

Akron Education Association
LEVEL I
Presentation of Grievance

Grievant: Undersigned Kenmore-Garfield Staff
School: Kenmore-Garfield
Position: Teachers/Counselor

Date Submitted: 10/12/2017 (Direct to Lev. II)
Principal/ Supv.: Mr. Frank Kalain
Building Rep.: E. Dontis/A. Seiler

Date of Violation: On-going

CBA Sections: 3.23

Statement of Grievance:

Section 3.23 of the Collective Bargaining Agreement provides for consequences for students who verbally and/or physically assault a member of the professional staff. Specifically, pursuant to an investigation and a due process hearing conducted by the building principal, a student who is found to have verbally or physically assaulted a teacher is referred to Pupil Support Services "for reassignment to another building or expelled." (Section 3.23 includes precise definitions of both verbal and physical assault and is attached hereto in its entirety.)

We are grieved as follows:

During the 2016-2017 school year, two Garfield High School students were found by building administrators to have verbally assaulted AEA members. Additionally, in September of 2017, one student verbally assaulted an AEA member and one physically assaulted a member.

Student [REDACTED] verbally assaulted teacher Tina Loughry. The student was suspended and referred to Pupil Support Services on January 13, 2017 for a violation of the Code of Student Behavior #244, "Threats of Physical Attack with a Firearm or Explosive Device." Assistant Principal Minnie Carter- Page recommended on the Referral Narrative "expulsion from the Akron Public Schools" and "transfer to another school location." Following a suspension period, the student was transferred to Kenmore High School.* At the beginning of the 2017-2018 school year, the student was returned to Kenmore-Garfield High School** where, on September 5, 2017, he was again referred to Pupil Support Services for a physical assault against Tina Loughry, the same teacher whom he verbally assaulted the previous school year. School administrators recommended that the student be expelled from school. The student was, however, returned to Kenmore-Garfield High School.

Student [REDACTED] verbally assaulted Counselor Dan Richards. The student was suspended and referred to Pupil Support Services by Assistant Principal Gini Rasnick on or about November 1, 2016 and recommended for reassignment to another Akron school. The student violated #240 of the Code of Student Behavior, "Threat of Physical Attack without a Weapon." Pupil Support Services removed the student from Garfield and assigned him to East CLC following the out-of-school suspension. At the beginning of the 2017-2018 school year, the student was returned to Kenmore-Garfield High School.

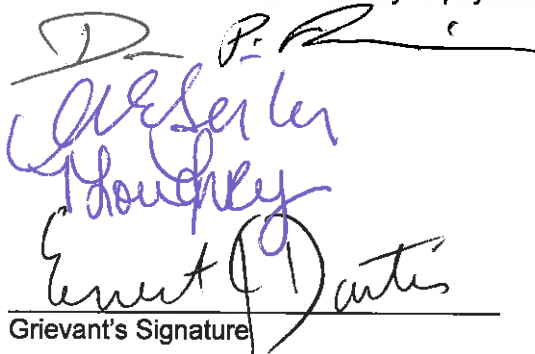
Student [REDACTED] verbally assaulted Teacher Ernie Dontis on September 19, 2017. He was referred to the Office of Pupil Support Services for Offense Code 302, "Possession/Use of a Dangerous Weapon/Look-a-like Weapon/Poison Gas (other than firearm)" and recommended for assignment to another school. Instead, he was returned to Kenmore-Garfield after serving a ten-day suspension.

The return to Kenmore-Garfield of each of the three students referenced above represents a violation of Section 3.23 of the CBA. In each case, school administrators conducted investigations into the allegations by Ms. Doughry, Mr. Richards and Mr. Dontis. Following the investigations, each student was found to have verbally/physically assaulted an AEA member and referred to Pupil Support Services for expulsion and/or assignment to another Akron school. To the Association's knowledge, there were no instances in any of the cases of any violations of student due process rights that might justify the District's decision to not follow the Code of Student Behavior and the CBA.

Remedy Sought:

As a remedy, we request that the above-referenced students be reassigned to another Akron High School in accordance with the Code of Student Behavior and CBA 3.23.

We further request that the Office of Pupil Support Services be ordered to cease and desist from its practice of not expelling/reassigning students who, after a determination by building level administration, have been found to have verbally or physically assaulted a member of the bargaining unit.


Grievant's Signature

10/12/2017
Date

AEA Grievance Committee Review

Level I Response Accepted:

President/Designee Signature Date

Approved for Level II:

President/Designee Signature Date

Approved for Arbitration:

President/Designee Signature Date

**Shortly after the student's verbal assault against Ms. Loughry in 2017 and subsequent to his removal from Garfield and assignment to Kenmore High School, Ms. Loughry was informed that the student would have returned to Garfield, but that his mother's refusal to participate in a "restorative justice" plan offered by the district led to his being sent to Kenmore.*

***At the end of the 2016-2017 school year, the Akron Public Schools closed Kenmore High School and relocated Garfield students to the Kenmore facility during construction of a new Garfield High School on its present site. Students of the closed Kenmore High School are assigned to the relocated Garfield High School which is now called Kenmore-Garfield.*

3.23 Assault

Any case of assault, verbal or physical, suffered by members shall be reported immediately in writing to the principal. Physical assault is purposely causing or attempting to cause physical contact with a staff member with the intent or potential to harm the staff member, or interfere with the staff member's performance of duties. Verbal assault is any threatening or abusive language directed at a member. Abusive language includes harsh, coarse, or insulting words, which are injurious, improper, hurtful, offensive, or reproachful. They may include the degrading of a person based on race, color, national origin, sex, religion, age or handicap. Threatening language includes an express declaration or the implication of an intention or determination to inflict injury upon a person, upon a member of that person's family, or property.

The principal shall obtain a list of the witnesses to the assault and a written statement of what each witness observed or heard. These statements shall be signed, dated and filed, with true copies given to the AEA Building Representative, and copies sent to Student Services and the Department of Human Resources.

The principal shall conduct a hearing that in effect assures the accused student his procedural due process rights. In the event that an assault has occurred, the pupil shall be removed immediately from the class and the school and referred to the Director of Student Services for reassignment to another building or expelled. In the case of a physical assault, a recommendation shall be made to the Superintendent for expulsion. In all cases of physical assault, the principal shall notify the Akron Police Department to enable the member to file a police report. Members will cooperate with all appropriate governmental agencies in the prosecution of the assailant(s). In no case shall a member be required to readmit a student to class following an assault. These procedures may, but do not necessarily, apply to the Severe Behavior handicapped pupil.

Before upholding an appeal in any case of physical or verbal assault, Student Services shall contact the member and the building principal to discuss the referral. The member and/or the principal may offer additional evidence in support of the referral, and said evidence shall be considered prior to a decision to uphold the appeal.

The principal shall report each such case of employment-related assault on a member to the Director of Student Services; the Director shall inform the President and the Superintendent of the assault.