



HUMAN RESOURCES DEPARTMENT

Findings Regarding Petitions for Decertification and Certification - Marin County Probation Association

The following representation petitions were filed by the Marin County Probation Association with the County of Marin Human Resources Director:

- 1.) Petition requesting decertification of the incumbent recognized representative for bargaining unit 11 (Probation Workers); and
- 2.) Petition requesting certification of the Marin County Probation Association as the recognized employee organization for bargaining unit 11 (Probation Workers).

The representation procedures (certification, decertification and unit modification) for the County of Marin are governed by the Employee Relations Resolution contained in the County of Marin Personnel Management Regulation (PMR) No. 4, Sections 4.4 through 4.7.

PMR Section 4.7, "Modification of Established Unit and Decertification," provides that a petition for decertification may be filed with the Director of Human Resources "during a window period of no more than 180 days or less than 150 days prior to the expiration date of a collective bargaining agreement between a certified organization and the County." The Collective Bargaining Agreement covering bargaining unit 11 expires on July 1, 2010, setting the window period as January 1, 2010 through January 31, 2010. The petition for decertification was received during this window on January 29, 2010, 152 days prior to the expiration of the Collective Bargaining Agreement.

PMR Section 4.7 B(2) also provides that a decertification petition may be filed by "[a]nother organization provided the petition is accompanied by authorization cards signed by at least thirty per cent (sic) of all employees in the proposed unit." This serves as proof of employee support. The County requested that the California State Mediation and Conciliation Services verify whether or not the decertification signatures submitted by the Marin County Probation Association satisfies the 30% requirement articulated in PMR Section 4.7. Sandra Poole, Mediator from State Mediation and Conciliation Services, reviewed the petition and on February 12, 2010 submitted written confirmation that the petition for decertification consists of at least thirty percent of all employees in the bargaining unit. A copy of that letter indicating her findings is attached. Employees in the bargaining unit were defined as all permanent and extra-hire employees in the

County's payroll system as of January 23, 2010, regardless of the actual hours worked.

PMR Section 4.4 identifies that an employee organization must file a statement of representation in order to attain certification as the bargaining representative. A statement of representation was filed along with the decertification petition on January 29, 2010. It included all of the required elements including:

1. Name and address of employee organization.
2. Names and titles of its officers.
3. Names of employee organization representatives who are authorized to speak on behalf of the organization.
4. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the County.
5. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
6. Certified copies of the employee organization's constitution and bylaws.
7. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice to the employee organization for any purpose.
8. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.
9. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
10. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the County. Such written proof will be submitted for confirmation to the Human Resources Director or to a mutually agreed upon disinterested third party.
11. A request that the Personnel Commission formally acknowledge the petitioner as the Certified Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

Consistent with the obligation under PMR Section 4.5, which indicates that "[t]he Director of Human Resources will investigate the statement, confer with affected

department heads and organizations and prepare findings as to the...authentication of the representative status of the organization," I or my designee met with Teamsters, Local 856, the Chief Probation Officer, and the Marin County Probation Association prior to writing these findings.

The petition requesting certification was submitted on January 29, 2010 and on its face included all required elements listed in numbers 1-11 above. During the County's investigation of the petition, the County requested, pursuant to subsection 10 above, that the Association submit the certification signatures to the Human Resources Department for neutral review and verification. The Association indicated that they believed they had already submitted the required signatures. It was pointed out to them that the signatures pages they had submitted only indicated that the employees no longer wished to be represented by Teamsters, but failed to indicate that they affirmatively wanted to be represented by the Association. The County's PMRs do not require that the certification statement, or the accompanying signatures in support of certification, be provided by a certain date or within a specified timeframe. Signatures showing support for the petitioning organization were received on February 26, 2010. I do not find the certification petition deficient based on the petitioner's delay in submitting the signatures. The signatures have not yet been verified, but the County has requested that Mediator Sandra Poole from State Mediation and Conciliation Services review the petitions.

In accordance with the requirements set forth in this Section, I submit the following findings as to the two petitions referenced above:

1. The petition for decertification of the incumbent recognized representative was filed with the Director of Human Resources within the window period prescribed by PMR Section 4.7.
2. In order to investigate the statement raised by the decertification petition that a question of representation exists as to the bargaining unit referenced above, the County had the decertification petition reviewed by Mediator Sandra Poole from State Mediation and Conciliation Services.
3. On February 12, 2010, State Mediation and Conciliation Services verified that the petition for decertification of the incumbent recognized representative met the 30% requirement identified in PMR Section 4.7.
4. The petition for certification of the petitioning organization as the recognized representative for bargaining unit #11 (Probation Workers) was filed with the Director of Human Resources in accordance PMR Section 4.4. The certification petition, with signatures, still needs to be validated before an election is called by your Commission. The County has requested that Mediator Sandra Poole from State Mediation and Conciliation Services review the signatures for validation.
5. The County has conferred with the affected organizations, the Teamsters Local 856 and the Marin County Probation Association, and has consulted with the affected department heads.

6. Based on all of the above I have determined that a valid question of representation exists based on the decertification petition, but a question of representation based on the certification petition has not yet been determined and is pending final verification of the certification petition by State Mediation and Conciliation Services.

As Director of Human Resources, I advise that a final decision on the question of representation raised by the decertification and certification petitions be deferred until after State Mediation and Conciliation Services has reviewed and determined the validity of the certification petition.

A final decision by your Commission may then be made at the next meeting of the Personnel Commission as to a proper resolution of the issue of representation raised by these petitions.