

March 9, 2007

To: School Presidents, Chapter Chairs and Committee Members

Re: School Safety Zone Legislation

On January 1, 2006, new legislation was enacted which requires local and intermediate school districts, public school academies and non-public schools to fingerprint all current and prospective employees. The new legislation prohibits individuals convicted of specific offenses from working within 1,000 feet of school property. Michigan AFSCME Council 25 recently won a precedent-setting arbitration regarding the School Safety Zone Legislation.

There has been much confusion about what rights individuals have if their record reflects a felony conviction for a non-listed offense. Some school districts took the position that they would not employ anyone with a non-listed felony conviction on their record.

One district in particular, Warren Consolidated Schools, made the decision that the new legislation would wipe-out the "just cause" provision found in Local 1346's Collective Bargaining Agreement for anyone who had a non-listed felony conviction. The Superintendent and School Board unilaterally terminated several employees.

Local 1346 filed several grievances protesting the terminations as unfair. The first one to make it to arbitration involved a member with over six years of seniority, and had disclosed the conviction at the time he filled out an application for employment.

The Union argued that the Michigan Public Employment Relations Act (PERA) was the predominate statute governing public employment relations in Michigan. Further, the Union argued that when a conflict arises between another State statute and a provision of a contract negotiated under PERA, in almost every instance the contract provision has been held to prevail. ***The arbitrator agreed and ordered the grievant be returned to work with full back pay and all benefits owing under the contract.***

Questions concerning the arbitrator's ruling may be directed to your Council 25 Staff Representative.

In solidarity
MI AFSCME Council 25



Albert Garrett
President



Lawrence A. Roehrig
Secretary-Treasurer

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Copy: Council 25 Executive Board Members
Council 25 Employees