

The Fairness Center

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Pennsylvania Public Employee Alleges Union Breached Duty of Fair Representation

Penny Gustafson claims union officials deliberately mishandled her grievance because she is a nonmember

May 19, 2021, Harrisburg, PA – Pennsylvania law says that union officials must fairly represent employees in a bargaining unit whether they are union members or not. But some Pennsylvania union officials seem to think otherwise. Penny Gustafson, a Residential Services Aid at Ebensburg Center in Pennsylvania, has filed a lawsuit against her union, the American Federation of State, County, and Municipal Employees, Council 13 (“AFSCME”). Her lawsuit alleges that AFSCME officials deliberately mishandled a workplace grievance simply because she chose not to be a union member.

In October 2019, Ms. Gustafson was placed on limited duties and not allowed to work any overtime while her employer was supposedly conducting a workplace investigation. Ms. Gustafson alleges the limited duty lasted three weeks even though no investigation happened, and she was eventually returned to work without any discipline. Because Ms. Gustafson regularly works extensive overtime hours, her paycheck took a significant hit as a result.

Ms. Gustafson requested that AFSCME file a grievance regarding the situation, but heard nothing for eight months, even though she regularly asked union officials for updates. Finally, in June 2020, Ms. Gustafson was informed that AFSCME had settled her grievance months earlier without securing any of her lost overtime pay. When Ms. Gustafson questioned the result, she alleges that union officials told her that she was sponging off the union and that she received minimal representation because she is a nonmember.

As a result, Ms. Gustafson filed a lawsuit alleging that AFSCME breached its duty of fair representation in its handling of her grievance. She is represented by attorneys at the [Fairness Center](#), a nonprofit public interest law firm that offers free legal help to those hurt by public sector union officials.

Fairness Center President Nathan McGrath released the following statement:

Because AFSCME is Ms. Gustafson’s exclusive representative under state law, she has no choice in who represents her in her employment. Yet it seems that union officials chose to mistreat Ms. Gustafson simply because she chose not to be a union member. She did not deserve to be treated like a second-class employee merely for exercising her constitutional rights to be a nonmember. And Pennsylvania law recognizes that she deserves the same fair treatment whether she is a member of AFSCME or not.

This case was filed in the Cambria County Court of Common Pleas.

Documents

- [Case Page](#)
- [Backgrounder](#)
- [Complaint](#)

Fairness Center attorneys are available for comment. Contact John Sweeney at 609.477.0930, or jrsweeney@fairnesscenter.org to schedule an interview.

The Fairness Center is a nonprofit, public interest law firm offering free legal services to those hurt by public-sector union officials. For more information visit www.FairnessCenter.org