LOS ANGELES COUNTY

EMPLOYEE RELATIONS COMMISSION

In the Matter of LOS ANGELES COUNTY EMPLOYEES ASSOCIATION (LACEA), LOCAL 660, SEIU, AFL-CIO Charging Party v. COUNTY OF LOS ANGELES, DEPARTMENT OF PERSONNEL Respondent	UFC 6.89

DECISION AND ORDER

The charge in this case was filed by LACEA, Local 660, SEIU, AFL-CIO (Union or Charging Party) against the Los Angeles County Department of Personnel (County or Respondent) alleging violations of Sections 12(a)(1) and 12(a)(3) of the Los Angeles County Employee Relations Ordinance (Ordinance).

The Charging Party contends that Respondent violated these provisions by:

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1. Unilaterally implementing a Management Secretarial Classification Plan that created new classes with new job duties and salary levels;
2. Transferring a substantial number of employees within the bargaining unit represented by Charging Party to the new classes;
3. Unilaterally removing a number of employees from the bargaining unit by designating such classes as confidential or management positions; and
4. Refusing to provide Charging Party with the necessary information to represent such employees.

The matter was duly referred to Hearing Officer Naomi Berger Davidson, who held a hearing on November 12, 1981. The parties appeared and were afforded full opportunity to offer argument and evidence and to examine and cross-examine witnesses. Post-hearing briefs were filed. The Hearing Officer submitted her Report on May 4, 1982. Exceptions to the Report were filed by the County on May 28,

1982. The Charging Party submitted a statement in opposition thereto, received in the Commission's office on June 10, 1982.

Hearing Officer Davidson concluded that:

> "Respondent did violate Sections 12(a)1 & 3 of the Employee Relations Ordinance by refusing to provide information to, and refusing to negotiate with LACEA, SEIU, Local 660, AFL-CIO, over both the Management Secretarial Reclassification Plan and the impact of this Plan during the period February 24, 1981 to July 3, 1981."

Based on this finding, the Hearing Officer proposed the following remedies:

> "1. Respondent is to return the 1,460 - 1,470 positions it unlawfully removed from the clerical unit to that unit in their present job designations of 'Class specifications, Items No. 2094 thru 2124.'
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> "2. Respondent is to cease and desist from making future changes in the 1,520 - 1,530 positions affected by the Management Secretarial Reclassification Plan and in these

employees' wages, hours, and other terms and conditions of employment without negotiating with Local 660.

"3. Respondent is to fulfill its statutory duty to bargain with Local 660 over the determination of seniority for these 1,520-1,530 positions as well as over wages, hours, and any other terms and conditions of employment.

"4. The amount of compensation the County shall pay to Local 660 for its dues losses shall be determined in a future Hearing before a Commission-appointed Hearing Officer. The Commission shall retain jurisdiction over this issue of making the Union whole."

After having carefully reviewed the Hearing Officer's Report, the underlying record, the Exceptions to the Report, and the statement in opposition thereto, the Commission concludes that the findings and recommendations of Hearing Officer Davidson, except as discussed below, are either inappropriate or obviated by the events that transpired subsequent to the close of the hearing, but which are appropriate for consideration in this particular case.

We shall first consider the County's unilateral removal of a number of employees from the bargaining unit by its action of designating certain classes as either confidential or management positions.

Immediately following the Board of Supervisors' adoption of the Management Secretarial Classification Plan, the Charging Party filed with the Commission AC 19-81 and AC 20-81, which requested, respectively, the accretion of the newly created classes of Secretary I through V and Senior Secretary I through V to the Clerical and Office Services Employees bargaining unit. These requests, which were opposed by the County, were referred to hearing by the Commission so that a determination of the appropriateness of the Union's request could be made.

Pending the hearing, the parties entered into a stipulated agreement which acknowledged the County's concurrence with the Union's request to accrete the classes of Secretary I through V to the bargaining unit and provided that the Union would withdraw, with prejudice, its request to accrete the classes of Senior Secretary I through V. The stipulation further reflected the parties' agreement that the majority of the positions in the classes Secretary I through V were not confidential and that all the positions in the classes Senior Secretary I through V were confidential and, therefore, not properly in the unit.

Such an agreement, freely entered into by the parties, should not be overturned unless clearly repugnant to the Ordinance. Hence, on July 16, 1982, the Commission approved the stipulation. The Commission considers this action dispositive of the issue of the County's removal of employees from the bargaining unit and makes no further determination in this regard.

Turning to the Charging Party's assertion that job classifications are a mandatory subject of negotiations, we note that the instant charge does not represent the first occasion on which the Commission has been required to decide this issue. In UFC 1.18 (AFSCME, Local 119 v. County of Los Angeles, Department of Personnel), a majority of the Commission determined that job classifications were negotiable. On appeal, the Appellate Court refused to sustain the Commission on the basis that provisions of the Los Angeles County Charter preempted the subject of job classifications to the Civil Service Commission.[1/] The County electorate, however, approved in 1978 Charter amendments which substantially altered the structure of the Civil Service Commission and had the effect of placing classification matters under

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[1] American Federation of State, County and Municipal Employees, Local 119 v. County of Los Angeles, 90 LRRM 2554 (1975).

the jurisdiction of the Director of Personnel. This event has served to erode any precedential value of the AFSCME case. We shall, therefore, treat the matter before us as one of first impression.

Subsequent to both the passage of the aforementioned Charter amendments and the California Supreme Court's decision in Los Angeles County Civil Service Commission v. Superior Court of Los Angeles, 100 LRRM 2854 (1978), the County and the Coalition of County Unions (Coalition), of which Charging Party is a member, entered into negotiations concerning Civil Service Rules. Negotiations were conducted throughout 1979 and 1980, impasse procedures exhausted, and new Civil Service Rules adopted by the Board of Supervisors on March 3, 1981. Included in these Rules are Rule 5 (Classifications) and Rule 19 (Layoffs and Re-employment Lists).

The negotiations conducted during 1979 and 1980 regarding the Civil Service Rules were questioned by the Coalition in UFC 60.12, which was filed with the Commission while negotiations were in progress. In that case, the Coalition alleged that the County failed to bargain in good faith over the Rules. The charge was referred to hearing, but not pursued; nor was the charge amended to contest the propriety of the County's implementation of the Rules following impasse, mediation, and an advisory fact-finder's report.

Civil Service Rule 5 is a series of Rules which comprehensively addresses the creation of new classes, the development of class specifications, and the assignment of job duties. Our analysis of Rule 5 compels the conclusion that it clearly reserves to the County the right to take unilateral action on these matters and, accordingly, constitutes a waiver of the Charging Party's rights, if any, to negotiate. Consequently, the Commission concludes that the County did not violate the Ordinance by its refusal to negotiate regarding class specifications, job duties, and creation of the new secretarial classes.

The above is dispositive of this issue; thus, in this case, the Commission is not required to make any determination as to whether these matters are within the scope of negotiations, as defined by Section 6(b) of the Ordinance.

Civil Service Rule 19 provides, in pertinent part, that "[e]mployees in non-supervisory classes . . . shall be laid off or reduced on the basis of inverse order of seniority in County service . . . ." The Commission finds this Rule to be determinative of the manner in which seniority is defined in the event of layoffs or reductions for all non-supervisory classes, including those affected by the classification plan. It serves to relieve the County of any obligation to negotiate concerning seniority dates for the reclassified secretarial employees. Accordingly, the

Commission concludes that the County did not violate the Ordinance by its refusal to negotiate in this regard.

Once the newly created secretarial classes were accreted to the bargaining unit, they became covered by the terms of the Clerical and Office Services Employees Memorandum of Understanding (MOU), which incorporates the agreement of the parties on various wage issues, hours of work, and other terms and conditions of employment. However, the salary levels for the classes Secretary I through V are not specified in the MOU, nor does the MOU set forth any terms and conditions of employment that may be unique to these classes. The Commission concludes that the Ordinance requires negotiations on these salary levels and that the County, by its refusal to negotiate on this matter, has violated Sections 12(a)(1) and 12(a)(3) of the Ordinance. The Commission further concludes that negotiations are warranted concerning any terms and conditions of employment unique to the new classes which are not covered by the MOU and/or the Civil Service Rules. Although the record does not specifically identify any such terms and conditions of employment created by the reclassification action, the record unequivocally establishes that the County has refused to negotiate concerning any and all aspects of the Management Secretarial Classification Plan. Consequently, the County has implicitly refused to negotiate on this matter and by such refusal has violated Sections 12(a)(1) and 12(a)(3) of the Ordinance.

The Hearing Officer concluded that the County violated Sections 12(a)(1) and 12(a)(3) of the Ordinance by refusing to provide the Union information concerning the classification plan. The record discloses, however, that the County by letter dated April 29, 1981 (Joint Exhibit 4) provided some information in response to the Union's request. Therefore, the issue before the Commission is whether the County furnished sufficient information to enable the Union to properly discharge its duties as the certified bargaining representative. Hearing Officer Davidson made no findings in this regard. The Commission's conclusions concerning the extent of the County's duty to negotiate has served to negate the Union's need for or right to most of the requested information. Consequently, we find that the County did not violate the Ordinance because the information furnished was sufficient given the facts of this case.

O R D E R

The Commission finds that the Los Angeles County Department of Personnel has committed an unfair employee relations practice by refusing to negotiate with the Charging Party concerning salary levels and such terms and conditions of employment as may apply to the classes of Secretary I through V. In order to remedy this unfair employee relations

practice, the Commission directs the County to forthwith enter into good-faith negotiations with the Charging Party on salary levels for the aforementioned classes and any terms and conditions of employment identified by the Charging Party that are unique to these classes and not covered by the MOU and/or Civil Service Rules.

DATED at Los Angeles, California this 12th day of November, 1982.

Lloyd H. Bailer
LLOYD H. BAILER, Chairman

JOSEPH F. GENTILE, Commissioner

FREDRIC N. RICHMAN, Commissioner