

LOS ANGELES COUNTY
EMPLOYEE RELATIONS COMMISSION

In the Matter of)	
)	
LOS ANGELES COUNTY LIFEGUARD)	
ASSOCIATION, AFL-CIO)	
)	
Charging Party)	
)	
v.)	UFC 19.10
)	
DEPARTMENT OF BEACHES AND HARBORS)	
)	
Respondent)	
)	

DECISION AND ORDER

The charge in this case was filed by the Los Angeles County Lifeguard Association (Association or Charging Party) against the Los Angeles County Department of Beaches and Harbors (County or Respondent) alleging that the County committed an unfair employee relations practice within the meaning of Section 12(a)(3) of the Employee Relations Ordinance (Ordinance) by unilaterally implementing a change in the manner by which Seasonal Lieutenant Ocean Lifeguard positions were filled.

The matter was duly referred to Hearing Officer Michael D. Rappaport, who held hearings on December 11 and December 13, 1985. Both parties appeared and were afforded full opportunity to offer argument, present evidence, and examine and cross-examine witnesses. Post-hearing briefs were filed. The Hearing Officer submitted a Report which was received in the Commission's office on June 3, 1986. Exceptions to this Report were filed by both the Charging Party and the Respondent, dated June 23, 1986, and June 20, 1986,

respectively. On July 10, 1986, the Association submitted a statement in opposition to Respondent's Exceptions.

In brief, Hearing Officer Rappaport concluded that the County in refusing to negotiate over a material change in the method of promoting Senior Ocean Lifeguards to Seasonal Lieutenant positions had committed a violation of Section 12(a)(3) of the Ordinance. This conclusion was grounded in the Hearing Officer's findings that an on-going past practice existed governing such promotions and that these promotions constituted a "significant and important condition of employment." Hearing Officer Rappaport further concluded that the adoption of new Civil Service Rules in 1981 neither served to abolish this practice nor permitted the County to unilaterally change this practice as the evidence demonstrated that the County continued to follow the exact same practices for promoting Seasonal Lieutenants after the Rules were adopted.

Having carefully reviewed the entire record in this matter, the Commission adopts the findings, conclusions and recommendations of the Hearing Officer as set forth in his Report for the reasons stated therein.

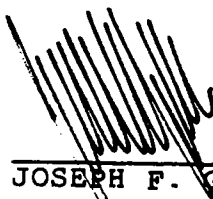
As pointed out by the Charging Party in its Exceptions, the Hearing Officer's Report did not include any recommendations with respect to an appropriate remedy. The Commission in numerous prior decisions involving proscribed unilateral changes in terms and conditions of employment has ordered the restoration of the status quo ante. The Commission considers such remedy appropriate with respect to the unilateral changes complained of herein. Further, the evidence established that substantial monetary benefits accrued to employees promoted into Seasonal lieutenant Lifeguard positions

and that the County's implementation of a new promotional system denied these benefits to certain employees who would have been promoted but for the County's unilateral change. Hence, the Commission's Order will provide relief for those employees so adversely affected.

O R D E R

IT IS HEREBY ORDERED that charge UFC 19.10 is sustained and that the County is directed to reinstate the practice that existed prior to the 1985 beach season with respect to the manner in which Seasonal Lieutenant Lifeguard promotions were made and to negotiate with the Charging Party concerning any changes in said promotional practices. The County is further directed to pay to those employees adversely affected by the unilateral implementation of the new promotional policy any salary and benefits lost as a result of the County's Ordinance violation. The Commission shall retain jurisdiction over this portion of its Order in the event the parties cannot agree on its implementation.

DATED at Los Angeles, California, this 19th day of August, 1986.



JOSEPH F. GENTILE, Chairman



PAUL K. DOYLE, Commissioner



ROBERT D. STEINBERG, Commissioner