

<p>IN THE MATTER OF:</p> <p>ANDREW BACHELDER, CALVIN FORD, TAMELA BURNS, EMMA CAMPBELL, CHRYSTAL MCINTIRE, RHONDA NELSON, MELISSA PETERSON, KIM LEE, KARL ROBINSON, JACQUILYN PINNIX, GONTHEL TOLIVER, MICHAEL MASTRANGELO, ROBIN GREEN, JANE IBRAHIM, NATAKA WILSON, CLINTON TASH, DEREK WEINROTH, JASPER STERLING AND OTHERS SIMILARLY SITUATED EMPLOYEES</p> <p>AND</p> <p>AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3721 UNION</p> <p>v.</p> <p>DISTRICT OF COLUMBIA FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT AGENCY</p>	<p>DENNIS RUBIN DIRECTOR</p> <p>GRIEVANCE OFFICIAL</p>
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STEP 3 GROUP GRIEVANCE

Comes now, Employee Andrew Bachelder, *et. al.*, by and through their undersigned representative, to file this grievance.

This grievance is filed pursuant to and in accordance with Article 31, §§ B(2)(b) and B(3) (c) of the Collective Bargaining Agreement currently in effect between the District of Columbia Fire and Emergency Medical Services Department and American Federation of Government Employees, Local 3721.

The group, as defined by this grievance is defined as all employees in the unit represented by the Union, named above, and who have taken the mandatory testing as described in Agency Memorandum #53, Series 2008. This grievance shall be automatically amended to include any additional employees who are in the unit represented by the Union, and who take the test at a future date.

STATEMENT OF FACTS

On March 5th 2008, the Agency issued a Memorandum (#53, Series 2008) titled ALS Evaluation Training.¹ The memorandum established a mandatory testing program for ALS providers, and set forth a schedule in which the employees would be tested.

The testing would be held in the State of Maryland, at the offices of the Maryland Fire and Rescue Institute.

On February 27th 2008, prior to the March 5th Memorandum being issued, an article appeared in the Washington Times² detailing the testing program and stating that those who do not successfully complete the testing and remediation process will be reassigned at a lower level.

At no time prior to the implementation of the testing process did the Agency contact the Union and attempt to engage in good faith collective bargaining.

AGENCY DOES NOT SET CERTIFICATION REQUIREMENTS

The certifying Agency within the District of Columbia for Emergency Medical Technicians, Intermediates and Paramedics is the District of Columbia Department of Health(DCDOH).³

The DCDOH sets the requirements for initial certification and the requirements for recertification. For ALS providers, initial certification requires the employee to already have obtained a National Registry certification as an Intermediate or a Paramedic. Recertification of ALS providers mirrors the NREMT requirements of a required number of hours of continuing medical education and successful completion of CPR and ACLS certifications.

The Agency has no control or say over this process.

All employees in the unit represented by the Union, who are ALS providers, have met the requirements set forth by DCDOH and have maintained their certification as required. Employees are required to maintain these certifications in order to remain employed by the Agency.

TERMS OF TESTING CHANGE THE WORKING CONDITIONS OF EMPLOYEES

The testing program put in place by Memorandum #53, Series 2008 unilaterally changes the working conditions of the employees in the unit represented by this Union.

¹ Attachment I

² Attachment II

³ See http://doh.dc.gov/doh/cwp/view,a,3,q,573177,dohNav_GID,1802,dohNav,l33200l33213l,.asp

D.C. Code, §1-617.08 states:

(a) The respective personnel authorities (management) shall retain the sole right, in accordance with applicable laws and rules and regulations:

- (1) To direct employees of the agencies;
- (2) To hire, promote, transfer, assign, and retain employees in positions within the agency and to suspend, demote, discharge, or take other disciplinary action against employees for cause;
- (3) To relieve employees of duties because of lack of work or other legitimate reasons;
- (4) To maintain the efficiency of the District government operations entrusted to them;
- (5) To determine:
 - (A) The mission of the agency, its budget, its organization, the number of employees, and to establish the tour of duty;
 - (B) The number, types, and grades of positions of employees assigned to an agency's organizational unit, work project, or tour of duty;
 - (C) The technology of performing the agency's work; and
 - (D) The agency's internal security practices; and
- (6) To take whatever actions may be necessary to carry out the mission of the District government in emergency situations.

(a-1) An act, exercise, or agreement of the respective personnel authorities (management) shall not be interpreted in any manner as a waiver of the sole management rights contained in subsection (a) of this section.

(b) All matters shall be deemed negotiable except those that are proscribed by this subchapter. Negotiations concerning compensation are authorized to the extent provided in § 1-617.16.

Testing of the employees is not a management right as detailed above, and therefore is covered by D.C. Code §1-617.08(b) and is deemed negotiable.

The Agency has failed to negotiate an agreement with the Union to conduct testing of the employees it represents, and as such, the testing violates the Collective Bargaining Agreement.

RESOLUTION

As resolution to this grievance, it is respectfully demanded that:

- 1) The Agency immediately cease and desist all testing of employees in the unit represented by this Local.
- 2) the testing results of all employees previously tested be destroyed.

3) The Agency immediately commence negotiations in good faith over the issue of testing employees in the unit represented by this Local.

This grievance is submitted this 24th Day of March, 2008.

Respectfully,

 \s\ Steven B. Chasin
Steven B. Chasin
Chief Shop Steward
AFGE Local 3721
6480 Carroll Avenue, Suite 1040
Takoma Park, MD 20913
(202) 882-9820 phone
(703) 680-5351 direct fax
(703) 862-8463 cell
sbchasin@local3721.org email