



HUMBOLDT BAY FIRE Joint Powers Authority

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Date: June 7, 2017
To: Matt McFarland, Grievant
Bill Gillespie, Fire Chief
From: Humboldt Bay Fire Joint Powers Authority Board of Directors
RE: **Final Decision Affirming Action of Fire Chief Following Grievance Hearing**

On June 7, 2017, beginning at 10:00 a.m., at Eureka City Hall, the Humboldt Bay Fire Joint Powers Authority Board of Directors (hereafter, "JPA Board") held a grievance hearing regarding the Level III appeal by employee Matt McFarland (hereafter, the "Grievant"). The issue before the Board was whether to affirm, revoke, or modify the action of the Fire Chief.

Upon consideration of all the evidence presented, and by unanimous decision, the JPA Board hereby affirms the action of the Fire Chief and makes the following Findings and Conclusions:

1. In approximately March 2017, the Chief of Police of Eureka Police Department personally observed the Grievant, Fire Engineer Matt McFarland, wearing a "Black Lives Matter" pin on his Humboldt Bay Fire uniform during a City of Eureka Council meeting. Chief Mills reported the matter to Humboldt Bay Fire Deputy Chief, Bill Reynolds, who thereafter reported the matter to Fire Chief, Bill Gillespie.
2. Thereafter, Chief Gillespie made a determination that the Grievant wearing a "Black Lives Matter" pin on his uniform violated Humboldt Bay Fire Policy 1.E.2, "Uniform Requirements." In relevant part, Appendix K of the Uniform Policy provides as follows:

APPENDIX K – Miscellaneous Insignias, Pins, Tie Tacks/Clasps, Approve Head Wear

Up to one additional miscellaneous insignia or pin may be worn if they are fire service related and in good taste. Pin to be worn 1" above EMT/Paramedic pin.

- A. Other pins, patches, and insignias must be approved by the fire chief prior to wearing on uniforms.

Chief Gillespie determined that the "Black Lives Matter" pin was not fire related and therefore was not an authorized pin under Section A, above. Additionally, Chief Gillespie had not issued the Grievant permission under Section B, above. Consequently, Chief Gillespie concluded that the Grievant wearing of a "Black Lives Matter" pin on his uniform was a violation of the Uniform Policy. Chief Gillespie ordered, through the chain of command, that the Grievant be directed to remove the pin from his Humboldt Bay Fire uniform and the Grievant complied with that order.

3. The Grievant thereafter initiated a grievance, pursuant to Article 18, "Grievance Procedure," of the HBFL MOU, regarding Chief Gillespie's order that he remove his "Black Lives Matter" pin from his uniform.

This grievance was processed in accordance with Article 18, and Chief Gillespie's decision was upheld through Step 1, Step 2/Level I, and Step 2/Level II. The Grievant then, through counsel, requested an appeal of the decision to the JPA Board through a Step 2/Level III appeal hearing (hereafter, "Grievance Hearing").

4. The Grievance Hearing was originally scheduled for May 25, 2017; however, counsel for Engineer McFarland was unavailable. Counsel for Engineer McFarland waived the requirement that the Grievance Hearing be held "within thirty (30) calendar days from receipt of the appeal," and the Grievance Hearing rescheduled for June 7, 2017.
5. The Grievance Hearing proceeded beginning at 10 a.m. on June 7, 2017. During the Grievance Hearing the JPA Board heard sworn testimony from the Grievant and from witnesses called by the Grievant and Humboldt Bay Fire. The Grievant was given a full opportunity to present his case, present witnesses on his own behalf, cross examine witnesses, and to introduce documentary evidence to support his position.
6. The evidence presented during the hearing established that Humboldt Bay Fire does not authorize and has not authorized any employee to wear a political pin on his/her uniform. Chief Gillespie's decision was consistent with how the Uniform Standards policy has been applied.
7. The "Black Lives Matter" is political in nature as stated on its website and by the evidence presented and is not "fire service related" as set forth in Humboldt Bay Fire Policy 1.E.2. It therefore does not fall within the category of "miscellaneous insignia or pin" that may be worn by Humboldt Bay Fire employees may wear while on duty and in uniform. (See Policy 1.E.2, Appendix K) Chief Gillespie's order that Mr. McFarland not wear the "Black Lives Matter" pin while on duty and in uniform was not a violation of the "Uniform Requirements" policy.
8. The Board finds that Chief Gillespie's decision is consistent with the Firefighters Bill of Rights Act.
9. Finally, the Board would like to convey that its decision is based on policy not on its agreement or disagreement with the Black Lives Matter movement.

Accordingly, the JPA Board unanimously affirms the decision of the Fire Chief.



Jo Ann Gath, Chair
Humboldt Bay Fire Joint Powers Authority



Date

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