

LOS ANGELES COUNTY
EMPLOYEE RELATIONS COMMISSION

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| In the Matter of |) | |
| AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME), LOCAL 685 |) | |
| |) | |
| Charging Party |) | |
| |) | |
| v. |) | UFC 1.80 |
| |) | |
| PROBATION DEPARTMENT |) | |
| |) | |
| Respondent |) | |

DECISION AND ORDER

The charge in this case concerns an allegation by the American Federation of State, County and Municipal Employees (AFSCME), Local 685 (Union) that the Los Angeles County Probation Department (County or Respondent) had violated Section 12(a)(3) of the Employee Relations Ordinance (Ordinance) by unilaterally implementing a set of Disciplinary Guidelines.

The matter was duly referred to Hearing Officer Sara Adler, who held a hearing on November 7, 1988. The parties appeared and were afforded fully opportunity to offer argument, present relevant evidence, and cross-examine witnesses. Post-hearing briefs were filed. Following receipt of these briefs, the Hearing Officer requested reply briefs, which were submitted by both parties. The Hearing Officer filed a Report with the Commission on April 14, 1989. No Exceptions were submitted to this Report.

The underlying facts are not in dispute. By letter dated May 4, 1988, the County transmitted proposed Disciplinary Guidelines to the Union for information purposes and comments. A meeting was subsequently held at which the Union President demanded to negotiate on the Guidelines. The Respondent refused and the instant charge was thereafter filed. By letter dated May 26, 1988, the County offered the Union another opportunity to consult on the matter and in July 1988 transmitted a final draft of the Disciplinary Guidelines to the Union. The Guidelines were implemented effective September 1, 1988.

The 1985-1987 Memorandum of Understanding (MOU) had expired prior to the above sequence of events and the parties were in negotiations for a new Agreement. In September 1988 a successor 1988-1991 MOU with an effective date of June 8, 1988, was ratified.

The Hearing Officer recommended that the charge be dismissed as moot. Underpinning this recommendation was her conclusion that the Full Understanding, Modifications, Waiver provision of the 1988-1991 MOU constitutes a waiver of any right the Union may have had to negotiate concerning the Disciplinary Guidelines. In this regard, the Hearing Officer observed that the Union was fully aware of the proposed Guidelines, but nevertheless reached agreement on a successor MOU containing a "Zipper Clause" without making a specific reservation of any right to negotiate on the Guidelines should they be found negotiable under the Ordinance. In view of these conclusions, the Hearing Officer did not reach the question of whether the Disciplinary Guidelines themselves are included within the scope of negotiations.

Having carefully reviewed Hearing Officer Adler's Report and the underlying record, the Commission adopts her findings and recommendations for the reasons stated therein.

O R D E R

IT IS HEREBY ORDERED that charge UFC 1.80 be dismissed as moot.

DATED at Los Angeles, California, this 3rd day of July, 1989.



JOSEPH E. GENTILE, Chairman



PAUL K. DOYLE, Commissioner



ROBERT D. STEINBERG, Commissioner