

#46 26-0449 Public comment  
BOS Rwd 3/23/26



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**Agenda item 46, Legistar 26-0449**

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**From** lee tannenbaum <president@taxpayersedc.org>

**Date** Mon 3/23/2026 11:03 AM

**To** BOS-Clerk of the Board <edc.cob@edcgov.us>

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1 attachment (92 KB)

Board meeting 03242026 Item 46.pdf;

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Madam Clerk,

Please attach the comments I have attached to the agenda item listed above. Thanks much.

Lee

*Lee Tannenbaum*

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**Subject: Charter Section 504 – A Self-Inflicted Legal and Fiscal Failure. Agenda Item 46. 26-0449**

Members of the Board,

This is not a policy disagreement, and it is not a budget debate. This is a failure of governance, enabled by those charged with ensuring the County operates within the law. What has occurred with Charter Section 504 is not complicated.

Charter Section 504, as adopted by the voters, is narrow. It applies to specific sheriff classifications and requires an annual comparison of salaries to designated agencies. That is the full extent of its authority. There is nothing in the Charter that authorizes this Board, staff, or any negotiated agreement to expand that mandate to additional classifications. There is nothing that transforms it into a countywide compensation mechanism. And yet, that is precisely what has been done.

Through a series of Board actions, MOUs, and administrative practices, Section 504 has been extended far beyond its voter-approved scope. What began as a limited parity provision has been converted into a broad salary escalator impacting hundreds of employees and driving a significant portion of the County's structural budget pressures. This was not an accident. It was a series of decisions. And those decisions have consequences.

Under California law, a county charter is the equivalent of a local constitution. It is binding and controlling, and it cannot be amended, expanded, or reinterpreted through ordinary Board action or contractual agreement. (Cal. Const., art. XI, § 3; *Domar Electric, Inc. v. City of Los Angeles*, 9 Cal.4th 161.) If Section 504 identifies specific classifications, then those are the classifications. The Board does not have the authority to add to that list by resolution, by MOU, or by administrative interpretation. To suggest otherwise is to claim that the Charter can be amended without a vote of the people, which is plainly unlawful.

The County's current position attempts to have it both ways. On one hand, Section 504 is treated as mandatory and binding when it drives salary increases. On the other, it is treated as flexible when it comes to expanding its scope to additional classifications. Those positions are mutually exclusive. Either the Charter controls, or it does not. It cannot be selectively applied depending on the outcome.

There is also a procedural issue that cannot be ignored. Section 504 requires annual salary determinations by this Board. This is not a purely ministerial or automatic exercise. It requires the Board to actively review comparator data, evaluate the relevant information, and make an informed determination each year. While the Charter provides a framework, it does not eliminate the Board's responsibility to engage in a meaningful decision-making process. If these determinations have been reduced to a mechanical application or delegated entirely to staff, then the Board is not fulfilling its required role

under the Charter. That raises serious questions about whether Section 504 is being implemented as intended.

Charter Section 504, as implemented, raises an additional and more serious legal concern. Under the Meyers-Milias-Brown Act, including Government Code §§3504 and 3505, wages are a mandatory subject of collective bargaining, and the County is required to meet and confer in good faith with recognized employee organizations. If Section 504 operates to predetermine compensation or remove meaningful discretion from this Board, then the County's bargaining obligations are rendered illusory. Courts have made clear that public agencies may not engage in surface bargaining where outcomes are effectively predetermined (*Claremont Police Officers Assn. v. City of Claremont*, 39 Cal.4th 623). To the extent Section 504 eliminates the Board's ability to negotiate compensation, it conflicts with state law, and under well-established principles, local law must yield. (*Baggett v. Gates*, 32 Cal.3d 128.)

Compounding this problem is the County's reliance on compensation studies that present an incomplete and potentially misleading picture. The Human Resources analysis compares El Dorado County to jurisdictions that vary dramatically in population, budget size, service complexity, and organizational structure. Counties such as Amador, with a fraction of the population, are presented alongside jurisdictions like Sacramento, which operate at many times the scale. That is not a true peer comparison. It is a blended dataset that obscures meaningful differences in governance and operational demands.

Further, the inclusion of positions such as Chief Administrative Officer, County Counsel, District Attorney, and other classifications in these comparisons does not resolve the underlying legal issue. Those positions were not part of the original Charter language approved by the voters. They were added later through Board action, MOUs, or administrative practice. Presenting compensation data for those roles as justification for their inclusion under Section 504 is circular. It assumes the very authority that is in question.

Human Resources may be providing a compensation comparison, but it is not providing a complete governance comparison. A salary median derived from counties that are not true peers does not answer whether those positions are appropriately linked to Section 504, nor does it address whether the Board ever had the legal authority to make that linkage in the first place. If anything, the current approach risks skewing the analysis in a way that supports a predetermined outcome.

If the County intends to rely on comparator data, then it should identify and disclose a set of truly comparable counties—similar in population, unincorporated service area, budget scale, and organizational complexity—and present that analysis transparently. Counties such as Nevada County, Shasta County, Butte County, San Luis Obispo County, and Placer County provide a far more appropriate peer group for El Dorado County than the current mix of jurisdictions that are either significantly smaller or substantially larger. Reliance on an inconsistent comparator set risks skewing the analysis and producing conclusions that do not accurately reflect the County's true operational context. Anything

less than a transparent, apples-to-apples comparison undermines informed decision-making.

Which brings this directly to those responsible.

Mr. Livingston, as County Counsel, your office is the legal gatekeeper for this Board. Your responsibility is to ensure that County actions comply with the Charter and with state law. Allowing a Charter provision to be expanded beyond its plain language is not a gray area. It is a failure to enforce legal boundaries. More concerning, allowing the County to operate under a compensation structure that conflicts with the Meyers-Milias-Brown Act exposes the County to direct legal challenge.

Ms. Phillips, as Chief Administrative Officer, you are responsible for the operational and fiscal consequences of County policy. Section 504 has become a major driver of budget instability. That did not happen in a vacuum. It is the result of sustained implementation decisions that should have been identified, evaluated, and corrected long before reaching this point.

Mr. Carruesco, as the head of Human Resources, your office has been directly involved in the development and presentation of the compensation framework now being relied upon. When comparator data is constructed using jurisdictions that are not true peers, and when that data is used to support an already expanded interpretation of the Charter, it raises serious concerns about the completeness and objectivity of the analysis being provided to this Board.

The Board itself cannot disclaim responsibility for this outcome. Under California Government Code §25300, this body retains ultimate authority and responsibility for the supervision of County officers and the establishment of compensation. The actions taken to expand and apply Charter Section 504 were not abstract administrative events—they were the direct result of Board-approved policies, agreements, and implementation decisions. To the extent those actions have resulted in a compensation structure that exceeds Charter authority or conflicts with state law, that exposure attaches to the County through this Board as its governing body. Any claim that responsibility rests solely with staff is inconsistent with both statutory authority and established principles of public agency accountability. This Board cannot delegate responsibility and retain authority. It must accept both.

And now, rather than correcting the problem, the County has chosen to litigate against its own constituents. That decision is as revealing as it is troubling. Instead of acknowledging the overreach and returning Section 504 to its lawful scope, the County is asking a court to intervene. In doing so, you are inviting a level of scrutiny that may not produce the outcome you expect.

A court is not obligated to preserve the County's interpretation. It is obligated to interpret the law. If the implementation of Section 504 is found to exceed Charter authority or

conflict with state law, the result may not be a narrowing of its application. It may be a determination that the provision, as applied, is invalid. That risk is entirely self-created.

The situation is straightforward. The voters adopted a limited provision. The County expanded it beyond its legal bounds. That expansion created a fiscal problem. And now the County is seeking judicial relief rather than administrative correction. That is not governance. That is avoidance.

To the extent the County continues to rely on an interpretation of Section 504 that predetermines compensation and eliminates meaningful bargaining, such conduct constitutes a failure to meet and confer in good faith under Government Code §3505. That exposure is not theoretical. It is actionable. Any affected bargaining unit or representative organization may seek relief through the Public Employment Relations Board, including the filing of an unfair practice charge. Such a proceeding would place the County's entire implementation of Section 504 under formal review, including whether the County has engaged in unlawful surface bargaining or bypassed its statutory obligations.

There is a clear and lawful path forward. Return Section 504 to its voter-approved scope. Cease applying it to classifications not identified in the Charter. Conduct the required annual determinations as actual Board actions, with transparency and accountability. And stop using public resources to oppose the very electorate that established this framework.

Until that happens, the County remains exposed—legally, fiscally, and publicly—for a system it chose to create and now refuses to correct.

Sincerely,

**Lee Tannenbaum**

President, Taxpayers Association of El Dorado County

public comment #46  
26-0449  
BOS Read 3/23/26

 Outlook

Item 46 March 24 2026

From Leo Bennett-Cauchon <leobennettcauchon@gmail.com>  
Date Mon 3/23/2026 3:54 PM  
To BOS-Clerk of the Board <edc.cob@edcgov.us>

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Dear Supervisors:

Regarding "Staff is seeking Board direction only. Any changes to the compensation philosophy resolution, compensation structure for unrepresented employees, and compensation structure for Board Members will not be effective until the underlying governing documents are amended. Based on the Board's discussion and direction, staff will work to prepare any such amendments for consideration by the Board at a later date."

Please consider to direct staff to seek direction from the citizens of EDC as well as from the many membership based citizen groups who are part of EDC.

In my understanding and experience such broader engagement is necessary for good governance and is best practice prior to amending governance documents.

Specifically I urge consideration of the impact of compensation increases that expand the gap between the bottom and top of our wage schedules, of the identification of chronically understaffed vital services such as 911 dispatchers, of the long term budget sustainability of including higher tax base counties in the comparison group, and of the improvement of relationships with all of EDC's bargaining units.

Thank you for your service to our county.