

LOS ANGELES COUNTY  
EMPLOYEE RELATIONS COMMISSION

In the Matter of	)	
	)	
SOCIAL SERVICES UNION (SSU),	)	
LOCAL 535, SEIU	)	
	)	
Charging Party	)	
	)	
v.	)	UFC 10.28
	)	
DEPARTMENT OF PUBLIC SOCIAL	)	
SERVICES	)	
	)	
Respondent	)	
	)	

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DECISION AND ORDER

The charge in this case was filed by Social Services Union (SSU), Local 535, SEIU (Union or Charging Party) against the County of Los Angeles Department of Public Social Services (County or Department) alleging that the County had violated Sections 12(a)(1) and 12(a)(2) of the Employee Relations Ordinance (Ordinance) with respect to steward representation rights for certain employees assigned to the County's WIN Demo Program.

The matter was duly referred to Hearing Officer Angela R. Pickett, who held a hearing on October 23, 1987. The parties appeared and were afforded full opportunity to offer argument, present relevant evidence, and examine and cross-examine witnesses. Post-hearing briefs were filed. Hearing Officer Pickett submitted a Report received in the Commission's office on January 8, 1988. The Charging Party filed Exceptions to this Report on February 2, 1988. No statement in opposition to these Exceptions was received.

The record discloses that employees assigned to the WIN Demo Program are housed in 21 separate State of California Employment Development (EDD) offices located throughout Los Angeles County. These employees are included in two separate representation units, a supervisory and a nonsupervisory unit, represented by the Charging Party. Although the Hearing Officer's Report is less than precise with respect to the number of employees involved, it appears that either six or seven supervisory and approximately 45 to 50 nonsupervisory employees are allocated to the WIN Demo Program. Each Supervisor is assigned to one of six headquarter offices included within the 21 EDD offices, while from one to three nonsupervisory employees are assigned to each EDD office.

The Hearing Officer found that the Department has maintained a long-standing policy which prohibits a steward from representing an employee assigned to a facility other than the steward's on County time. According to the Hearing Officer, this policy would have the effect of requiring the Union to provide 21 stewards for the nonsupervisory employees and one steward for each supervisory employee assigned to the WIN Demo Program. Based on this conclusion and the testimonial evidence, Hearing Officer Pickett found that the application of the Department's policy with respect to the WIN Demo Program employees had the twofold effect of curtailing the Union's ability to represent these employees and of diluting the rights of these employees to effective representation.

Notwithstanding these findings, the Hearing Officer concluded that the County's actions complained of in the instant charge were

not violative of the Ordinance. It appears that this conclusion was based on her finding that the County's actions comported with long-standing departmental policy and on her reading of language contained in the pertinent Memoranda of Understanding (MOUs).<sup>1</sup>

We find substantial evidence on the record to support the Hearing Officer's finding regarding the effect on representation occasioned by the County's application of the aforementioned policy. Hence, we adopt this specific finding. For the reasons set forth below, we are unable to adopt the Hearing Officer's conclusion that the County did not violate the Ordinance.

We begin by stating what should be patently obvious: The instant proceeding is an unfair practice charge matter, not an arbitration. While the Commission on prior occasions has been required to construe contract language in an unfair practice setting, such inquiry is unwarranted in the present matter. For in this regard, the finding made herein that employee rights to representation and the Union's rights to provide same were effectively diluted compels the conclusion that the Ordinance was violated. Hence, the Hearing Officer's reliance to the contrary on essentially procedural contract language is misplaced.

Further, the fact that the County in the instant matter merely applied a long-standing departmental policy regarding stewards

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<sup>1</sup>The Social Workers MOU (nonsupervisory employees) includes language which provides that "[t]he number and location of representatives will be determined by agreement between the departmental management and Local 535." The MOU for the supervisory employees contains identical language with the exception that reference is made to the "Joint Council" rather than to "Local 535."

is not dispositive of whether the Ordinance was violated. The issue before us is not the propriety of this policy in its general application. Rather, we are concerned with the effect on representation rights attributable to the application of this policy to the WIN Demo Program employees represented by the Charging Party. As we found this policy when so applied to have an adverse impact on such rights, we are led to conclude that the application thereof was violative of the Ordinance.

For the foregoing reasons, we find and conclude that the instant application of the Department's policy regarding steward representation rights was violative of Section 12(a)(1) of the Ordinance. Although the Hearing Officer did not make specific findings and conclusions as to the alleged 12(a)(2) violation, the Commission, after reviewing the record in its entirety, finds and concludes that the County's conduct did not rise to the level sufficient to sustain a violation of this Section. We therefore issue the following Order.

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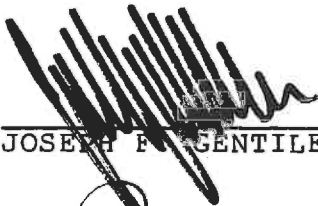
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O R D E R

IT IS HEREBY ORDERED that charge UFC 10.28 is sustained in part and dismissed in part as follows:

1. The charge that the County violated Section 12(a)(1) of the Ordinance is sustained; and
2. The County is directed to cease and desist from applying the departmental policy regarding steward representation to WIN Demo Program employees represented by the Charging Party.
3. The charge that the County violated Section 12(a)(2) of the Ordinance is dismissed.

DATED at Los Angeles, California, this 11th day of March, 1988.



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JOSEPH F. GENTILE, Chairman



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PAUL K. DOYLE, Commissioner



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ROBERT D. STEINBERG, Commissioner