

Public Comment #11
Bos Recd. 1-6-25

From: J. Johnson <jjohnson1122999@gmail.com>
Sent: Monday, January 6, 2025 12:51 PM
To: BOS-District I; BOS-District II; BOS-District III; BOS-District IV; BOS-District V; BOS-Clerk of the Board; Brandon Reinhardt; Bob Williams; Lexi Boeger; Andy Nevis; Daniel Harkin
Subject: Fwd: Fw: Public Comment Item 11 of the January 7, 2025 Consent Calendar
Attachments: Waiver of Employment Rights.jpg

This Message Is From an Untrusted Sender

You have not previously corresponded with this sender.

Report Suspicious

Dear Clerk of the Board,

Please post these comments with the attached document "waiver of employment rights," instead of the comments I sent earlier. The attachment was inadvertently missing, and is now included. Thank you. J. Johnson

Please Post in Public Comment for Item 11 - district board and commission appointments on the Consent calendar, including the attachment, Board of Supervisors Meeting January 7, 2025

You may or may not know that all board and commission appointees have been requested to sign a document waiving their civil rights as employees of the County. This document is counter to the El Dorado County Charter, which states that appointed board and commissioners are Unclassified Employees of the County. As you both know, the Charter is the "Solemn Expression of the Will of the People". The Board of Supervisors and County Counsel's Office breach their fiduciary duty to the people when they take action directly contrary to the Charter. All appointees are also required to read and become fully familiar with the Charter, so I include a link for your convenience.

https://www.eldoradocounty.ca.gov/files/assets/county/v/1/documents/government/bos/bos-charter/charter_2016.pdf

According to the Civil Rights and Labor Departments of the State of California, the County Counsel's Office cannot require appointees to waive their civil rights or employment rights. It is apparent that this form was produced without any transparency at all. In fact, those who received it were asked to keep it secret and not share it. It seems apparent that any such legal form developed and distributed in secret is done with corrupt purpose.

County Counsel has been advising the Board of Supervisors that appointees can be removed at anytime of any reason or for no reason at all because they "serve at the pleasure of the Board" and then they go on to misquote the County Charter. The County Charter actually states:

"Except as otherwise provided for herein, or by superseding federal or state law, the members of all county boards and commissions shall serve at the pleasure of the Board of Supervisors." *Article II, Section 210(a)(3)*

Therefore, the specific language of the Charter relevant to Board and Commissions is NOT an open-ended, carte blanche "serves at the pleasure of the Board". Rather, the sentence has two caveats, that 1) removal cannot be for unlawful reasons such as discrimination or retaliation for whistleblowing, and that 2) "Except as otherwise provided for herein" means that we look at the rest of the Charter to see what else is the solemn will and expression of the People with regard to appointing and removing board and commissioners and find that for all personnel, "The County shall appoint, evaluate, transfer, promote, compensate, discipline, and **dismiss**

employees on the basis of job related qualifications, performance, merit, and equal employment opportunity."
Article V Section 501

As to Article V, Section 501, Personnel Policy: the question arises as to whether it is the solemn will and expression of the People of El Dorado to include board and commissioners as employees of the County.

Article V, Section 502: of the Charter expressly states that boards and commissioners (and incidentally all county district supervisors, directors, and uncompensated officials, too) are considered unclassified **employees**. Section 502 makes the clear distinction between the County's classified and unclassified **employees**, but both are clearly **employees** with regard to the Charter's personnel policies. Section 502 explains that classified employees are those employees who qualify for coverage under the limited civil service system and unclassified employees are those exempt from the civil service classification, as clarified in Section 502 and 502.1(c) below:

Section 502: Civil Service - The provisions of the county's limited Civil Service System shall apply to officers and employees who have achieved civil service status as provided for in the Personnel Rules adopted and as may be amended, by the Board of Supervisors or in any Memoranda of Understanding implemented in accordance with Government Code section 3500, et seq. (Meyer-Milias Brown Act), and who are not exempted from coverage as **unclassified employees**. [emphasis added]

"**Section 502.1(c) and (d) "Classified and Unclassified Employees:** The classified service consists of all positions in which employees have achieved civil service status except those positions designated as unclassified below. The unclassified service consists of:

- a. elected county officers;
- b. appointed department heads;
- c. all appointed boards, committees and commissions;** [emphasis added]
- d. all persons serving without compensation (compensation does not include incidental fees and expenses) ... etc."

In Conclusion, appointed Board and Commissioners, are employees of the County and cannot be dismissed from their positions except for proven cause. All of the appointees should refuse to sign the secret document and the County Counsel's Office should be audited for fidelity to the Charter, the law, and to the interests of the People of El Dorado County.

It is my understanding that there is a current lawsuit involving former Planning Commissioner Cheryl Bly-Chester wherein the County has been accused of retaliation for whistleblowing and discrimination in dismissing a commissioner, and the County is claiming that the labor laws protecting employees from retaliation for whistleblowing and discrimination do not apply to board and commissioners because they are not employees.

[1] This language was ratified by the People of the County in 1994 and again by the voters in 2004, and 2018.



BOARD OF SUPERVISORS

BOARDS, COMMITTEES, AND COMMISSIONS

ACKNOWLEDGMENT OF APPOINTMENT AT THE PLEASURE OF THE BOARD OF SUPERVISORS

I understand that the board/commission/committee position to which I have been or may be appointed serves at the pleasure of the Board of Supervisors, and I am not an employee of the County of El Dorado. I understand that such an appointment is not within the County's Merit System, Civil Service System, or any other employee classification. By my signature below, I acknowledge that board/commission/committee members serve exclusively at the pleasure of the Board and may be removed at any time for any reason. I specifically understand and agree that my appointment status means the following:

- 1) I will not at any time acquire any property right or other vested interest in my appointment. I will have no appeal rights, including appeal to the El Dorado County Civil Service Commission, if I am removed from this appointment in the future.
- 2) I will not enjoy a right to permanent or continued appointment as a board/commission/committee member, nor does my service create any right of return to any previous merit or civil service system position which I may have held within the County of El Dorado.
- 3) I will not receive a salary for my participation on the board/commission/committee. Any stipend or other form of reimbursement I may receive in my role as an appointed board/commission/committee member is solely intended to mitigate expenses I incur resulting from my participation on the board/commission/committee and is not indicative of status as an employee of the County of El Dorado. I shall not receive, nor be eligible for, any benefits the County provides for its employees, including, but not limited to, vacation pay, paid holidays, life insurance, health insurance, social security, disability insurance, pension, or 457 plans.
- 4) In accordance with the County Charter and County Code I understand that the members of all county boards/commissions/committees serve at the pleasure of the Board of Supervisors and may be removed from an appointment for any reason.

I have read and understand the foregoing acknowledgement and voluntarily accept my appointment status at the pleasure of the Board of Supervisors as a County of El Dorado board/commission/committee member as further detailed in this document.

Signature: _____

Date: _____

Printed Name: _____