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December 2, 2018

Justin Decker
Representative/Organizer
Professional and Technical Engineers, Local 21
649 Main Street, #226
Martinez, CA 94553

Regarding: Petition for Modification of Representation Unit

Dear Justin:

I have received and reviewed your October 29, 2018 email with its attached October 29th letter (Subject – Petition to Modify Bargaining Unit) and the accompanying three (3) union membership cards. I wrote to you on November 2, 2018 asking Unit 19, Senior and Executive Management, to provide additional information which clarifies, defines, elaborates or otherwise explains why the proposed unit modification is appropriate and has a community of interest with the Unit 19 bargaining unit by not later than Friday, November 9, 2018. No additional information was received.

Your October 29, 2018 letter provided the following reasons for unit modification by the inclusion of the Compliance and Quality Assurance Analyst classification into the bargaining unit:

- The classification [Compliance and Quality Assurance Analyst] is a professional-level classification. IFPTE Local 21 is a union of professionals in Solano County as well as throughout the Bay Area.
- The incumbents serve at the discretion of the Appointing Authority and are currently designed "at-will" (civil service exempt), which is in line with other classifications represented by IFPTE Local 21 in Solano County.
- The classification is designed as FLSA-exempt and the incumbents receive administrative leave in lieu of overtime pay, which is in line with other classifications represented by IFPTE Local 21 in Solano County.
- Incumbents to the Compliance and Quality Assurance Analyst classification work in close proximity to and in collaboration with other Local 21-represented classifications and employees in Solano County.
- The minimum qualifications for the classification are within the range typical of classifications represented by IFPTE Local 21 in Solano County. Specifically, the incumbents must have a minimum of a Bachelor's degree and experience in the field.
- The incumbents are required to attain and maintain special certifications necessary for carrying out official duties. This, too, is a common requirements of incumbents to Local 21-represented classifications.

- The classification's prescribed benefits are roughly in line with other classifications represented by IFPTE Local 21 in Solano County.

Presumably, Unit 19 wishes to represent the Compliance and Quality Assurance Analyst (Entry) and the journey-level Compliance and Quality Assurance Analyst. The following analysis is for both of these classifications. If, however, you wish to exclude the Compliance and Quality Assurance Analyst (Entry) from the Unit 19 bargaining unit, then I will need specific, detailed information as to why Unit 19 believes the entry-level and the journey-level classifications have different community of interests.¹

Professional and Technical Engineers, Local 21 represents the County's bargaining unit #19, Senior and Executive Management. Bargaining unit 19 was established on December 12, 2012 and has been represented exclusively by Professional and Technical Engineers, Local 21 since that date.

In the union's initial petition for representation dated September 18, 2012 and in the union's amended petition dated December 3, 2012, the union deliberately excluded the Compliance Officer classification. As noted in the union's December 3, 2012 cover letter:

You will find that Local 21 modified the petition to include those vacant classifications that departments no longer utilize but are appropriately assigned to this proposed bargaining unit and **excluded those classifications that do not reflect the established criteria of the proposed bargaining unit.** [emphasis added]

Those positions excluded for the union's original petition were department directors, assistant department directors (or those classifications which serve in a similar capacity), and positions involved in labor relations (i.e., confidential positions). One such classification was the Compliance Officer.

The County first established the Compliance and Quality Assurance Analyst classifications in 2014. On April 21, 2014 I wrote to all recognized employee organizations, which includes Unit 19, advising that I had made the following classification representation unit determinations:

- Compliance and Quality Assurance Manager to unit 62 (unrepresented senior management)
- Deputy Compliance and Quality Assurance Manager to unit 62 (unrepresented senior management)
- Compliance and Quality Assurance Analyst to unit 30 (confidential employees)
- Compliance and Quality Assurance Analyst (Entry) to unit 30 (confidential employees)

Included in this April 21, 2014 letter was:

"It is my determination that these four new classifications share a community of interests with the existing Compliance Officer classification and other unrepresented employees. Their work, for example, includes conducting and/or coordinating investigations of alleged violations of the compliance-related laws and/or the Code of Conduct and makes recommendations for corrective actions. Other unrepresented employees have a similar role in the employer-employee relations arena."

¹ As a reminder an individual is eligible to flexibly-promote (e.g., promote without examination) from the entry classification to the journey classification.

Initially, the union did not contest the placement of these four classifications into the above-identified bargaining units.

However, in late 2014 the union did submit a unit modification petition asking that the Deputy Compliance and Quality Assurance Manager be placed into Unit 19. The union identified the following ways in which the Deputy Compliance and Quality Assurance Manager shares a community of interest with other Unit 19 classifications:

- The Deputy Compliance and [Quality] Assurance Manager is considered a member of the Solano County senior management (non-safety) team, the vast majority of which are represented by IFPTE Local 21 as part of Unit 19. The classification is not categorized as “confidential.”
- Organizationally, the Deputy Compliance and Quality Assurance Manager’s reporting relationship mirrors those of other Local 21-represented classifications in the Health & Social Services Department and elsewhere.
- The incumbent serves at the discretion of the appointing authority and is designated at-will (civil service exempt), which is line with other executive and senior management employees represented by Local 21.
- The incumbent is designed FLSA-exempt and receives administrative leave in lieu of overtime pay.
- The Deputy Compliance and Quality Assurance Manager works in close proximity to and in collaboration with other Local 21-represented employees of Solano County.
- The nature and scope of work performed by the Deputy Compliance and Quality Assurance Manager is similar to that of other County executive and senior management classifications represented by Local 21, including:
 - The incumbent exercises “lead” supervision over subordinate Health & Social Services staff.
 - The incumbent exercises significant discretion in the carrying out of official duties.
 - In the role of Deputy Privacy Officer, the incumbent delivers and administers the County’s compliance measurement systems – a unique administrative function requiring specialized, advanced training and expertise.
 - The incumbent provides training to subordinate staff, monitors time sheets, and provides input to other management staff on subordinates’ performance.
 - The incumbent serves as a liaison to other County Departments as well as various state and federal agencies. This is in line with other Local 21-represented classifications.
- The minimum qualifications for the position are within the range typical of Solano County classifications represented by Local 21. Specifically, the incumbent must have at least a Bachelor’s degree or higher with at least four (4) years of professional experience in the field.
- The incumbent is required to attain and maintain special certification necessary for carrying out official duties. This too is a common requirement of incumbents to Local 21-represented classifications.
- The County’s salary schedule lists the position’s compensation as equal to that of the Deputy Auditor-Controller classification, which is a classification already within the Local 21 bargaining unit.
- The classification’s prescribed benefits are roughly in line with other executive and senior management employees represented by Local 21 and enshrined in the Local 21 Memorandum of Understanding.

Unit 19 specifically excluded from the unit modification petition the classifications of Compliance and Quality Assurance Manager, Compliance and Quality Assurance Analyst, and Compliance and Quality Assurance Analyst (entry).

On April 12, 2015, the classification of Deputy Compliance and Quality Assurance Manager was placed within the Unit 19, Senior and Executive Management, bargaining unit.

It is my determination that the Compliance and Quality Assurance Analyst (Entry) and Compliance and Quality Assurance Analyst do not share a community of interest with classifications represented in Unit 19, Senior and Executive Management, based on the following:

Rationale from Local 21	Analysis
<p>The classification [Compliance and Quality Assurance Analyst] is a professional-level classification. IFPTE Local 21 is a union of professionals in Solano County as well as throughout the Bay Area.</p>	<p>The County's Employer-Employee Relations Rules and Regulations (EERRR) defines "professional employees" as:</p> <p style="padding-left: 40px;">"Employees engaged in work requiring specialized knowledge and skills attained through completion of a prolonged course of specialized intellectual introduction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, or the various types of physical, chemical, and biological scientists." (EERRR, Section 2, Definitions, item U.)</p> <p>While IFPTE Local 21 may be a union which includes professionals, the union specifically represents Senior and Executive Management and does not exclusively represents "professionals." For example, SEIU, Local 1021 represents Unit 7 (Regulatory, Technical and General Services) which includes, as examples, Agricultural Biologists/Weights & Measures Inspectors, Auditor-Appraisers, Civil Engineers, Librarians, and others. For example, Union of American Physicians and Dentists represents Unit 11 (Psychiatrists, Physicians and Dentists) and the Association of Mid-Management Professionals at Solano County represents Unit 16 (Mid-Management). Said differently, IPFTE Local 21 represents a portion, but not exclusively, those job classifications which may be viewed as</p>

	professionals. The determining/defining factor, therefore, is not based on the professional status of its incumbents.
The classification is designed as FLSA-exempt and the incumbents receive administrative leave in lieu of overtime pay, which is in line with other classifications represented by IFPTE Local 21 in Solano County.	IFPTE Local 21 is partially incorrect. Individuals employed as Compliance and Quality Assurance Analyst (Entry) do not receive administrative leave but rather receive overtime or compensatory time off for additional worked time. Not receiving overtime/compensatory time off is not exclusive to senior and executive management classifications; see also attorneys (Teamsters, Local 150 – Unit 1 Attorneys); information technology classifications (SEIU, Local 1021 – Unit 7 Regulatory, Technical and General Services); doctors, dentists and psychiatrists (UAPD – Unit 11 Psychiatrists, Physicians and Dentists); mid-management classifications (Association of Mid-Management Professionals at Solano County or AMMPS – Unit 16 Mid-Management) and select safety classifications.
Incumbents to the Compliance and Quality Assurance Analyst classification work in close proximity to and in collaboration with other Local 21-represented classifications and employees in Solano County.	<p>Compliance and Quality Assurance Analysts develop and/or revise procedures and operational guidelines in conjunction with program staff, meet with employees, supervisors, managers, contractors, service providers, clients, etc. to identify strengths/weaknesses of the organization and customer satisfaction of services, provide technical assistance and support to supervisors and staff, and make contact with employees in other departments within the County and with other employees in other counties and in state and federal agencies regarding compliance review and quality management activities.</p> <p>Similarly, classifications within a large number of other bargaining units also have an interface (collaboration) with employees, supervisors, managers, contractors, service providers, clients, etc. The mere working relationship of the Compliance and Quality Assurance Analysts with management employees is not unique and is not compelling for the reclassification of these two confidential classifications to management-level</p>

	<p>classifications (i.e., move them to Unit 19, Senior and Executive Management).</p>
<p>The minimum qualifications for the classification are within the range typical of classifications represented by IFPTE Local 21 in Solano County. Specifically, the incumbents must have a minimum of a Bachelor's degree and experience in the field.</p>	<p>The journey-level Compliance and Quality Assurance Analyst classification requires a Bachelor's degree in accounting, business administration, finance, health administration, public administration, social work, or a closely related field plus two years of relevant work experience.</p> <p>As examples, within SEIU Local 1021, Unit 7:</p> <ul style="list-style-type: none"> • Accountant requires a bachelor's degree plus two years of professional accounting experience • Accountant-Auditor requires a bachelor's degree plus two years of professional accounting or auditing experience • Health Education Specialist requires a bachelor's degree plus one year of related experience • Planner Associate requires a bachelor's degree plus two years of professional planning experience <p>As examples, within AMMPS, Unit 16:</p> <ul style="list-style-type: none"> • Project Manager requires a bachelor's degree plus three years of professional related experience • Staff Analyst requires a bachelor's degree plus one year experience as a Staff Analyst (Entry) <p>No doubt, other examples of classifications outside of Unit 19 can be identified.</p> <p>Further, these two compliance/quality assurance classifications can be further distinguished from classifications within Unit 19, Senior and Executive Management, as Unit 19 classifications, typically, require more years' experience. For example:</p> <ul style="list-style-type: none"> • Administrative Services Manager requires a bachelor's degree plus five years of progressively responsible experience

	<ul style="list-style-type: none"> • Airport Manager requires a bachelor's degree plus three years of progressively responsible experience • Animal Care Manager requires a bachelor's degree plus four years of experience • Capital Projects Manager requires a bachelor's degree plus five years of experience • Central Services Manager requires an Associates degree plus four years of procurement experience <p>I am confident that should I have continued down the alphabetical listing of Unit 19-represented classifications that I would have found multiple years of required work experience in other classifications.</p>
<p>The incumbents are required to attain and maintain special certifications necessary for carrying out official duties. This, too, is a common requirements of incumbents to Local 21-representated classifications.</p>	<p>Within one year of appointment, an employee within either Compliance and Quality Assurance Analyst classifications is required to possess a Healthcare Compliance Certificate from the Health Care Compliance Certification Board.</p> <p>Some classifications within Unit 19, Senior and Executive Management, require the possession of a certificate; however, Unit 19 is not the exclusive bargaining unit that requires individual employees to maintain possession of a specific license or certification. As examples, attorneys (SEIU Local 1021, Unit 1) require the continued possession of a California State Bar Association license; appraisers (SEIU Local 1021, Unit 7) required the continued possession of a California State Board of Equalization Appraiser's certificate; Agricultural Biologist/Weights and Measures Inspectors (SEIU Local 1021, Unit 7) requires specific category licenses from the California Department of Food and Agriculture; Building Inspector II (SEIU Local 1021, Unit 7) requires possession of ICC Plumbing, Building Inspector and Mechanical Inspector certifications and the possession of an Electrical Inspector within two years of appointment; Civil Engineer (SEIU Local 1021, Unit 7) requires licensure as a Registered Civil Engineer issued by the California</p>

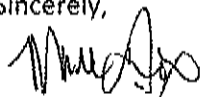
	State Board of Registration of Professional Engineers). No doubt, other examples of classifications outside of Unit 19 can be identified.
The classification's prescribed benefits are roughly in line with other classifications represented by IFPTE Local 21 in Solano County.	<p>Most benefits are universal across all County classifications (and all bargaining units).</p> <p>Senior and Executive Management classifications receive longevity pay based on specific other California public sector experience and includes a 15-year longevity pay tier, receives a higher value life insurance policy, receives long-term disability insurance, begins vacation accrual at the 4.62 hours per pay period tier, and has no waiting period for the use of accrued vacation leave. These benefits are not received by the County's employees within confidential classifications.</p>

The bargaining unit's rationale for the unit modification falls short. As demonstrated above, the requested classifications are not management-level classifications; yet Unit 19 is exclusively senior and executive management; exemptions from overtime exist within other bargaining units and is not exclusive to Unit 19 classifications; many classifications work in close proximity and collaboration with senior and executive management; the minimum qualifications of a bachelor's degree and some related work experience is not exclusive to senior and executive management; a cursory review of senior and executive management classifications shows a higher number of related work experience than that required of the required compliance/quality assurance classifications; special certifications is not unique to classifications within the County's senior and executive management classifications; not all senior and executive management classifications require a special certification; and most benefits are universal across all County classifications.

The Compliance and Quality Assurance Analyst (entry) and Compliance and Quality Assurance Analyst are confidential employees. Employees in these classifications, for example, include conducting and/or coordinating investigations of alleged violations of the compliance-related laws and/or the Code of Conduct and make recommendations for corrective actions. Such work has a direct bearing on, and relationship to, the employer-employee relations. Other unrepresented employees have a similar role in the employer-employee relations arena.

It is my determination that the requested unit modification does not establish a community of interests which is distinct from the existing community of interests within the current unit 30 (Confidential Employees) and accordingly the petition is denied.

Sincerely,



Marc A. Fox
Director of Human Resources

Copy:
Azniv Darbinian, Assistant County Counsel
Mark Love, Employment Relations Manager