

RESOLUTION

WHEREAS, Section 101.001 of the Texas Labor Code authorizes all persons engaged in any kind of labor to associate and form trade unions and other organizations for the purpose of protecting themselves in their personal labor in their respective employment; and,

WHEREAS, Chapter 617 of the Texas Government Code declares the public policy of the State of Texas concerning cities, municipalities or other political subdivisions of the State and their relationship with labor organizations; and,

WHEREAS, section 617.004 of the Texas Government Code provides that no person shall be denied public employment by reason of membership or non-membership in a labor organization; and,

WHEREAS, section 617.005 of the Texas Government Code provides that public employees may present grievances concerning their wages, hours of employment, or conditions of work either individually or through a representative organization that does not claim the right to strike; and,

WHEREAS, employees of the City of El Paso have chosen to associate themselves in labor organizations as provided by law; and,

WHEREAS, it appears necessary that certain policies be enacted concerning public employees, labor organizations, and the City of El Paso; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

11

12

13

Section 1. Membership

In accordance with State law, any employee, including supervisory and confidential employees, of the City government is free to join labor organizations or unions (hereinafter referred to as labor organizations). Any City employee has the right to join or maintain membership in a labor employee organization if the employee so desires. City employees also have the right not to join labor organizations.

Membership or non-membership in any labor organization shall not affect the employee's standing or rights as a City employee. Nor shall any employee suffer undue influence, intimidation, or pressure as a result of membership or non-membership in any labor organization.

Section 2. Right to Representation

Labor organizations may designate Grievance Representatives to represent employees who request assistance from such representatives. Such designations shall be made from among employees regularly working on job sites. Such Grievance Representatives shall represent employees from those job sites to which they are regularly assigned.

Labor organizations shall provide the City Manager with a current list of designated Grievance Representatives. The organizations shall be solely responsible for designating such Grievance Representatives.

There shall be no obligation to change or adjust employees' permanent regular work schedules or assignments as a result of such designations. Supervisors of Grievance Representatives shall notify the respective employee organization of any impending transfer of the designated Grievance Representative out of the work area.

A grievance meeting is defined as any disciplinary or performance related meeting that may have a negative impact on the employee's employment with the City .

Any City employee may ask the designated Grievance Representative, a representative from the labor organization, another City employee, or any other person the employee chooses to conduct an investigation and to attend mutually scheduled personnel grievance meetings with department representatives for the purpose of gathering information and/or discussing the resolution of grievances. If the employee's representative is a City employee, the representative shall be granted administrative leave to perform work needed to resolve the grievance. This leave shall be requested and shall be granted in accordance with Personnel Policies. In no event shall leave be denied for the purpose of preventing an employee from having representation in a grievance meeting, nor shall administrative leave granted under this paragraph be used for any other purpose.

Employees and/or members of labor organizations shall be admitted to the buildings and grounds of the City during working hours for the purpose of assisting in investigating and adjusting grievances.. Such representative will notify, in advance, the supervisor involved and be required to conform to the safety regulations of the work site. During the time the representative and the employee are meeting, the supervisor shall assure that appropriate privacy is provided.

The preceding paragraphs shall in no way limit the employee's choice of representatives or the employee's freedom not to be represented in this procedure.

Section 3. Solicitation

Employees participating in employee organization activities shall conduct such activities before and after work, or during unpaid meal periods unless granted time off for such activities

by their department directors. No employee shall be solicited during the employee's normal working hours unless specifically authorized by the City Manager, City Council, or the department director. Labor organizations may conduct informational or recruiting activities on the City's business premises if authorized by the City Manager, City Council or the department director. .

The American Federation of State, County and Municipal Employees ("AFSCME") Local 59 is hereby authorized to participate in new employee orientation programs for non-public safety employees as well as during the annual health benefits open-enrollment period.

Nothing in this section shall prohibit employees from discussing labor organizations during working hours so long as the discussion, like any conversation, does not disrupt the conduct of the City's business.

Section 4. Bulletin Boards; Materials Distribution

Labor organizations may use Open Use Bulletin Boards on City property. These bulletin boards are normally located in public access facilities such as cafeterias, snack rooms, hallways, etc., where the public has open access. Bulletin boards not located in public access areas are designated for City of El Paso generated postings but shall be available for employee organization postings, provided that the materials are previously approved by the department head or the department head's designee. Such materials shall be approved, provided they are not abusive and do not exceed 8¹/₂" x 14" in size.

Printed material may be distributed to employees in public access areas before work, after work, and during unpaid meal times. Additionally, labor organizations' printed materials may be placed in non-public cafeterias, break or coffee rooms, and foyers, provided that the materials are

previously approved by the department head or the department head's designee. Such materials shall be approved so long as they are not abusive.

Material may be distributed to employees through City e-mail. Such materials shall be approved so long as they are not abusive and adhere to the PIO stated policy for posting and distribution deadlines.

Members may discuss organization activities with one another as long as it does not affect the quality of their work, as provided by the first amendment of the United States Constitution.

Section 5. Provision of Records

All requests for information, material, or documents will be responded to in compliance with the Texas Public Information Act, Chapter 552 of the Texas Government Code. Requests for information, material, or documents shall be submitted in writing to the City's Public Information Office, or any other resource designated for such purposes, which will be responsible for collecting the data requested for inspection or duplication or both.

Section 6. Unpaid Leave

Members of labor organizations may be authorized by the City Manager, the City Manager's designee, or the department director to engage in lawful organization-related activities during City work hours on an unpaid basis. Such leave requests shall be requested and responded to in a reasonable manner.

Section 7. Meetings

Representatives of labor organizations shall be permitted to attend any City meetings, work sessions, or conferences when specifically invited by the individual(s) responsible for conducting such meetings, work sessions, or conferences. Any individual employee inviting an

organization representative to such a meeting, work session, or conference shall notify the employee's department head prior to the meeting, work session, or conference.

A representative of a labor organization shall be permitted to attend at the request of any employee any grievance meeting initiated by such employee concerning wages, hours or conditions of work, or any investigative proceedings conducted in the presence of the employee requesting representation wherein the employee reasonably believes the outcome could adversely affect the employee's employment with the City.

Section 8. Payroll Deductions

Any employee of the City of El Paso holding membership in a labor organization may voluntarily authorize a payroll deduction from his salary or wages for membership dues in such employee organization subject to the following conditions:

a. Membership dues in labor organizations will not be withheld unless at least 50 members properly authorize the payroll deduction.

b. The authorization for payroll deduction will be in the form of a written authorization.

c. To be effective, the authorization for dues payment in the form of payroll deduction must be received by the Financial Services Department not later than the Friday preceding the payday the deduction is to be effective.

d. Based on this authorization, the payroll deduction request will remain in effect unless the Financial Services Department receives in writing a notice of the revocation filed by the employee, which shall be set forth in a form and manner prescribed by the Financial Services Department.

e Changes to the established dues rate for membership in a labor organization shall be communicated from the labor organization to the director of financial services 90 days prior to the effective date of such dues rate change.

Section 9. Statement of Intent

It is the intent of these unilaterally adopted regulations to provide for orderly conduct by employees and their organizations at the City of El Paso, and to provide a voluntary program that will have the effect of a convenience to the City employees. Neither this resolution nor the programs shall give rise to any right to, nor shall any officer or employee engage in any act prohibited by Chapter 617 of the Texas Government Code. Nothing contained herein shall be construed as an abandonment or restriction of any provisions of State statutes, City Charter, City Code, or City policy with respect to employment conditions and treatment of its employees.

Section 10. Publication

A copy of this resolution shall be placed on file at every department and permanent work location having more than 5 employees and shall be available for inspection during normal business hours.

PASSED AND ADOPTED this ____ day of 2014 City of El : _____

ATTEST: _____

PASSED AND ADOPTED this ____ day of 2014. City of El Paso: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Legislative Review Committee

Item 1 - November 17, 2014

Human Resources Department
Linda Ball Thomas, Director



Background

- City employees covered by Civil Service system
- City Charter tasks the City Manager with all personnel actions regarding employees
- State law prevents the City to collectively bargain with non-uniformed employee unions (Texas Government Code 617.002)
- In a good faith effort to be inclusive to various employee organizations, the City invited all of the employee representative organizations to the last City Charter amendments re-write in 2013 and Civil Service Commission Rule amendments re-write in 2012 and 2013



Civil Service Commission

- Established by City Charter – Article VI
- Is tasked with investigating matters concerning enforcement and effect of Civil Service provisions ensuring fair and equitable treatment of classified employees
- Hears and determines appeals or complaints



Civil Service Commission

- Rules of the Civil Service Commission address many employment activities such as certifications, application, promotional process, leaves of absence, resignations, sick leave, vacation leave, performance evaluation appeals, layoffs, disciplinary appeals and the grievance process



City Employment Policies

- City Manager, through the Human Resources Director, promulgates policies governing employees
- Policies are intended to promote sound management and communicate to employees what is expected regarding their performance, attendance and conduct
- Policies address various issues such as drug-free workplace, driving standards, safety, hours of work, fundraising and solicitation, violence in the workplace, etc.



Human Resources Department

- Central Human Resources and 11 satellite Human Resources divisions address workplace concerns from employees

Satellite Human Resources Divisions

Police Department

Fire Department

Water Utilities

Sun Metro

Public Health

Parks & Rec

Airport

EPDoT

Int. Bridges

General Svcs

Environmental Svcs



HR's Concerns with AFSCME's Proposed Resolution

City Submits

- Employees are already free to join any labor organization (Resolution Section 1)
- Employees already have a right to be represented during grievance hearing, appeal hearing, disciplinary hearing and any items before the Civil Service Commission (CSC Rule 8) (Resolution Section 2)



HR's Concerns with AFSCME's Proposed Resolution

City Submits

- Labor organizations are already free to post on bulletin boards on City property items regarding upcoming meetings and events – additionally, City broadcast emails have been used for this purpose (Resolution Section 4)
- Payroll deductions for employee membership dues are already occurring (Resolution Section 8)



HR's Concerns with AFSCME's Proposed Resolution

City Submits

- Labor organizations should not attend “grievance” meetings where these meetings are loosely defined as any performance related meeting that may have a “negative impact” on the employee (Resolution Section 2)
- Members of labor organizations or city employee representatives should not be admitted into City offices to investigate “grievances” (Resolution Section 2)



HR's Concerns with AFSCME's Proposed Resolution

City Submits

- Representatives of labor organizations should not be permitted to attend any “grievance” meeting concerning “wages, hours or conditions of work, or any investigative proceedings conducted in the presence of the employee” (Resolution Section 7)
- City employee representatives should not be granted administrative leave to attend “grievance” meetings (Resolution Section 2)



HR's Concerns with AFSCME's Proposed Resolution

City Submits

- AFSCME Local 59 should not be “authorized to participate in new employee orientation programs” nor during “annual health benefits open-enrollment periods” (Resolution Section 3)
- Representatives of labor organizations should not be permitted to attend “any City meetings, work sessions, or conferences when specifically invited by the individual(s) responsible for conducting such meetings” (Resolution Section 7)



HR's Concerns with AFSCME's Proposed Resolution

City Submits

- City Charter and Civil Service Commission Rules already address the grievance process and disciplinary appeal process in detail (CSC Rule 7 & 8)



Questions?