



Human Resources & Development COUNTY OF TULARE AGENDA ITEM

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PETE VANDER POEL
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: February 24, 2009

Public Hearing Required	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Resolution, Ordinance or Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	N/A	<input type="checkbox"/>
CONTACT PERSON: Tim Huntley PHONE: 733-6266						

SUBJECT: Resolution of Impasse with the Service Employees International Union- Local 521 (SEIU).

REQUEST(S):

That the Board of Supervisors:

1. Affirm that the County and SEIU have reached agreement on the layoffs of the Health & Human Services Agency (HHSA) employees, accept recommendations on an agreement that will be presented verbally at the February 24th Board meeting, and approve implementation of agreement;
OR
2. Provide an opportunity for representatives of SEIU to discuss their final proposal and comment on the County recommendation(s); OR
3. Resolve the impasse and unilaterally adopt the County proposal presented to SEIU regarding impacts (see attached Terms and Conditions of Employee Layoffs) to employees laid off in the Health & Human Services Agency, resulting from closure of two clinics and reduction in funding.

SUBJECT: Resolution of Impasse with the Service Employees International Union-Local 521 (SEIU)

DATE: February 24, 2009

SUMMARY:

The County and SEIU have met and conferred over the impacts to employees on the HHSA layoffs that were initially noticed in December 2008. The latest meet and confer session (mediation), scheduled for February 19th, is after the deadline to submit final written agenda materials. Therefore, this item is placed on the agenda with a final update and recommendation to be provided verbally by staff at the meeting on February 24, 2009. Up to the February 19th meeting, the union had proposed two items which the County has not agreed to:

- 1) That the County require the Tulare District Hospital to hire all laid off Tulare County employees as part of the terms and conditions of the contract(s); and
- 2) That the County rehire (Reemploy) laid off workers by seniority order, should vacancies occur in impacted classifications.

The County's position on SEIU's request to require Tulare District Hospital (TDH) to hire all laid off employees was deemed not feasible by the County's negotiators. The County maintains that the present rule, unchanged since 1988, governing consideration for Re-employment (see attached Personnel Rule 11.2.6) is fair and adequate, and requires no modification.

FISCAL IMPACT/FINANCING:

There will be a substantial impact to the County for the payment of unemployment benefits to laid-off employees.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Organizational Performance: 4.2 "Provide for the stability of County operations through periods of economic fluctuations, changing priorities, and service demands".

ALTERNATIVES:

The Board may direct staff to return to the bargaining table, or to take other action.

INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:

County Administrative Office, County Counsel, HHSA.

SUBJECT: Resolution of Impasse with the Service Employees International Union-
Local 521 (SEIU)

DATE: February 24, 2009

ADMINISTRATIVE SIGN-OFF:

Tim Huntley, Human Resources & Development Director

Cc: Auditor/Controller
County Counsel
County Administrative Office (3)

Attachment(s)

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF Resolution of)
Impasse with the Service Employees)
International Union- Local 521 (SEIU))

RESOLUTION NO. _____
AGREEMENT NO. _____

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

That the Board of Supervisors:

1. Affirmed that the County and SEIU have reached agreement on the layoffs of the Health & Human Services Agency (HHS) employees, accept recommendations on an agreement that will be presented verbally at the February 24th Board meeting, and approved implementation of agreement; OR
2. Provided an opportunity for representatives of SEIU to discuss their final proposal and comment on the County recommendation(s); OR
3. Resolved the impasse and unilaterally adopted the County proposal presented to SEIU regarding impacts (see attached Terms and Conditions of Employee Layoffs) to employees laid off in the Health & Human Services Agency, resulting from closure of two clinics and reduction in funding.

Terms and Conditions of Employee Layoffs
Health and Human Services Agency
January 2009

The following terms and conditions governing reductions in force during the months of January, February and March in the Health and Human Services Agency shall apply uniformly to unrepresented, employees represented by SEIU Local 521 and the United Auto Workers.

Article 1
Re-employment of County Employees

The County of Tulare agrees that all employees in classifications represented laid off from County employment as a result of Board of Supervisor's actions subsequent to January 1, 2009, shall be eligible for reemployment by the County in accord with the Personnel Rule 11 attached.

Article 2
Release of Information on Former Employees

A. Application of Personnel Rule 1.8.

The County of Tulare agrees that information pertaining to all employees in classifications laid off from County employment shall be as set forth herein and controlled by Personnel Rule 1.8, a copy of which is attached.

1. The County agrees to respond to enquiries consistent with Personnel Rule 1.8 and further will indicate, if asked, that the only reason for the employee's separation was due fiscal constraints requiring the layoff of employees by reverse seniority, except as provided below:
 - a. Employees signing a release authorizing another employer to review their personnel file acknowledge that any information contained in the file both positive and negative are subject to examination by that employer's representative. Negative information in a personnel file will be disclosed pursuant to a validly executed release or as required by law.
 - b. Employees applying for public safety positions are advised that they will be subject to a background investigation and any County representatives interviewed in the course of such investigation will comply with the disclosure requirements of law.

Article 3
Health Benefits

The County will offer Consolidated Omnibus Budget Reconciliation Act (COBRA) health insurance coverage at the employees' option pursuant to Federal Law.

Article 4
Unemployment Benefits

- A. Application for Unemployment Insurance Benefits
1. The County agrees not to oppose any State of California unemployment benefit application, generally referred to as “unemployment insurance”, for employees who have been laid off as a result of action(s) by the Board of Supervisors through December 31, 2009, provided however;
 - a. The County will respond in accordance with law to any enquiries from the California Department of Employment.
 - b. The County reserves the right to oppose unemployment benefits, irrespective of the basis for an employee’s separation, for any claimant who while still employed engages in conduct warranting discipline.

Article 5
Assistance for Laid Off Employees Seeking Employment

- A. Successor Employer

In the event the operations of Tulare County Human Services Agency, in whole or in part, are assumed by any other entity, public or private, whether by sale, lease, assignment or through any other form, the successor organization or organizations shall be required by the County to agree, as a condition precedent to any assumption, to participate in an employment services recruitment program, exclusively for County employees, through the County’s Workforce Investment Board. This employment services recruitment program will take place on or about February 4, 2009 at the office of the Workforce Investment Board.

Tulare District Hospital agrees to give due consideration to hiring Tulare County employees who have completed an application for employment with the Hospital District.

- B. Internal Placement

The County Human Resources and Development department will either by the use of closed promotional examinations or the establishment of transfer request lists facilitate the filling of internal vacancies to the extent possible. Provided however, such vacancies must be certified by the County Administrative Officer as exempt from the County’s hiring freeze and this provision will be in force and effect until such time as the County’s Human Resources Director certifies there are insufficient qualified internal or previously laid off candidates eligible to establish a qualifying employment list.

11.2 LAY-OFF

11.2.1 General Policy

An employee in the competitive or non-competitive service may be laid-off because of either the abolishment of the employee's position by action of the Board of Supervisors or a determination by the County which has been adopted by the Board of Supervisors that there is a shortage of work or funds. Such lay-offs shall occur by classification within the department. The Department Head shall determine the class and number of positions to be affected within a department and the lay-off date. The Department Head shall notify the Human Resources & Development Department in writing at the earliest possible date.

11.2.2 Scope and Order of Lay-Off

Lay-offs shall occur within a job classification in inverse order of seniority in the following order of employee status:

- a) Extra-Help
- b) Seasonal
- c) Provisional
- d) Temporary Part-time
- e) Temporary Full-time
- f) Project Service Part-time
- g) Project Service Full-time
- h) Probationary
- i) Regular Part-time
- j) Regular Full-time

The Human Resources Director shall make an effort to arrange the transfer of an employee who is affected by a lay-off to a vacant position for which the Human Resources Director determines the employee qualified.

11.2.3 Seniority

An employee's seniority shall be computed based on the employee's most recent hire date.

- a. Any time spent as an Extra-Help or Seasonal employee is excluded.
- b. Project service employment shall be excluded except where appointment to such project service has been made through a competitive selection process.
- c. Employees with regular or probationary status serving a provisional or temporary appointment shall retain and accrue seniority in the class occupied prior to the temporary or

provisional appointment.

d. Except where provided by Memoranda of Understanding, in addition to the seniority determined according to Rule 11.2.3(a) above, each employee serving in a regular appointment as of the date of computation of the seniority, shall have one year added for achieving an overall rating of eight (8) or better on the employee's last two (2) annual written performance appraisal reports.

11.2.4 Tied Seniority

Employees with the same employment status whose seniority is tied shall, for purposes of lay-off order, have such ties broken as follows in favor of the:

- a) Employee or employees who have the greatest length of time employed within the class identified for lay-off during the current period of continuous service.
- b) Employee or employees who have the greatest length of time employed within the Department during the current period of continuous service.
- c) Employee whose most recent PAF Overall Score is 5 or better over an employee whose most recent PAF Overall Score is 4 or less.
- d) Employee or employees whose names are drawn by lot, or as otherwise provided by memorandum of understanding and based on a standard that comports with merit principles.

11.2.5 Displacement Policy

An employee who receives notice of lay-off may, if the employee so chooses, displace within the same service (competitive and project service) within the same department an employee in a lower salary range provided that:

- a) The employee has greater County-wide seniority than the employee to be displaced.
- b) The employee is willing to accept the reduced compensation level.
- c) The employee selects a position that is:

- in their current class series, or
- in a closely related class series as determined by the Human Resources Director, or
- in a class in which they have previously held regular appointment status.

d) The employee submits written displacement notice to the Human Resources Director within ten (10) calendar days after receipt of notification of lay-off according to this Rule.

11.2.6 Re-employment List

The names of employees who have been laid-off, reduced-in-class, displaced, or who have received lay-off notice and voluntarily resigned, and who received their most recent appointment through the competitive process shall be placed on the re-employment list for the class from which they were laid-off, reduced-in-class, or displaced in order of seniority score. The re-employment list for any given class shall be certified to an Appointing Authority for consideration before any other employment lists for the class. When a person is re-employed within two years the time away from work shall be treated as an unpaid leave of absence except that vacation and compensating time off that were converted to cash shall not be restored.

11.2.7 Lay-Off Notice

Employees in the competitive service subject to lay-off shall receive a thirty (30) day notice from their Department Head. Lay-off notice to Project Service employees may be less than thirty (30) days if the funding source does not give sufficient notice of termination of funds. No advance notice need be given to employees in the non-competitive service. A lay-off notice shall include the following information:

- a) Reason for lay-off.
- b) Effective date of the lay-off.
- c) The employee's seniority score.
- d) Classes to which the employee may request displacement within the Department.
- e) The location of where the employee may review the seniority list.
- f) The re-employment procedure.
- g) A copy of this Lay-Off Rule 11.2
- h) Reference to the Grievance Procedure (Rule No. 13) for resolution of disputes regarding the lay-off process.