



ORANGE COUNTY FIRE AUTHORITY AGENDA

Human Resources Committee Regular Meeting

Tuesday, April 5, 2016

12:00 noon

Orange County Fire Authority Regional Fire Operations and Training Center

1 Fire Authority Road

Room AE117

Irvine, California 92602

Dave Shawver, Chair

Noel Hatch, Vice Chair

Gene Hernandez Al Murray Phil Tsunoda

This Agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action or discussion shall be taken on any item not appearing on the following Agenda. Unless legally privileged, all supporting documents, including staff reports, and any writings or documents provided to a majority of the Human Resources Committee after the posting of this agenda are available for review at the Orange County Fire Authority Regional Fire Operations & Training Center, 1 Fire Authority Road, Irvine, CA 92602 or you may contact Sherry A.F. Wentz, Clerk of the Authority, at (714) 573-6040 Monday through Thursday, and every other Friday from 8 a.m. to 5 p.m. and available online at <http://www.ocfa.org>

If you wish to speak before the Human Resources Committee, please complete a Speaker Form identifying which item(s) you wish to address. Please return the completed form to the Clerk of the Authority. Speaker Forms are available on the counter noted in the meeting room.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Clerk of the Authority at (714) 573-6040. Notification 48 hours prior to the meeting will enable the Authority to make reasonable arrangements to assure accessibility to the meeting.

CALL TO ORDER

PLEDGE OF ALLEGIANCE by Vice Chair Hatch

ROLL CALL

PUBLIC COMMENTS

Any member of the public may address the Committee on items within the Committee's subject matter jurisdiction but which are not listed on this agenda during PUBLIC COMMENTS. However, no action may be taken on matters that are not part of the posted agenda. We request comments made on the agenda be made at the time the item is considered and that comments be limited to three minutes per person. Please address your comments to the Committee as a whole, and do not engage in dialogue with individual Committee Members, Authority staff, or members of the audience.

1. PRESENTATIONS

A. Structure of Human Resources Department and Communications

Presented by: Jeff Bowman, Fire Chief

Recommended Action:

Receive oral report.

2. MINUTES

A. Minutes from the January 5, 2016, Human Resources Committee Regular Meeting

Submitted by: Sherry Wentz, Clerk of the Authority

Recommended Action:

Approve as submitted.

3. CONSENT CALENDAR

A. Annual Fraud Hotline Report

Submitted by: Brian Young, Assistant Chief/Organizational Planning Department

Recommended Action:

Receive and file the report.

4. DISCUSSION CALENDAR

A. Professional Standards Unit Progress Report

Submitted by: Brian Young, Assistant Chief/Organizational Planning Department

Recommended Action:

Receive and file the report.

B. Professional Labor Negotiation Services

Submitted by: Lori Zeller, Assistant Chief/Business Services Department

Recommended Action:

Review the proposed agenda item and direct staff to place the item on the agenda for the Executive Committee meeting of April 28, 2016, with the Human Resource Committee's recommendation that the Executive Committee extend the existing contract with Liebert Cassidy Whitmore for one additional year (July 1, 2016, to June 30, 2017), at an annual amount of \$100,000.

C. Paid Administrative Leave

Submitted by: Brian Young, Assistant Chief/Organizational Planning Department

Recommended Action:

Receive and file the report.

D. Processing Complaints Against the Fire Chief

Submitted by: Brian Young, Assistant Chief/Organizational Planning Department

Recommended Action:

Review the proposed agenda item and direct staff to place the item on the agenda for the Board of Director's meeting of April 28, 2016, with the Human Resources Committee's recommendation that the Board adopt the policy as written.

E. Discuss the Frequency of Human Resources Committee Meetings

Submitted by: Chair Shawver/Human Resources Committee

Recommended Action:

At the request of Chair Shawver, the Committee is to conduct an open discussion regarding the frequency of Human Resources Committee meetings, and provide staff further direction, if needed.

COMMENTS

INTERIM HUMAN RESOURCES DIRECTOR'S COMMENTS

LEGAL COUNSEL'S COMMENTS

COMMITTEE MEMBER COMMENTS

CLOSED SESSION

CS1. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Authority: Government Code Section 54956.9(b) – Significant Exposure to Litigation
(30 cases)

CLOSED SESSION REPORT

ADJOURNMENT – The next regular meeting of the Human Resources Committee is scheduled for Tuesday, July 5, 2016, at 12:00 noon.

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted in the lobby, front gate public display case, and website of the Orange County Fire Authority, Regional Training and Operations Center, 1 Fire Authority Road, Irvine, CA, not less than 72 hours prior to the meeting. Dated this 31st day of March 2016.

Sherry A.F. Wentz, CMC
Clerk of the Authority

UPCOMING MEETINGS:

Budget and Finance Committee Meeting	Wednesday, April 13, 2016, 12:00 noon
Claims Settlement Committee Meeting	Thursday, April 28, 2016, 5:00 p.m.
Executive Committee Meeting	Thursday, April 28, 2016, 5:30 p.m.
Board of Directors Meeting	Thursday, April 28, 2016, 6:00 p.m.

MINUTES

ORANGE COUNTY FIRE AUTHORITY

Human Resources Committee Regular Meeting
Tuesday, January 5, 2016
12:00 PM

Regional Fire Operations and Training Center
Room AE117
1 Fire Authority Road
Irvine, CA 92602

CALL TO ORDER

The regular meeting of the Orange County Fire Authority Human Resources Committee was called to order on January 5, 2016, at 12:00 p.m. by Chair Shawver.

PLEDGE OF ALLEGIANCE

Ray Geagan, President, Orange County Professional Firefighters Association, Local 3631, led the assembly in the Pledge of Allegiance to our Flag.

ROLL CALL

Present: Noel Hatch, Laguna Woods
Gene Hernandez, Yorba Linda
Al Murray, Tustin
David Shawver, Stanton

Absent: Phillip Tsunoda, Aliso Viejo

Also present were:

Assistant Chief Michael Schroeder	Assistant Chief Lori Smith
Assistant Chief Lori Zeller	Human Resources Director Jeremy Hammond
Communications Director Sandy Cooney	Legal Counsel Barbara Raileanu
Clerk of the Authority Sherry Wentz	

PUBLIC COMMENTS

Chair Shawver opening the Public Comments portion of the meeting. Hearing no response, Chair Shawver closed the Public Comments portion of the meeting.

1. PRESENTATIONS

No items.

2. MINUTES

A. Minutes from the November 3, 2015, Regular Human Resources Committee Meeting (F:12.02D2)

On motion of Director Hernandez and second by Vice Chair Hatch, the Committee voted unanimously by those present to approve the Minutes from the August 4, 2015, regular meeting as submitted.

3. CONSENT CALENDAR

No items.

4. DISCUSSION CALENDAR

A. Amendment to Board Rules of Procedure

Director Murray arrived at this point (12:04 p.m.)

Assistant Chief Lori Zeller noted a minor correction to the staff report to change the reference to the Budget and Finance Committee in the staff report's recommended action to reflect the Human Resources Committee. She provided a brief overview of the proposed Amendment to Board Rules of Procedure.

On motion of Vice Chair Hatch and second by Director Hernandez, the Committee voted unanimously by those present to direct staff to place the item on the agenda for the Board of Directors meeting of January 28, 2016, with the Human Resources Committee's recommendation that the Board adopt the proposed Resolution to amend the Board of Directors Rules of Procedure relating to changing the regular meetings of the Human Resources Committee from monthly to quarterly during the months of January, April, July, and October.

B. Frozen Positions for FY 2016/17 Budget Development

Human Resources Director Jeremy Hammond provided an overview of the Frozen Positions for FY 2016/17 Budget Development.

A lengthy discussion ensued.

On motion of Director Murray and second by Director Hernandez, the Committed voted unanimously by those present to receive and file the report.

HUMAN RESOURCES DIRECTOR'S REPORT (F: 12.02D6)

Human Resources Director Jeremy Hammond provided updates on the graduation of Academy 41 and the start of Academy 42, recruitments for Battalion Chief and Apparatus Engineer, Classification Compensation Studies status, and the progress of the Professional Standards Unit.

LEGAL COUNSEL'S COMMENTS (F: 12.02D7)

Legal Counsel Barbara Raileanu presented no comments.

COMMITTEE MEMBER COMMENTS (F: 12.02D4)

Chair Shawver commended Fire Station 17 (Cypress) for participating in Santa's Siren Express, which distributes toys to needy families during the holidays.

CLOSED SESSION (F: 12.02D5)

Chair Shawver reported the Committee would be convening to Closed Session to consider the matter on the Agenda identified as CS1, Conference with Legal Counsel-Anticipated Litigation.

Chair Shawver recessed the meeting to Closed Session at 12:37 p.m.

CS1. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Authority: Government Code Section 54956.9(b) – Significant Exposure to Litigation
(1 case)

Chair Shawver reconvened the meeting at 12:55 p.m.

CLOSED SESSION REPORT (F: 12.02D5)

Legal Counsel Barbara Raileanu indicated the Committee had taken no reportable actions.

ADJOURNMENT - Chair Shawver adjourned the meeting at 12:55 p.m. The next regular meeting of the Human Resources Committee is scheduled for Tuesday, April 5, 2016, at 12:00 noon.

Sherry A.F. Wentz, CMC
Clerk of the Authority



Orange County Fire Authority
AGENDA STAFF REPORT

Human Resources Committee Meeting
April 5, 2016

Agenda Item No. 3A
Consent Calendar

Annual Fraud Hotline Report

Contact(s) for Further Information

Brian Young, Assistant Chief Organizational Planning	brianyoung@ocfa.org	714.573.6014
Brigette Gibb, Employee Relations Mgr. Human Resources Department	bridgettegibb@ocfa.org	714.573.6353

Summary

This annual agenda item is submitted to provide the Committee with an annual summary of activity that occurred with the OCFA's complaint investigation hotline during 2015.

Prior Board/Committee Action

Not Applicable.

RECOMMENDED ACTION(S)

Receive and file the report.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

The OCFA implemented an internal complaint investigation hotline (the "Hotline") in December 2011 for employees to utilize for reporting concerns that they believe should be investigated. The Hotline is hosted by an external vendor, Ethics Point, and employees may submit reports to the Hotline by either phone or internet. Further, employees may remain anonymous when submitting their reports, if desired.

The implementation plan that was created with the Hotline calls for OCFA staff to provide an annual report each year, summarizing the number of reports filed and status or disposition of cases. In addition, the implementation plan calls for staff to report to the full Board of Directors regarding individual Hotline cases, as necessary based on the nature of findings that may result from the investigation.

The Hotline is primarily administered by the Fire Chief, with secondary support provided by the Director of Human Resources, and legal guidance provided by General Counsel.

The Hotline resulted in the following for calendar year 2015:

Complaint Status	Annual Period Ending December 31, 2015
Beginning Caseload (from previous reporting period)	0
New Complaints	5
Vetted and No Investigation Needed	0
Complaints Investigated and Closed (Investigation completed and response issued)	4
Ending Caseload (Cases remaining from this reporting period)	1

Conclusion of Cases Closed	December 31, 2015	
Cases Closed	4	100%
Actionable	1	25%
Not Actionable	3	75%

Attachment(s)

None.



Orange County Fire Authority
AGENDA STAFF REPORT

Human Resources Committee Meeting
April 5, 2016

Agenda Item No. 4A
Discussion Calendar

Professional Standards Unit Progress Report

Contact(s) for Further Information

Brian Young, Assistant Chief brianyoung@ocfa.org 714.573.6014
Organizational Planning

Brigette Gibb, Employee Relations Mgr. brigettegibb@ocfa.org 714.573.6353
Human Resources Department

Summary

This item is to provide the Committee with an update on the progression of the proposed Professional Standards Unit.

Prior Board/Committee Action(s)

At its regular November 3, 2015, and January 5, 2016, meetings, the Human Resources Committee received oral updates on the development of the Professional Standards Unit by the Human Resources Director.

RECOMMENDED ACTION(S)

Receive and file the report.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

In an effort to increase consistency in human resources (HR) functions and improve labor relations, Initiative 1.1 of the Fire Chief's annual goals calls for the establishment of a Professional Standards Unit (PSU). The intent of the PSU is to ensure timely and legally/contractually compliant administrative investigations, timely discipline, and consistency in imposed discipline.

Proposed Staffing/Structure

The Human Resources Director will provide oversight to the PSU, which will consist of internal and external investigators.

- Senior Human Resources Analyst – new position (proposed FY 2016/17)
- Contract Investigators – awarding contracts in April/May

PSU Investigation Policy

A policy has been drafted covering the following topics:

- Initiating a complaint
- Responsibility to inform HR
- Determining whether to investigate
- Investigation process
- Determining level of investigation
(See the attached issue flowchart drafted for HR/supervisor use.)
- Investigator duties
- Confidentiality
- Retaliation
- Recordkeeping

Policy Development

Staff is researching the feasibility and effectiveness of purchasing vendor provided and/or internally created key policies, such as employee conduct, retaliation, harassment, etc.

Attachment(s)

None.



Orange County Fire Authority
AGENDA STAFF REPORT

Human Resources Committee Meeting
April 5, 2016

Agenda Item No. 4B
Discussion Calendar

Professional Labor Negotiation Services

Contact(s) for Further Information

Lori Zeller, Assistant Chief
Business Services Department

lorizeller@ocfa.org

714.573.6020

Summary

This item is submitted to obtain Committee direction regarding extension of the existing contract for Professional Labor Negotiation Services or issuance of a new Request for Proposal (RFP).

Prior Board/Committee Action

At the August 27, 2015, Board of Directors meeting, the Board authorized an increase and extension of the contract with Peter Brown of Liebert Cassidy Whitmore through June 30, 2016, with the provision of an RFP at the next contract renewal. Specifically, the RFP was to focus on allowable/billable costs for travel time within the contract for labor negotiation services.

RECOMMENDED ACTION(S)

Review the proposed agenda item and direct staff to place the item on the agenda for the Executive Committee meeting of April 28, 2016, with the Human Resource Committee's recommendation that the Executive Committee extend the existing contract with Liebert Cassidy Whitmore for one additional year (July 1, 2016, to June 30, 2017), at an annual amount of \$100,000.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Funds will be included in the Draft Proposed FY 2016/17 Budget to fund this contract.

Background

In December 2013, the Board of Directors appointed Peter Brown of Liebert Cassidy Whitmore to serve as OCFA's professional labor negotiator. During 2014 and 2015, Mr. Brown negotiated a one-year memorandum of understanding (MOU) with the Firefighters Union (3631), plus a subsequent mutually agreeable language clean-up MOU with 3631. He also negotiated a comprehensive three-year MOU with the Orange County Employees Association (OCEA), and a three-year agreement with the newly formed Orange County Fire Authority Management Association (OCFAMA).

In the latter half of 2015 and early 2016, Mr. Brown has been actively negotiating with 3631 for a successor MOU. In August 2015, the Board authorized a one-year extension of Mr. Brown's contract through June 30, 2016, to support continuation of the negotiation process that was already under way with 3631. However, when the Board authorized the one-year extension, the

Board also directed staff to complete a new RFP process for future professional labor negotiation services, at the next contract renewal.

Staff is prepared to issue an RFP for future labor negotiation services should this continue to be the direction of the Board; however, since the current negotiations with 3631 have not yet concluded, it may be preferable to extend the existing contract with Mr. Brown for one additional year through June 30, 2017.

Staff is seeking preliminary input from the Human Resources Committee (HRC) regarding the desired approach, and a recommendation from the HRC that may be forwarded to the Executive Committee for further action.

Attachment(s)

None.



Orange County Fire Authority
AGENDA STAFF REPORT

Human Resources Committee Meeting
April 5, 2016

Agenda Item No. 4C
Discussion Calendar

Paid Administrative Leave

Contact(s) for Further Information

Brian Young, Assistant Chief brianyoung@ocfa.org 714.573.6014
Organizational Planning Department

Brigette Gibb, Employee Relations Mgr. brigettegibb@ocfa.org 714.573.6353
Human Resources Department

Summary

This item is submitted to the Committee for informational purposes in order to provide context regarding the Authority's use of paid administrative leave.

Prior Board/Committee Action

Not Applicable.

RECOMMENDED ACTION(S)

Receive and file the report.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

Paid Administrative Leave should not be confused with Paid Annual Leave as referenced in the Personnel Salary Resolution and the labor Memorandum of Understanding with the Orange County Employees Association.

Recently questions have arisen amongst Human Resources Committee Members regarding when Paid Administrative Leave can be authorized and under what circumstances. The attached information sheet is intended to provide clarification regarding the use of Paid Administrative Leave.

Attachment(s)

Clarification of Paid Administrative Leave

PAID ADMINISTRATIVE LEAVE

When executive management has a reasonable belief that an employee's continued presence in the workplace will create disruption and/or liability for the Authority, the employee may be placed on paid administrative leave (up to 120 days). Placing an employee on paid administrative leave derives from the inherent authority for heads of public agencies to prescribe regulations for the government of their organizations. Paid administrative leave is considered non-punitive, and allows the Authority to temporarily remove an employee from the workplace without a right to appeal the decision. Administrative leave does not in itself imply that an employee will be disciplined or that an allegation is credible, which is why pay and benefits are not discontinued. Alternatives to paid administrative leave, such as a temporary changes in work location, reporting relationships, and/or assignments may be considered first.

Paid administrative leave is most often used in conjunction with an administrative investigation when it is necessary to minimize interference with the investigation by the subject employee. Interference may include destroying/altering records; collusion with others regarding their "story;" and/or intimidating witnesses, complainants, investigators, or others. In addition, an employee may be placed on paid administrative leave in order to cease harmful behavior or conduct as in the case of harassment, hostile work environment, workplace violence and/or fitness for duty. While "cause" is not necessary to place an employee on administrative leave, doing so without having a reasonable belief of possible "interference" or disruption to the workplace (as both terms are explained here), is not recommended.

Employees on paid administrative leave typically are required to be available for contact during regular office hours and may be required to call the employer as requested or to periodically check in.



Orange County Fire Authority
AGENDA STAFF REPORT

Human Resources Committee Meeting
April 5, 2016

Agenda Item No. 4D
Discussion Calendar

Processing Complaints Against the Fire Chief

Contact(s) for Further Information

Brian Young, Assistant Chief Organizational Planning Department	brianyoung@ocfa.org	714.573.6014
Brigette Gibb, Employee Relations Mgr. Human Resources Department	bridgettegibb@ocfa.org	714.573.6353

Summary

This item is submitted for Committee review and recommendation to bring before the Board for adoption a policy in processing complaints submitted against the Fire Chief.

Prior Board/Committee Action

On February 25, 2016, the Board requested that legal counsel draft a policy addressing complaints against the Fire Chief for Board review and approval.

RECOMMENDED ACTION(S)

Review the proposed agenda item and direct staff to place the item on the agenda for the Board of Director's meeting of April 28, 2016, with the Human Resources Committee's recommendation that the Board adopt the policy as written.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

Pursuant to his employment agreement, the Fire Chief serves at the pleasure of the Board. In turn, the Human Resources Director reports directly to the Fire Chief. While decisions about the handling of employee complaints are ordinarily made by the HR Director, in the event the Fire Chief is accused of misconduct, decisions about matters such as whether to place the Fire Chief on administrative leave, whether to conduct an investigation, and who should conduct the investigation must be made by the Board or another designated body or person with authority over the Fire Chief.

Since the Human Resources Committee was established by the Board as a standing committee responsible for advising "the staff and mak[ing] recommendations to the Board of Directors on matters regarding human resources;... and development of management/performance evaluation...systems," one option available to the Board is to delegate decision-making authority with respect to the handling of complaints against the Fire Chief to this body with assistance to be provided by legal counsel. Another available option would be for the Board to delegate this

same authority to a small subset of the Board, perhaps made up of the Chair, Vice-Chair, and HR Committee Chair.

The draft policy was prepared by legal counsel and has been reviewed by the Human Resources Department.

Attachment(s)
Proposed Policy

555 ANTON BOULEVARD, SUITE 1200
COSTA MESA, CA 92626-7670
(714) 558-7000

MEMORANDUM

TO: Human Resources Committee
Orange County Fire Authority

FROM: Barbara Raileanu

DATE: March 21, 2016

RE: OCFA Policy and Procedure For Complaints Against Fire Chief

Notwithstanding other procedures set forth in OCFA policies, including General Order #42, Standing Operating Procedure AM 103.21, and the Grievance Procedures applicable to each respective bargaining unit, this Policy shall serve as the sole and exclusive procedure for addressing internal complaints against the Fire Chief. The Board of Directors of OCFA hereby adopts the following policy and procedure to address such complaints.

1. Complaints alleging violations of state or federal law, policy violations, or improper conduct exclusively against the Fire Chief of OCFA shall be referred to the Human Resources ("HR") Committee. Such allegations shall be set forth in writing and submitted to any active sitting member of the Human Resources Committee, either directly or through the Human Resources Director, at the complaining party's choice. Any party wishing to bring a complaint against the Fire Chief shall be directed to this Policy to ensure consistent procedures are used.

2. Such Complaint must be filed immediately, or as soon as practicable, after the event or events which gave rise to the concern. Once the Complaint is received, the HR Director will request the Complainant to provide, in writing, information substantiating the Complaint, including any and all witnesses to the alleged improper conduct as well as supporting documentation. The HR Director shall provide this information to the Committee members for their consideration.

3. As soon as possible after the Complaint and substantiating information is received by the Committee, the Committee shall schedule a special meeting with the HR Director in attendance (unless the HR Director is bringing the Complaint) and Labor Counsel. The Committee shall have authority to determine whether, based on the nature of the Complaint, the Fire Chief will be placed on paid or unpaid administrative leave, shall determine whether an investigation is necessary and shall, collectively with appropriate HR staff and Legal Counsel, select a qualified investigator to immediately commence an investigation. The Committee shall have authority to defer either of these decisions to the full Board of Directors. In addition, the Committee shall have authority to delay the decision of whether to place the Fire Chief on

administrative leave until after an initial evaluation of the merits of the Complaint has been provided by the selected investigator.

4. Any decisions regarding placement of the Fire Chief on paid administrative leave pending an investigation shall be based on a reasonable belief of one or more of the following. The Fire Chief's continued presence in the workplace during the investigation: (1) could pose a threat to the complaining employee or others, (2) could result in destruction of or tampering with OCFA property, or (3) could interfere with or jeopardize legitimate OCFA interests.

5. The Fire Chief may be notified after the Committee meeting, but no later than one day prior to his or her interview, that a Complaint has been filed against him or her or and / or that he or she has been placed on paid administrative leave. No specifics will be provided but only the general nature of the Complaint.

6. The selected investigator or investigators shall prepare either a written or oral report of their findings (at the discretion of the Committee) and shall present their findings as soon as possible after the completion of all interviews and document review. The written report, if there is one, shall be provided to the Committee members prior to any meeting of the Committee for purposes of discussing the findings. Any oral reports will be provided to the Committee by the investigator or investigators during a special meeting of the Committee.

7. After the review and analysis of the investigation report is completed, the Committee shall make recommendations concerning any action that may be necessary to be taken to the Board of Directors.

8. Following final Board action, the Complainant and Fire Chief will receive notice whether the allegations were sustained, not sustained or unfounded through the Committee Chair. The Complainant will not be notified of the nature of any disciplinary action taken against the Fire Chief.