain statistical and confidential client records.

DESIRABLE TRAINING AND EXPERIENCE

Masters degree in social work, psychology, sociology or guidance and counseling or related field plus 4 years of experience working with people dealing with mental health or substance abuse issues, the legal system or correctional system including supervisory experience.

MINIMUM QUALIFICATIONS

Masters degree in social work, psychology, sociology or guidance and counseling or related field plus 2 years of experience working with people dealing with mental health or substance abuse issues, the legal system or correctional system including some supervisory experience or any equivalent combination of training and experience that would provide the desirable knowledge, abilities and skills.

NECESSARY SPECIAL REQUIREMENT

Licensed as a clinical social worker (LCSW) in the State of Nebraska [CMSW & LMHP].

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

LAW OFFICES OF

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

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RECEIVED APR 08 2015

April 8, 2015

VIA HAND DELIVERY

Mr. Doug McDaniel
Secretary, County Personnel Board
555 S. 10th Street
Lincoln, NE 68508

RE: Corrections Officer Dave Meredith; Appeal of Denial of Grievance

Dear Doug:

This firm represents Fraternal Order of Police Lodge #32, and Corrections Officer Dave Meredith. On March 18, 2015 the Corrections Director Mike Thurber denied the grievance of Officer Dave Meredith, which I have attached hereto. Officer Meredith received the denial of the grievance on March 20, 2015.

Pursuant to the bargaining agreement between Lancaster County and FOP #32, Officer Meredith hereby gives his notice of appeal of this denial of the grievance to the Lancaster County Personnel Board.

We request that the appeal be scheduled for the July or August meeting of the County Personnel Policy Board. Thank you.

Yours very truly,

Gary L. Young
FOR THE FIRM

ENCLOSURE

rec'd march 20 g.y.

Lancaster County
Department of Corrections

3801 West O Street
Lincoln, NE 68528
(402) 441-1900
Fax: 441-8946

Michael Thurber, Director

March 18, 2015

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

Re: Officer Dave Meredith and FOP #32 Grievance received March 3, 2015

Dear Mr. Young:

This letter will serve as a response to a grievance dated March 3, 2015, regarding allegations that the Lancaster County Corrections Department has disciplined Officer Meredith by issuing him a "Supervisor's Personnel Report" and improperly utilized such report in Officer Meredith's 2014-2015 performance evaluation. Specifically, Officer Meredith has alleged that the use of "Supervisor's Personnel Reports" as a form of written warning or counseling violates the disciplinary provisions of Article 28, Section 1 of the 2014-2016 Bargaining Agreement between the Fraternal Order of Police, Lodge 32, and Lancaster County (FOP Agreement).

The grievance does not refer to a specific "Supervisor's Personnel Report"; rather, indicates Officer Meredith received a "Supervisor's Observation Report which gave Officer Meredith negative written feedback regarding his handling of a certain situation." For clarification purposes, Officer Meredith received two "Supervisor's Personnel Reports" during the evaluation period of January 15, 2014, through January 14, 2015. First, on or about June 10, 2014, Lt. David Caulfield presented Officer Meredith with a "Supervisor's Personnel Report" (dated May 29, 2014) documenting an incident that had occurred in booking between Officer Meredith and an uncooperative inmate. The Report concluded that the use of force in that particular situation was not necessary, and cautioned Officer Meredith to re-evaluate similar situations in the future and handle such situations in a professional manner. The Report did not reference any policy violations, FOP Agreement violations, or Personnel Rule violations. It was simply used to document a job performance issue, and bring that job performance issue to Officer Meredith's attention. Lt. Caulfield did not conduct any type of disciplinary meeting when presenting the Report to Officer Meredith, and no disciplinary action was taken at the meeting.

Second, on or about October 30, 2014, Lt. David Caulfield presented Officer Meredith with a "Supervisor's Personnel Report" (dated October 29, 2014) documenting an incident wherein Officer Meredith had failed to report an injury at work in a timely manner. The Report did not reference any policy violations, FOP Agreement violations, or Personnel Rule violations. It was simply used to document the counseling Officer Meredith received on the importance of reporting injuries in a timely manner. Again, Lt. Caulfield did not conduct any type of

disciplinary meeting when presenting the Report to Officer Meredith, and no disciplinary action was taken at the meeting.

As indicated above, the "Supervisor's Personnel Report" is not a form of written discipline, and is not used as a disciplinary tool. The report is simply a management communication tool, and communications very similar to it have been used by the Corrections Department since the early 1980's. Use of this form was initiated in large part in response to complaints from employees that they did not receive adequate communications about perceived performance deficiencies prior to having those cited as the basis for performance evaluations and/or disciplinary actions. The "Supervisor's Personnel Report" is used to report personnel-related matters, document the counseling of an employee, give commendations to employees, and/or to bring an employee's attention to job performance issues that need to be corrected. Reports that are given to employees are kept in their Corrections Office Personnel file, and are not passed on to the Human Resources Department. Simply stated, the use of the "Supervisor's Personnel Report" is not a form of discipline, and does not fall under the disciplinary action listed in Article 28, Section 1, of the FOP Agreement. In the case at hand, the Corrections Department would likely be questioned if the two incidents documented in the "Supervisor's Personnel Reports" were utilized in Officer Meredith's performance evaluation, but there was no supporting written documentation on file to accurately reflect what occurred and when Officer Meredith was counseled.

It should also be pointed out that Article 4, Section 2(A), (B) and (K) of the FOP Agreement gives management the right to "implement the objectives and goals of the County", to "manage and supervise all operations and functions of the County", and to "determine and enforce employee's quality and quantity standards." Therefore, counseling an employee regarding his/her job performance, documenting the counseling of an employee, and/or investigating an employee's job performance are management rights. Management must have some way to communicate issues regarding job performance to employees, and to document those communications. Management's use of written communications to document job performance issues does not automatically make the written communication or documentation a form of disciplinary action. The exercise of the above management rights, the ability to communicate with employees, and the ability to document communications with employees are necessary to insure the proper operation of the facility, to implement the facility's objectives, to maintain quality standards of care, and to protect the health, safety, wellbeing, security, and rights of both inmates and employees.

For the foregoing reasons, I must deny the grievance.

Sincerely,

Michael Thurber

Michael Thurber
Corrections Director

MT/lo

cc: Doug McDaniel, Human Resources Director
Kristy Bauer, Deputy County Attorney
Terry Weber, Jail Administrator
David Caulfield, Corrections-Lieutenant
Dave Meredith, Correctional Officer
Personnel File

GRIEVANCE OF DAVE MEREDITH AND FOP 32 ON BEHALF OF AND ALL MEMBERS IMPACTED	))))	March 3, 2015

TO: Michael Thurber, Department Head, or his designated representative

FROM: Fraternal Order of Police Lodge #32

COMES NOW Fraternal Order of Police Lodge #32 and for its grievance state as follows:

NATURE OF GRIEVANCE AND ACTS OF COMMISSION OR OMISSION GRIEVED:

On February 10, 2015, Officer Dave Meredith was given his evaluation for the evaluation period of 1/15/2014 to 1/14/2015. A copy of that evaluation is attached hereto as exhibit A to this grievance.

During the evaluation period, the Department issued Officer Meredith a written "supervisor's observation report", which gave Officer Meredith negative written feedback regarding his handling of a certain situation. The Department identified this as written "counseling" and then used it as a basis for negatively evaluating Officer Meredith on his evaluation.

The collective bargaining agreement provides that all forms of disciplinary action are appealable in one way or another, so that there is a means for an employee to bring rebuttal information to light and for that information to be considered as actual rebuttal of the substance of the discipline, or as mitigating circumstances for it.

The ability to raise this information and have it addressed in the form of an appeal is very important to employees, and therefore the FOP has negotiated that right in its disciplinary action section, Article 28, Section 1. In that Article, the parties agreed that disciplinary action would be limited to "written reprimand, suspension, demotion and dismissal."

Importantly, Article 28, Section 1 provides that "[p]rovisions for disciplinary actions should be limited to those listed above. Other solutions may be obtained through mutual consent by management, the Union and the employee."

Here, the Department has introduced another form of discipline that is sometimes used in law enforcement bargaining contracts, and is called a "written warning" or "counseling." But the parties have not agreed to use such a form of discipline in this contract, and indeed, the parties have expressly stated that disciplinary action "should be limited to those listed above."

Furthermore, while the contract anticipates that in individual cases the Union, the employee and the County may create some other form of discipline to correct behavior, it is only to be done by "mutual consent." In this case, there has been no mutual consent to the use of supervisor observation reports to correct behavior, and the Department leadership has been advised many times of the Union's objections to this action.

The impact of this action has also violated Article 28 generally, because by using a form of discipline that is not listed in Article 28, the Department has cut off any clear path to an appeal, which is one of the primary purposes of limiting the forms of discipline to those provided for in Article 28, Section 1.

Accordingly, the use of supervisor observation reports as a form of written warning or counseling violates the disciplinary provisions of Article 28, Section 1, and the use of such actions has negatively impacted the employment record of Officer Meredith.

DATE OF ACTION GRIEVED: Officer Meredith became aware of this action on February 10, 2015.

IDENTITY OF GRIEVING PARTIES: Officer Dave Meredith, and FOP #32 on behalf of all unit members that are similarly situated.

IDENTITY OF PERSONS ALLEGED TO HAVE CAUSED GRIEVANCE: Director Michael Thurber or unknown others.

PROVISIONS OF AGREEMENT
THAT WERE VIOLATED: Article 28, Section 1

REMEDY SOUGHT: That the Department stop using Supervisor Observation Reports to correct employee behavior. That the Department stop using Supervisor Observation Reports in any manner that has a disciplinary impact on an employee, including being used to negatively evaluate an employee.

That if the Department is going to use written documents for negative disciplinary actions against an employee, that it use the forms of discipline that are provided for in Article 28 of the collective bargaining agreement.

Respectfully submitted this 3rd day of March, 2015.

OFFICER DAVE MEREDITH AND FOP #32, ON BEHALF OF ITS MEMBERS,

BY: _____

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Attorney for the Grievants