



PROFESSIONAL & TECHNICAL ENGINEERS, LOCAL 21, AFL-CIO
An Organization of Professional, Technical, and Administrative Employees

December 20, 2018

Mr. Marc Fox
Solano County Human Resources
675 North Texas Street
Fairfield, CA 94533
Sent via Email

Subject: Response to Denied Modification Petition

Dear Marc Fox,

We are in receipt of your response to the Union's petition for modification of representation unit for the Compliance & Quality Assurance Analyst classification. While the Union appreciates your detailed response to our petition, we disagree with your initial determination for a number of key reasons. It is the Union's position that the County is inappropriately denying the petition at the Human Resources level.

The Union disagrees with this response for a number of key reasons:

- The Union believes that the Compliance & Quality Assurance Analyst classification has been inappropriately designated as "confidential." A lack of challenge in the past does not preclude the Union from petitioning today.
- If the County were to maintain that the classification is "confidential," even though the classification is not involved in labor relations as is normally understood, there is no limitation precluding a confidential classification from being part of a represented bargaining unit.
- By arguing that any given factor underlying "communities of interest" must be exclusive to one specific bargaining unit, the County is applying an unreasonable and inappropriately strict standard in evaluating the petition. The question at hand is whether there is a sufficient community of interest between the petitioning classification and Bargaining Unit 19, not whether those factors are also present in other long established bargaining units. As you acknowledge in your response, there is significant overlap in many areas across bargaining units. There is no dispute between bargaining units and exclusive representatives around which bargaining unit the classification most appropriately belongs.
- To the extent the Union's position is to be compared, the proper comparison would be between Bargaining Unit 19 and the classification's existing bargaining unit (Confidential). In this comparison, for reasons outlined below, the stronger community of interest clearly lies with Bargaining Unit 19.

As you know, Section 4 of County's Employer-Employee Relations Rules & Regulations (EERRR)

provides County employees “the right to form, join, and participate in the activities of any employee organization.” In reviewing our response and the information below, we urge you to reconsider and allow the incumbents of the Compliance & Quality Assurance Analyst classification – a super-majority of whom have signed union authorization cards with IFPTE local 21 – to affiliate with Bargaining Unit 19.

History of Bargaining Unit 19 & IFPTE Local 21 in Solano County

In your response to our petition, significant weight and detail is placed on the history of bargaining unit 19 and IFPTE Local 21 in Solano County, as well as the representational history of the Compliance and Quality Assurance Analyst classification.

As you know, IFPTE Local 21 was not formally recognized as the exclusive representative of Bargaining Unit 19 until December 2012. In the history of employee-employer relations in Solano County, IFPTE Local 21 is relative newcomer, which is important in evaluating and considering the various bargaining units and the disparate “communities of interest” that underwrite them. Prior to the recognition of IFPTE Local 21 as an exclusive representative, the classifications that comprise Bargaining Unit 19 were universally unrepresented, much like the current status of the Compliance & Quality Assurance Analyst classification.

As noted in your letter, the Compliance & Quality Assurance Analyst classification was not created until 2014. Therefore, this classification did not exist when the Union’s initial petition was submitted in 2012 and Bargaining Unit 19 was established. At the time, the Compliance Unit was located and housed within Human Resources. While it is true that the Union received notice in 2014 that the Compliance & Quality Assurance Analyst classification would be assigned to the County’s “confidential” unit and did not challenge that determination at that time, circumstances have changed. For one, in 2014, the Union did not have signed authorization cards from a super-majority of classification incumbents indicating interest in being represented by IFPTE Local 21. In addition, with time and experience, the Union now better understands how the classification fits within the wider “community of interest” that makes up bargaining unit 19 and IFPTE Local 21 in Solano County.

Indeed: in considering our submitted petition, a lack of challenge to the classification’s initial bargaining unit assignment in 2014 does not preclude the Union from petitioning to modify the bargaining unit to include the Compliance & Quality Assurance Analyst classification in 2018.

Classification’s Current “Confidential” Status

The County argues that the Compliance & Quality Assurance Analyst classification is inappropriate for assignment to Bargaining Unit 19 because the classification is currently designated as “confidential” and is part of the existing “confidential” bargaining unit. Much weight is placed in this classification’s current designation as “confidential.” However, as you know, this designation does not inherently preclude a given classification from being represented. The “confidential” designation can also be, and often is, misapplied or misconstrued. The incumbents are not directly involved in labor relations by any reasonable definition. Rather, their oversight is focused on program and regulatory compliance, quality assurance, and quality improvement. They do not participate in any form of labor negotiations or labor management. They are not privy to the County’s decision-making when it comes to conducting and carrying out labor relations, which is the definition in state law and the County’s EERRR. Even if the County was to maintain

their confidential designation, the only limitation provided for in the EERRR is that they cannot serve as official representatives of the union.

Community of Interest

The Union maintains that the Compliance & Quality Assurance Analyst classification shares a sufficient “community of interest” with Bargaining Unit 19 to allow the petition to move forward. In fact, based on a totality of factors, this “community of interest” is much stronger than the community of interest between the Compliance & Quality Assurance Analyst and the Confidential Bargaining Unit to which it is currently assigned. *This is the proper comparison and evaluation to make.* Indeed, in evaluating our petition and considering whether there is an appropriate “community of interest,” it is the Union’s position that the County is applying an unreasonable and unnecessary standard. The County’s position seems to be that any given factor should or needs to be exclusive or unique to Bargaining Unit 19. However, as you know, there is plenty of overlap between bargaining units in these factors given the evolution and development of bargaining units over time. Your response to the petition acknowledges this on matters involving administrative leave, continuing education, and more. The petition should be judged by whether there is a *sufficient* community of interest between the classification petitioning and the existing bargaining unit, and not whether those factors are also present elsewhere.

To the extent that competing “communities of interest” should be compared in a relative manner, the proper comparison would be between its existing Bargaining Unit (Confidential) and that of Bargaining Unit 19. In this comparison, there is no doubt as to which Bargaining Unit the stronger community of interest resides. To put it another way, the evaluation should be made based on the question at hand (whether there is a sufficient community of interest with Bargaining Unit 19) and not the open question of whether the factors being considered are also present in other established, represented bargaining units. Those bargaining units are not petitioning. The natural conclusion of using this rigid standard and criteria would be: because these factors and criteria are found in multiple bargaining units and are not exclusive to any single one, said classification shall not be included in any represented bargaining unit. This is untenable position, especially because there is a much stronger case for a “community of interest” between the Compliance & Quality Assurance Analyst classification and Bargaining Unit 19 than there is between the Compliance & Quality Assurance Analyst classification and the Confidential Bargaining Unit. Below are some key reasons why this remains the Union’s position:

- With the sole exception of the Compliance & Quality Assurance Analyst classification, all other classifications that comprise the Confidential Bargaining Unit are assigned to the Human Resources Department, the Auditor Controller, and/or the County Administrator’s Office, the three primary County Departments that are chiefly responsible for labor relations. The Compliance & Quality Assurance Analyst classification is set apart from the rest of the Confidential Bargaining Unit in that it is assigned to the Health & Social Services Department and works in close proximity to other classifications that make up Bargaining Unit 19.
- The majority of classifications that make up the Confidential Bargaining Unit require fewer years of experience than the Compliance & Quality Assurance classification and do not have the same certification and license requirements. However, many classifications that comprise Bargaining Unit 19 do have strict certification and license requirements and there is a wide variety of education and experience requirements for unit classifications depending on the specific nature of

the job. The education and experience requirements for the Compliance & Quality Assurance Analyst classification falls within the typical range of requirements for Bargaining Unit 19 classifications.

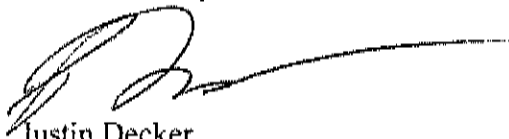
- Many other current unrepresented classifications with similar "Analyst" titles such as Human Resources Analyst (Entry), Human Resources Analyst, and more, are currently assigned to the unrepresented senior management bargaining unit (Unit 62). While these classifications are assigned to Human Resources and Personnel and do, in fact, involve themselves in labor relations (and are therefore not included in our petition), they are similarly structured classifications that include "flexible staffing." Therefore, in addition to the similarly situated classifications already represented by IFPTE Local 21 as part of Bargaining Unit 19 (Policy & Financial Analyst, Contract & Program Specialist, etc.), there is precedent for designating these classifications as "senior management." To put it another way, if Human Resources Analyst (Entry) can be considered "senior management," so can the Compliance & Quality Assurance Analyst classification.

In summary, the Union disagrees with and is challenging your initial determination. We believe there is a much stronger "community of interest" between the Compliance & Quality Assurance Analyst classification and Unit 19 than there is between the classification and the rest of the Confidential Bargaining Unit. We believe the County's initial determination is arbitrary and falls short in making the case for why the community of interest is stronger with the Confidential Unit versus Bargaining Unit 19, which is the true and appropriate evaluation to make. And we believe that all employees shall have the right to seek representation and join a union should it be desired and petitioned by a majority of incumbents in a given job or classification.

Should the County not reverse its initial determination, the Union is requesting a hearing with the Solano County Civil Service Commission to make a final decision on the matter.

Thank you in advance for your consideration of the above. We remain hopeful that we can arrive at mutual agreement on the matter given the incumbents' documented desire to affiliate with IFPTE Local 21 and Bargaining Unit 19, as well as the strong community of interest that underlies the modification petition.

For the Union,



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