

EL DORADO COUNTY GRAND JURY 2014-2015

BOARD OF SUPERVISORS NEGLECTS HUMAN RESOURCES

Case GJ-14-07

In the course of a number of investigations the Grand Jury encountered numerous allegations that employees have been harassed, subjected to threats of violence and retaliated against by elected officials of El Dorado County.

These employees were asked if they had taken their concerns to the Human Resources (HR) Department. In each instance employees responded that they did not trust the HR Department to maintain confidentiality, that the HR Department was motivated by politics and was incompetent.

Those allegations and the employee comments suggest that county officials lack knowledge of, and respect for, California employment law.

In addition, the Grand Jury repeatedly heard allegations that qualified applicants are reluctant to apply for positions in El Dorado County. The county has a reputation for tolerating harassment and mistreatment of employees.

The Grand Jury investigated to determine what the problems were, if any, with the management of human resources in El Dorado County.

BACKGROUND

Concern about human resources management in El Dorado County is not new. The 2006-2007 Grand Jury issued a report in February 2007 addressing the same issues we are addressing again today.

The 2006-2007 Grand Jury report revealed that the HR Department was undervalued by the Board of Supervisors and was dysfunctional. This was supported by the following specific findings:

- Some county departments did not utilize or engage the Human Resources Department when conducting personnel related activities creating the potential for increased liability in the event of mishandled personnel related issues.
- There had been excessive turnover in the position of the Director of Human Resources since 2003; with eight HR directors in a three and a half year period.
- Inadequate staff and funding of the HR Department resulted in insufficient training and recruiting, impacting the HR Department's ability to provide comprehensive and timely services to other County departments.
- The El Dorado County Personnel Management Book had not been updated.

The Board of Supervisors responded to the Grand Jury Report by substantially agreeing with those findings and agreeing to take the recommended actions. However, as this report will demonstrate, the problems identified in 2007 have not been resolved, despite the passage of eight years.

METHODOLOGY

- The Grand Jury interviewed elected and appointed officials, represented and unrepresented employees including the former Chief Administrative Officer and Interim Chief Administrative Officer, union representatives and former employees.
- The Grand Jury reviewed the 2006-2007 Grand Jury report, GJ 06-022; various personnel policies including the Policy Prohibiting Discrimination, Harassment and Retaliation and Reporting and Complaint Procedure; the El Dorado County Climate Assessment and Climate Change Action Plan; Complaints of Unlawful Discrimination and/or Harassment filed by county employees; contracts for consultant and legal services; and Employee Manuals for Los Angeles and Sacramento Counties.

DISCUSSION

The Department of Human Resources continues to be unstable. Since January 2009 the position of director has been held by four persons. During the two year period from August 2011 to September 2013 the position was held by a Retired Annuitant who was legally restricted to 960 hours per year approximately 50 percent of fulltime. The current Director of Human Resources has simultaneously served as Acting or Interim Chief Administrative Officer since November 2014.

The previous Chief Administrative Officer (CAO) was forced to resign in November 2014. The Board of Supervisors essentially fired her without a plan to replace her. The Director of Human Resources was appointed first as Acting Chief Administrative Officer and then on Feb. 3, 2015 was appointed Interim Chief Administrative Officer for a one year term. She had been Director of Human Resources since September 2013. Department heads reported she had begun to initiate positive change for the county. However, they are concerned that as Interim CAO she will not be able to focus on Human Resources and necessary changes will not be made.

A fully functioning HR Department might have been able to withstand the temporary loss of a director. However, El Dorado County's HR Department was not fully functioning. Instead it still needed the full attention of a competent and experienced director. The County had not corrected the problems identified in 2007. Although the HR Director had begun to initiate necessary changes during the fourteen months she held the job before being appointed to also serve as Acting CAO, she had not corrected all of the many problems facing the Department and the many ways the county fails to follow best practices. Human Resource policies are nonexistent or out of date, employee classifications are suspect, significant work is being contracted out to private contractors and no effort has yet been initiated to satisfy various requirements of state and federal employment law.

Failure to strengthen the Human Resources Department has led to personnel issues being inadequately and improperly addressed by individual managers or supervisors who do not understand their obligations under California employment law.

El Dorado County has a reputation for poor employer-employee practices. It does not attract the most qualified applicants for employment.

FINDINGS

1. El Dorado County does not follow generally recognized best practices for Human Resources.
2. El Dorado County does not have an Employee Policy Manual.
3. The HR Department has no mandated training for employees appointed to supervisory positions.
4. The County is not in compliance with requirements that employees be trained in employment rules and practices. Department directors report that new employees are not given adequate training on county policies but instead are merely given a stack of policies and required to sign an acknowledgement of receipt of those policies.
5. No effort has been made to comply with AB 2053 requirements. That effort is on hold while a new staff member is trained. In the meantime, staff and supervisors are not complying with it and other statutes mandating specific training. However, the legal requirements continue. They are not on hold.
6. Department directors report using the Human Resources Department staff as little as possible, both when recruiting staff and when dealing with employee discipline or complaints. Instead, they rely on their own expertise or that of County Counsel.
7. Failure to strengthen the Human Resources department has resulted in personnel issues being handled inappropriately by managers and supervisors who are not fully informed of their obligations under California employment law.
8. Members of the Board of Supervisors fail to comply with the legal requirement to notify the HR Department when they become aware of alleged unlawful activity against one of their employees.
9. Employees fear that a complaint submitted to the HR Department will not be kept confidential and they may be subject to retaliation. The HR Director acknowledged that this a reasonable fear, based upon past behavior.
10. Inexperience causes the HR department to willingly defer handling of HR issues to County Counsel. This results in HR issues being handled from a defense oriented posture rather than in a proactive solution-seeking management effort. The Grand Jury observed that complaints filed with HR were investigated solely from the point of view of whether unlawful discrimination occurred while ignoring poor management practices.

11. Investigations of discrimination or harassment complaints frequently reveal poor management practices or other employee misbehavior, but investigative reports are not shared with department directors. Managers are not informed of these issues when they are brought to light in the course of an investigation and, therefore, are unable to take remedial action.
12. Because County Counsel is acting as de facto HR Director, legal work that could be handled in house is contracted out. Complaints of discrimination or harassment are often submitted to private law firms for investigation at significant cost to the county. There is no policy setting forth criteria or procedures for when an investigation will be handled by county staff or contracted out. While it is reasonable that the investigation of certain sensitive complaints, such as those against the CAO or the HR Department itself, be contracted out, it is unreasonably expensive to contract out the investigation of most complaints. These should be handled by HR staff.
13. The County spends significant sums of money on outside consultants and attorneys for HR related issues.
14. The County has spent significant sums of money on private consultants identifying personnel issues but has taken only the initial steps towards resolving the issues identified.
15. Human Resources and Risk Management were separated to allow the HR Director to develop her skills in human resources management. The two functions are closely integrated and their separation is inefficient.
16. The County does not have an organization chart accurately reflecting County organization.

CONCLUSIONS

El Dorado County's HR Department continues to suffer from rapid and excessive turnover of the Human Resources Director and fails to follow best practices for human resources management. This has made the county unable to recruit and retain the best qualified staff. The County is exposed to significant risk of liability for failure to comply with federal and state employment law requirements.

RECOMMENDATIONS

1. The Board of Supervisors should renew its commitment to comply with the recommendations made by the 2006-07 Grand Jury.
2. The Board of Supervisors should commit to full compliance with all state and federal employment statutes.
3. The Board of Supervisors should aggressively seek a new and qualified Chief Administrative Officer.
4. The Board of Supervisors should appoint a qualified manager of Human Resources.
5. The Human Resources function should be centralized under a manager reporting to the Chief Administrative Officer.
6. The Human Resources manager should be responsible for the combined Human Resources and Risk Management functions.

The Grand Jury will forward this report to the federal Equal Employment Opportunity Commission, the State Department of Fair Employment and Housing and the Bureau of State Audits.

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

This Report has been provided to the El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court requests that responses be sent electronically as a *Word* or *PDF* file to facilitate economical and timely distribution. Please email responses to the El Dorado County Grand Jury at: courtadmin@eldoradocourt.org