

Executive Council Minutes
Open Session
October 26, 2009

Officers present: President Marc Houle, High School Vice President Peter Califano, Middle School Vice President Greg Strachan, Elementary Vice President Stephanie Martin, SPED Vice President Jan Van Horne, Secretary Naomi Lukaszewski, Treasurer Kelly Logan

6-12 Director Candy Smiley was delayed due to a Labor Issue Meeting

K-5 Director Karen Wusthoff was absent due to attendance at a PDAB Meeting

Reps: None

Meeting called to order: 4:10 p.m.

Handouts: San Diego-Imperial Counties Labor Council Letter re: delegates

CFT/AFT Letter re: Legal Defense Grant

Per Caps Report for August 2009

Budget Report for September 2009

I. Minutes

A. Due to Site Visits and SERP Meetings, the Executive Council has not met since September 28.

Open Session closed. Confidential Session opened: 4:10 p.m.

- *Labor Issues*
- *PFT Lease Negotiations*

Confidential Session closed. Open Session resumed: 4:45 p.m.

II. San Diego-Imperial Counties Labor Council

A. Updating records

1. Letter lists current delegate
 - a. One of delegates listed retired in 2003-2004
2. PFT is entitled to maximum of 8 delegates
3. Current Executive Council is eligible to be delegates if interested.

B. Labor Council is predominantly “blue collar”

1. Supports all labor unions

III. AFT/CFT Legal Defense Grant

A. Letter from AFT/CFT Treasurer confirm granting of \$13,000 Legal Defense Grant

1. Will be put toward costs of Chinese Language Instruction Unfair Labor Practice filing.

Open Session closed. Confidential Session opened: 4:50 p.m.

- *Labor Issues Update*

Confidential Session closed. Open Session resumed: 5:00 p.m.

IV. Budget Review

A. Executive Council will receive report on PFT Budget including but not limited to Per Caps payments.

B. Per Caps Report for August 2009

1. AFT/CFT bills per caps for two months previous to current month.
 - a. August per caps are due in October.
2. Billing cycle allows for cash flow from summer to beginning of school.
3. Agency Fee letters to go out during early November

C. Agency Fees

1. Reduced fee calculations cannot start until after end of fiscal year.
 - a. Reduced fee pay only representation fees.
 - b. Final Hudson reports calculating amount of dues toward political action not complete until end of August.

- D. All expenditures need two signatures for checks.
 - 1. Bills & payment approved by treasurer
 - 2. At least 3 people examining expenditures.

V. Binding Arbitration

- A. From CFT via e-mail:

Last April, the Supreme Court issued a decision that impacts our Collective Bargaining Agreements. The case is *14 Penn Plaza v. Pyett* if you want to look it up. This decision deals with employee claims of discrimination. Here's what we want to avoid in our contracts:

1. Making binding arbitration the only vehicle for resolution for claims of discrimination

According to the decision, if binding arbitration is stated as the only resolution to claims of discrimination, we have waived the employee's rights to go to court or to find resolution from the agencies who protect the various laws. This would intensify the need for the union to pay for arbitration even in weak cases because the employee would have no other recourse.

Prior to this decision, it was generally held that the Union couldn't waive those rights even if binding arbitration was listed. But now, that has been reversed.

Here is an advisory directed to employers that gives an idea of what is being talked about:

Florida Employment and Immigration Law. Attorneys Epstein and Green.

Significant Impact for Employers

The *14 Penn Plaza v. Pyett* Supreme Court decision has a number of significant and immediate practical implications for employers whose employees are covered by union contracts. These relate to any pending claims of discrimination and the defense of future claims, as well as future union contract negotiations.

First, employers with CBAs should examine their nondiscrimination and arbitration provisions to determine if these provisions are within the scope of the *14 Penn Plaza* Decision and require arbitration of pending and future statutory discrimination claims without more expensive and time-consuming judicial proceedings. In those instances where contract language is either ambiguous or would not support arbitration under *14 Penn Plaza*, employers should consider whether to seek to secure the inclusion of such terms in their contracts as they come up for renegotiation. Well-crafted revisions could potentially enable employers to limit dramatically the litigation of a significant number of discrimination cases and the potential for runaway jury verdicts.

Second, employers with existing union contracts prohibiting discrimination should review any pending discrimination litigation involving covered employees to determine whether there is a basis for motions to dismiss such claims under *14 Penn Plaza*, and if so, to take timely and appropriate action based upon such analysis.

- 2. In addition, we are being advised by the AFT legal department to avoid [Detailing the laws that govern discrimination](#)

The problem with detailing the laws that govern discrimination is that the union could be taking on the responsibility to carry the employee's case to court and pursue it until all routes for resolution are exhausted.

Our advice from AFT legal department is to avoid these two concepts in our contracts

B. PFT does not have a Binding Arbitration clause regarding discrimination and Fair Housing in its employment contract with the district.

VI. Executive Council Meeting Calendar

A. November 2, 9, 16, 30

1. No meeting on November 23 due to Thanksgiving Break

B. December 7

C. January 4,11,25

1. No meeting on January 18 due to MLK holiday.

Meeting adjourned: 5:15 p.m.

Next meeting: November 2, 2009

Submitted by Naomi Lukaszewski, PFT Secretary