Tentative Agreement between
SEIU and County of Sonoma
10/21/11

Topic: Discipline-Sonoma County Agricultural Preservation and Open Space District (SCAPOSD)

Article: Article 6 – Employee Rights

New Sections – 6.13 – 6.13.4

MOU language:

6.13 Discipline (SCAPOSD) - Notice and Hearing
6.13.1 Discipline (SCAPOSD) - Disciplinary Action
The General Manager may take disciplinary action against any employee.

6.13.2 Discipline (SCAPOSD) - Definitions Full-time/Part-Time Employee
For purposes of this Section (6.13), full-time employee means a full-time employee as defined in this Memorandum who has completed six (6) months of satisfactory full-time service (1,040 hours) in an allocated position. For purposes of this Section (6.13), a part-time employee means a part-time employee defined in this Memorandum who, in addition has completed 1040 hours of satisfactory service in an allocated position.

6.13.3 Discipline (SCAPOSD) - Other Than Full/Part-Time Employee
All employees of the Sonoma County Agricultural Preservation and Open Space District (District), other than full-time or part-time employees as defined in Subsection 6.13.2, serve at the pleasure of the General Manager.

6.13.4 Discipline (SCAPOSD) - Discipline Process
The General Manager may dismiss, suspend, or involuntarily demote a full-time or part-time employee only for cause:

a) If the General Manager proposes to dismiss, suspend, or involuntarily demote a full-time or part-time employee, he/she shall provide the employee with written notice of the charge, or charges and materials upon which the proposed action is based, prior to any final disciplinary action being taken. The employee may waive the right to respond. If made, responses may be oral or written and shall be communicated to the General Manager within three (3) working days following the date notice is served. If no response, or request for extension of time to respond, is received by the General Manager within such three (3) days, the right to respond will be deemed waived. The General Manager may place the affected employee on leave of absence with pay during the three-day
response period. Upon receipt of employee's written request within such three (3) days showing good cause therefore, the General Manager may extend the time for response for a reasonable period on condition that the employee designate in writing that the time extension shall be charged to earned vacation leave, compensatory time credits, or leave of absence without pay. A reasonable period shall not exceed ten (10) days from the time of service of the notice. The General Manager shall consider the response, if any, of the employee in determining the propriety and nature of disciplinary action.

b) If the General Manager determines to dismiss, suspend, or involuntarily demote a full-time or part-time employee, the order of the General Manager shall be in writing and shall state specifically the reason for the action. The employee may appeal a decision of the General Manager to dismiss, suspend, or involuntarily demote the employee by filing a petition for hearing with the Board of Directors within ten (10) working days of receipt of the order. The petition shall state whether the employee requests an open or closed hearing.

c) Within thirty (30) days of receipt of a petition, the matter shall be placed on the agenda of the Board of Directors for purposes of setting a hearing date.

d) The Board of Directors may, in its discretion, appoint a hearing officer to hear the appeal. The hearing officer shall be an employee of the State Office of Administrative Hearings or a member of the State Bar of California. A hearing before the hearing officer shall be conducted in the manner of hearings conducted under the Administrative Procedure Act. The hearing officer may affirm, modify, or revoke a decision of the General Manager. The decision of the hearing officer shall be final.

e) At a hearing before the Board of Directors, witnesses shall testify under oath and there shall be a right to cross-examination. There shall be no right to discovery. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The rules of evidence and the manner of producing evidence shall be those rules set forth in Section 11513 of the Government Code for the conduct of hearings under the Administration Procedure Act. The decision of the Board shall be final.

f) At either a hearing before a hearing officer or before the Board of Directors, the appointing authority shall have the burden of proving the charges by a preponderance of the evidence. The appointing authority shall open the case and present his evidence. The employee shall then present his defense. Thereafter, each side may present rebuttal evidence.

g) Any decision made by the Board of Directors pursuant to this Section (6.13) is a personnel matter and the Board may hear and consider the matter in closed session.
h) Costs of a hearing officer shall be shared by the parties. If a party requests a court reporter, the requesting party shall bear the costs associated therewith, and shall provide a copy of the transcript to the other party and the hearing officer without charge.

i) This Section (6.13) shall not be construed to create any property right that would give rise to procedural due process beyond that specifically described herein.

j) This Section (6.13) is not subject to grievance or arbitration under the procedures in this Memorandum or pursuant to any other procedure or policy of the County.

For the County of Sonoma

Date

For the SEIU 1021

Date
Tentative Agreement between
SEIU and County of Sonoma
10/21/11

Topic: Layoff and Restoration-Sonoma County Agricultural Preservation and Open Space District (SCAPOSAD)

Article: Article 20 – LAYOFF AND RESTORATION

Section 20.3 – Layoff and Restoration - General
Section 20.3.1 – Layoff - General – Policy

The parties agree that the following layoff policy and benefits shall be applicable to all regularly employed full-time and part-time employees of the County, Water Agency, Air Quality Control District and the Fair, and the Sonoma County Agricultural Preservation and Open Space District. Neither the layoff nor the decision to layoff shall be grievable or arbitrable.

For the County of Sonoma

Date

For the SEIU 1021

Date
Tentative Agreement between
SEIU and County of Sonoma
10/21/11

Topic: Layoff and Restoration-Sonoma County Agricultural Preservation and Open
Space District (SCAPOSD)

Article: Article 20 – LAYOFF AND RESTORATION

New Sections – 20.5–20.5.6

MOU language:

20.5 Layoff and Restoration – Sonoma County Agricultural and Open Space District
(SCAPOSD)

20.5.1 Layoff - SCAPOSD - Applicability
The parties agree that the following layoff policy and procedures shall be
applicable to employees of the SCAPOSD who are covered by this
Memorandum.

20.5.2 Layoff - SCAPOSD - Force Reduction
The General Manager may layoff an employee whenever it is deemed
necessary because of lack of work or lack of funds or because of the
abolishment of a position.

20.5.3 Layoff - SCAPOSD - Order of Layoff
Whenever it is necessary to layoff one or more employees, the General
Manager shall identify which classification shall be subject to layoff. For
purposes of this Section 20.5, within each such affected classification,
continuous service shall be defined as continuous District service whether with or
without pay status. If two employees in the same classification have equal time
with the District, then time in the retirement system will be the next determining
factor. Employees shall be laid off in the following order:

1. Extra-help and provisional employees.

2. Part-time and full-time regular employees who have less than 1040 hours of continuous
   service in the affected classification.

3. Part-time and full-time regular employees with more than 1040 hours of continuous
   service in the affected classification.

Within each of the foregoing three categories, employees with less total continuous
service in the affected classification shall be laid off before those with greater
total continuous service in the affected classification. “Continuous service in the
affected classification” shall include continuous service in the affected
classification or in any other classification having the same or higher salary range
as the one in which the layoff occurred, provided that there was no break in
service of more than two working days between the time an employee moved from such classification to the one from which he or she is being laid off. Continuous part-time service shall be prorated on an hour-for-hour basis in its relationship to full-time work.

20.5.4 Layoff - SCAPOSD - Displacement

A full-time or part-time employee who is laid off and who has greater total continuous District service than another employee in the District in another class, with the same or lower salary range and in which class the employee previously occupied in good standing and for which the employee is qualified for certification, transfer or voluntary demotion, may elect to displace the junior employee in the District in the class in accordance with the rules on the order of layoff (Subsection 20.5.3). An employee who is displaced shall be laid off and replaced by the employee who displaces him/her. An employee who is displaced because of layoff may in the same manner displace an employee who is junior to him/her.

Should an employee have the right to displace in more than one class, the employee shall first displace in the class with the highest salary range.

20.5.5 Layoff - SCAPOSD - Restoration

(a) A regular employee who has been laid off from, or who has in lieu of layoff been demoted voluntarily from a position which the employee occupied in good standing shall, in writing by certified mail, return receipt requested, be offered restoration to a vacant position in the classification from which the employee was laid off, which the General Manager determines to fill within two years after the date the employee is laid off. The General Manager shall make a reasonable attempt to notify an employee who is eligible for restoration. If an employee cannot be reached within twenty (20) calendar days from the date such offer is mailed, the right to restoration shall be forfeited. Should an employee not accept restoration within five (5) regular business days after the receipt of the offer or should the employee decline to begin work within fifteen (15) regular business days after the receipt of the offer, the employee shall be declared unavailable and shall forfeit the right to restoration unless further offer of restoration is granted by the General Manager.

(b) Whenever more than one person has been laid off and/or displaced in the same class in the District, the order of restoration shall be in reverse of the order of layoff. An employee who has restoration rights in more than one class because of layoff or displacement in more than one class, shall have restoration rights in each of the classes from which the employee was laid off or displaced. Refusal to accept restoration in one class does not eliminate the right to restoration in the other class or classes.

c) Whenever a person is unavailable for restoration, the next senior person who is eligible for restoration shall be offered restoration in the same manner and under the same conditions. Should there be no person eligible and available for restoration, the position shall be filled by the District.

d) A person who has forfeited an opportunity for restoration may, within ten regular District business days after forfeiture, request in writing to the General Manager that the employee be considered for a further offer of restoration, should such occur within one year after layoff or displacement. The employee's
request shall contain a full explanation of the reason for the employee's unavailability. Within 30 calendar days after the request is filed the General Manager shall either grant or deny the request. The General Manager may specify conditions under which the further offer of restoration may be granted.

20.5.6 Layoff - SCAPOSD - Appeals

a) The Board of Directors shall act as a separate and final hearing body for layoff appeals for all full-time and part-time employees. Extra-help employees have no appeal rights.

b) Implementation of a layoff decision may be appealed by an employee laid off; however, the decision to layoff may not be appealed.

c) Any formal written notice to a part-time or full-time employee stating that the employee is subject to layoff or layoff resulting from displacement may be appealed as follows:

(1) Within 10 regular Agency business days from the receipt of the notice, an employee may, within the provision of Subsection 20.5.6(b), appeal the action to the General Manager.

(2) Within five (5) regular District business days after receiving the appeal, the General Manager shall give a written decision to the employee.

(3) If the employee is not satisfied with the decision in Subsection 20.5.6(c)(2) above, the employee may, within five (5) regular Agency business days after receiving the decision, appeal the decision to the District’s Board of Directors.

(4) The District’s Board of Directors shall review an appeal resulting from Subsection 20.5.6(c) above, within 21 days. This review and appeal procedure which applies to layoff and displacement action in no way supersedes restoration appeal procedures set forth under Subsection 20.5.5.

20.5.7 Layoff and Restoration – SCAPOSD – Non Grievability

This Section 20.5 (20.5.1 through 20.5.7) is not grievable or arbitrable.

For the County of Sonoma

Date

For the SEIU 1021

Date