CITY OF LOS ANGELES

BEFORE THE EMPLOYEE RELATIONS BOARD

DECISION NO. U-145

IN THE MATTER OF *UNITED FIREFIGHTERS OF LOS ANGELES CITY, LOCAL 112, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO,* *Claimant,* - and - *LOS ANGELES CITY FIRE DEPARTMENT,* *Respondent.* Transferring and assigning employees without meeting and conferring.	*UNFAIR EMPLOYEE RELATIONS PRACTICE CLAIM NO. 1266*

DECISION AND ORDER

Pursuant to a Notice of Hearing dated July 14, 2000, a hearing in the captioned matter was held November 20, 2000 and December 8, 2000, before Hearing Officer Charles Askin to resolve Unfair Employee Relations Practice Claim Number 1266 filed by United Firefighters of Los Angeles City Local 112, IAFF ("UFLAC") against the Los Angeles Fire Department ("Department"), pursuant to Section 4.860 and in accordance with Section 4.810 f (4), (6), and (8) of the Los Angeles City Employee Relations Ordinance ("Ordinance"). All parties thereto were given a full and adequate opportunity to present evidence, examine and cross-examine witnesses, to argue orally, and to file briefs.

The hearing officer filed his Decision and Recommended Order with the Los Angeles City Employee Relations Board ("Board") on March 22, 2001. Exceptions to that report were filed by UFLAC on April 5, 2001, and the Department filed a rebuttal to those exceptions on April 12, 2001. The matter was considered by the Board at a public meeting on April 23, 2001. Following argument by the parties and discussion among the Board Members, the Board sustained UFLAC's exceptions to the hearing officer's Decision and Recommended Order and directed UFLAC to prepare proposed findings of fact and conclusions of law.

UFLAC'S Proposed Findings of Fact, Conclusions of Law and Order were filed with the Board on June 7, 2001. Exceptions thereto were filed by the Department on June 15, 2001.

The matter was again considered by the Board at a public meeting held June 25, 2001, at which time the Board adopted the proposed Findings of Fact, Conclusions of Law and Order submitted by UFLAC, as set forth below, with the exception of paragraph 2 of the proposed Order, which the Board amended to include a time limit of 30 days for reinstatement of the *status quo ante,* unless the parties agree otherwise.

FINDINGS OF FACT

Based on the entire record before it, the Board finds:

1. In April 1994, the Department and UFLAC agreed that the Department would meet and confer with UFLAC before implementing any changes to the Department's EMS system that would affect wages, hours or working conditions of the union members. Their agreement is set forth in a letter agreement signed by the Department and UFLAC dated April 5, 1994 which requires the Department to meet and confer with UFLAC before making "any change in the Department's EMS Delivery System that causes an impact on the wages, hours, or terms and conditions of employment of UFLAC's bargaining unit employees or on the bargaining unit as a whole".
2. UFLAC and the Department have also established a negotiated procedure for filling primary vacancies in the Department, which has been incorporated by reference into their MOU. The practice of the parties has been to apply the negotiated primary vacancy procedures to newly created paramedic positions except when, and to the extent that, the parties have negotiated and agreed upon modifications to the procedures in specific cases.
3. In or about May 1998, the Department and the City Administrative Office (collectively "Respondents") commissioned the Air Operations Work Group to write a report with recommendations on how to improve Department air safety. The report was finished in July 1999 and was submitted to the Board of Fire Commissioners in September 1999.
4. When UFLAC became aware of the contents of the report, it notified Respondents on July 16, 1999, that some of the recommendations required that UFLAC and Respondents meet and confer.
5. In October 1999, UFLAC made another demand to meet and confer, and a meet and confer session was scheduled for December 2, 1999.
6. At the December 2, 1999 meeting, the Department proposed creating new paramedic positions at Air Operations. The Department proposed that individuals selected for the new positions must have four years of Department Fire Suppression experience; that the individuals must have a current paramedic license and at least two years of Department ALS experience (but that if the individual is currently Helitac Certified and working at Fire Station 90, the ALS requirement is waived); and that the individuals must complete Helitac Certification within four months of assignment, and that the individuals would receive a

Helitac bonus upon certification, in addition to a paramedic bonus. UFLAC did not agree with certain details of respondents' proposal, made a counter-proposal and pointed out that the Department did not have the budgetary authority to give the double-bonus it proposed.

7. On December 10, 2000, the Department and UFLAC met again. The Department made another proposal in response to UFLAC's counter-proposal made at the December 2, 2000 meeting. The parties were not far apart in their negotiations. The Department proposed that candidates for the new paramedic positions at Air Operations have four years of Department Fire Suppression experience. UFLAC proposed that the new paramedic positions require only two years of fire suppression experience. The parties agreed that the new paramedics should be required to have a current paramedic license and at least two years of Department ALS experience. UFLAC proposed that current Helitac Certified members of Fire Station 90 could be placed in the new paramedic positions if they completed one year of ALS experience. The Department agreed to the exception, but proposed a lesser time frame for ALS experience – approximately 5 months. The parties agreed that Helitac certification be completed within four months of assignment.

8. The parties met again on January 14, 2000. At that meeting, the parties agreed on all details regarding the transfer criteria for the new paramedic positions at Air Operations but one. Respondents proposed that the exception for ALS experience for current Helitac Certified Fire Station 90 members be 70 shifts, or approximately seven months of ALS experience. UFLAC proposed a full year of ALS training for current Helitac Certified Fire Station 90 members.

9. In January 2000, Respondents proposed that the parties suspend further discussions until March 2000 when bargaining for a new MOU was scheduled to begin. The parties did not reach an impasse in negotiations.

10. In March, the parties commenced bargaining for a new MOU. Despite their previous position regarding resuming negotiations in March 2000, Respondents failed and refused to further meet and confer regarding the Air Operations proposals.

11. On March 30, 2000, the Department unilaterally determined the procedures and criteria for transfer into the new paramedic positions and unilaterally selected the firefighters who would be awarded the new paramedic positions at Air Operations. The Department also upgraded the ambulance at Fire Station 90 from an EMT ambulance to a paramedic ambulance, and unilaterally selected the paramedics who would be transferred into the new paramedic position at Fire Station 90. Respondents failed and refused to discuss any of these decisions or the procedures they followed with UFLAC and did not follow the negotiated primary vacancy procedures in filling the new paramedic positions at Air Operations and Fire Station 90.

12. On April 12, 2000, at a meeting scheduled to meet and confer on a new MOU, UFLAC demanded that the Department rescind its unilateral actions and meet and confer in good faith with regard to the transfer criteria of the new paramedic positions created at Air Operations and at Fire Station 90. The Department refused to do so.

CONCLUSIONS OF LAW

1. Transfers and the filling of vacancies, and the procedures and criteria relating thereto, relate to the terms and conditions of employment, and fall within the scope of representation.
2. Respondents did not meet and confer in good faith to impasse, and did not exhaust impasse procedures, and thus, Respondents did not fulfill their obligations to meet and confer with UFLAC regarding the proposals for transfer criteria and transfers to the new paramedic positions at Air Operations and Fire Station 90.
3. Respondents violated the Ordinance by failing to meet and confer in good faith before setting the transfer criteria for and transferring personnel to the new paramedic positions at Air Operations and at Fire Station 90.
4. Respondents unilaterally changed existing practices by not following the primary vacancy procedures agreed to by the parties and past practice; by failing to meet and confer in good faith before setting the transfer criteria for and transferring personnel into the new paramedic positions at Air Operations and at Fire Station 90; and by failing and refusing to comply with the terms set forth in the April 5, 1994 letter agreement.
5. By unilaterally setting the transfer criteria and by unilaterally transferring individuals into the newly created paramedic positions at Air Operations and Fire Station 90 without following the agreed upon and established practices and procedures, the Department instituted unilateral changes in the terms and conditions of employment, thereby committing an unfair labor practice.
6. Respondents also committed an unfair labor practice by implementing procedures and standards that were different from their last offer to UFLAC.

ORDER

1. Respondents are ordered to meet and confer in good faith with UFLAC with respect to the transfer policies, procedures and qualifications for the newly created paramedic positions at Air Operations and Fire Station 90;
2. The Department is ordered to reinstate the *status quo ante* within 30 days of the date this Order becomes final, unless the parties agree otherwise, by rescinding all transfers heretofore made into the paramedic positions at Fire Station 90 and Air Operations and by assigning those employees who were previously transferred to the paramedic positions at Air Operations and Fire Station 90 to vacant positions of the same rank at other locations within the Department;
3. The Department shall not transfer or assign, on a permanent basis, any employees to the paramedic positions at Air Operations and Fire Station 90 until the Department has met and conferred in good faith with UFLAC and either reached an agreement with UFLAC, or reached impasse with UFLAC and, in the event that an impasse is reached, has completed the impasse procedures.
4. The Department shall not assign or transfer, on a permanent basis, any employee

to the paramedic positions at Air Operations and Fire Station 90 except pursuant to the primary vacancy procedures, unless an agreement has been reached with UFLAC to modify said procedures.

5. Nothing contained in this order shall preclude the Department from temporarily filling vacancies in the positions in accordance with existing negotiated procedures for temporarily filling positions where absences exist (e.g. for injury leave, sick leave vacation leave, etc.), provided, however, that the Department cannot and shall not avoid the requirements of paragraph 2 of this order by detailing to the new paramedic positions at Air Operations and Fire Station 90 those employees who were previously transferred to those positions.

BY ORDER OF THE BOARD.

Edna E. J. Francis

Edna E. J. Francis, Chairman

DATED: June 25, 2001
Los Angeles, California