

CITY OF ALEXANDRIA

LABOR RELATIONS ADMINISTRATOR

In the matter of	)	
	)	Decision No. 27001
	)	
American Federation of State,	)	
County and Municipal Employees,	)	
District Council 20, Local 3001,	)	
	)	September 23, 2026
Exclusive Representative,	)	
	)	
-and-	)	
	)	Prohibited Practice Charge
City of Alexandria,	)	
	)	
Employer	)	
	)	
	)	

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For the Exclusive Representative

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Assistant County Attorney
For the Employer

DECISION AND ORDER

STATEMENT OF THE CASE

On or about July 9, 2026, the American Federation of State, County and Municipal Employees, District Council 20, Local 3001, (“AFSCME” or “Exclusive Representative” or “Union”) filed a Prohibited Practice Charge (“PPC”) and Petition for Unit Clarification against the City of Alexandria (“City” or “Employer”) alleging violations of the Collective Bargaining Ordinance (“CBO”), Title 2, Chapter 5, Article E, Collective Bargaining, Sections 2-5-67 through 2-5-80, of the Code of the City of Alexandria. Specifically, the Union alleges: “the City has engaged in a prohibited practice by unilaterally changing the affected employees’ bargaining unit status and stripping them of representation, refusing to recognize the Union as the exclusive representative for these employees, and by refusing to place the employees in the appropriate bargaining unit to deprive them of negotiated benefits.”

The Union also requests bargaining unit clarification related to four job titles: Environmental Health Specialist II; Family Services Specialist II; Probation Officer; and Therapeutic Recreation Leader. The City submitted its Answer to the Prohibited Practice Charge and Petition For Clarification on or about July 20, 2026. The LRA held an informal conference with the parties on August 13, 2026. The parties and the LRA agreed no hearing was necessary. On or about September 4, 2026, the City filed a Petition for Unit Clarification requesting the removal of an intermittent employee from the Professional bargaining unit. The Petitions for Unit Clarification are addressed separately in LRA Decision No. 27002.

RELEVANT PROVISIONS OF THE CBO

The CBO provides in relevant part:

Section 2-5-67 – Statement of policy.

It is the public policy of the City of Alexandria and the purpose of this article to promote orderly and constructive relationships between the city and its employees subject, however, to the supreme right of the citizens of the city that their government honor guarantees for their health, safety, welfare, and the uninterrupted operations and functions of government. Because unresolved disputes between the city and its employees are detrimental to the public and to city employees, adequate means must be established from their speedy and effective resolution. Within the limitations required by the greater public interest, and recognizing that amicable relationships are required between the city and its employees, the city council has determined that the overall policies set forth here may best be accomplished by (1) granting to city employees the right to organize and choose freely their representatives; (2) permitting the city to negotiate and bargain in good faith with employee organizations representing city employees and to enter into written agreements evidencing the result of such bargaining; and (3) establishing procedures to provide for the protection of the rights of the city, city employees and the public at large.

The council establishes this policy with the intent that city employees enjoy the right to bargain collectively within parameters that promote a government that provides ethical, effective and efficient services that are responsive to the community and focused on improving quality of life through the services of well-qualified staff who value and work to actively promote policies (1) to achieve and maintain diversity, equity and inclusion in city government, and (2) to advance all things reasonably necessary to achieve organizational excellence, while at all time elevating principles of cooperation, ethics, honesty, initiative, and learning.

Section 2-5-68 – Definitions.

As used in this Article, the following terms shall have the meaning ascribed to them in this section:

Administrative employee means an employee whose primary duty is the performance of office or non-manual work directly related to or in furtherance of the management or general business operations and services of the city.

City means the City of Alexandria acting through its city manager or the city manager's designee.

Employee means any employee of the city, except it does *not* include anyone who is:

(1) an employee of the courts or of any local constitutional officer, i.e., officers elected pursuant to Article VII, Section 4 of the Constitution of Virginia;

(2) a confidential employee, as defined in this section;

(3) a managerial employee, as defined in this section;

(4) a supervisor, as defined in this section;

(5) an intermittent, temporary or seasonal employee, as defined in this section;

(6) an intern or volunteer;

(7) a member of a board or commission, or other appointee of any public body as defined by state law; or

(8) An attorney whose responsibilities include providing legal advice to the city or performing legal research for the city as a client.

Exclusive bargaining representative and *exclusive bargaining agent* mean the employee organization recognized by the City as the only organization to bargain collectively for all employees in a bargaining unit (as defined in section 2-5-72).

Intermittent employee means irregular or variably recurring, hourly employment that is less than full time in any calendar year.

Professional employee means an employee exempt from the Fair Labor Standards Act and whose primary duty is the performance of work:

(1) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or

(2) Requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

Technical employee means an individual whose work requires a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post-secondary school education or through equivalent on-the-job training.

Sec. 2-5-70 – City’s Rights and Authority.

(a) This article shall not be deemed in any way to limit or diminish the authority of the city to manage and direct the operations and activities of the city to the fullest extent authorized and permitted by law. Thus, to the extent not inconsistent with a collective bargaining agreement, the city retains exclusive rights including, but not limited to, the rights:

(1) to determine the type and scope of work to be performed by city employees, and the manner in which services are to be provided;

(2) to direct the work of employees and determine the number of employees to perform any work or service;

(3) to hire, promote, transfer, assign, retain, classify and schedule all employees and to suspend, demote, discharge, or take other disciplinary action against employees in accordance with applicable law and regulations;

(4) to relieve employees from duties by layoff or other reduction-in-force due to lack of work, changed working conditions/requirements, budget limitations or for other reasons in the city’s reasonable business judgment and not prohibited by law;

(5) to introduce new, or different services, methods, equipment, or facilities;

(6) to contract for, expand, reduce, sell, transfer, convey, eliminate or change in any way the operations of general government, as well as any department, office or part thereof;

(7) to establish and change standards of behavior or performance, staffing levels, job qualifications and job descriptions;

(8) to determine the kind, type, location and use of city-owned equipment or facilities, provided that the city does not require use of operation of unsafe equipment or the unsafe operation of equipment;

(9) to maintain the efficiency and integrity of the operations entrusted to the city;

(10) to do all things reasonable and necessary to carry out the mission of the city; and

(11) to retain the ability and authority to continue to implement the current administrative regulation in the management of probationary employees.

(b) Notwithstanding the provisions of any collective bargaining agreement, the city retains the right to take whatever actions may be necessary to carry out the city's mission during emergencies.

(c) In accordance with Virginia Code §40.1-57.2 and other applicable law, nothing in this section, any provision of this article or the terms of any collective bargaining agreement shall impair or restrict the authority of the city council to establish its budget and appropriate funds in its discretion.

Sec. 2-5-72 – Bargaining Units.

The City shall recognize only the following bargaining units for the purposes of collective bargaining:

(a) Police: The police employees' bargaining unit shall consist of all sworn uniformed employees of the police department, except those excluded by definition in Sect. 2-5-68;

(b) Fire and Emergency Medical Services: The fire and emergency medical services employees' bargaining unit shall consist of the uniformed fire employees, including fire marshals, except those excluded by definition in Sec. 2-5-68;

(c) Labor & Trades: Those eligible classes of employees associated with maintenance and skilled crafts, i.e., job classes of workers performing duties that result directly in the comfort and convenience of the general public, or contribute to the maintenance of capital assets, land and infrastructure of the city, except those excluded by definition in Sec. 2-5-68; and

(d) Professional: Those non-supervisory and non-managerial employees within the definition of "professional employee" as set forth in Sec. 2-5-68; and

(e) Administrative and Technical: Those non-supervisory and non-managerial employees within the definition of "administrative employee" or who perform office support work and who are not confidential employees excluded from collective bargaining within the definition set forth in Sec. 2-5-68.

Sec. 2-5-73 – Labor Relations Administrator.

(a) A labor relations administrator (LRA or the administrator) shall be appointed by the city manager in the manner set forth in subsection (c) of this section to effectively administer this article as it governs exclusive bargaining representative selection, certification and decertification procedures, labor-management disputes as defined in section 2-5-68, and choice of mediator(s) and/or arbitrator(s) as needs arise under this article or under any collective bargaining agreement.

(h) The administrator shall:

(1) hold and conduct elections for certification or decertification pursuant to the provisions of this article and issue the certification or decertification, or cause these actions to occur.

(2) request from the city or an employee organization, and the city or such organization shall provide, any relevant assistance, service, and data that will enable the administrator to properly carry out duties under this article.

(3) hold hearings and make inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and compel by issuance of subpoenas the attendance of witnesses and the production of relevant documents in proceedings within the responsibility of the administrator under this article.

(4) investigate and attempt to resolve or settle, as provided in Section 2-5-80 – Mediation and Arbitration, charges of either the city or an employee organization engaging in prohibited practices as defined in this article. However, if the city and a certified representative have negotiated a labor-management dispute resolution procedure, the administrator must defer to that procedure to resolve any dispute that properly may be submitted to the procedure, absent a showing that the deferral results in the application of principles contrary to this article. The administrator must defer to state procedures in any matter governed by the Law-Enforcement Officers' or Firefighters and Emergency Medical Technicians' Bill of Rights set forth in the Virginia Code, or to any other such procedure dictated by state statute.

(5) determine unresolved issues of employee inclusion in or exclusion from the bargaining units permitted under this article.

(6) obtain any necessary support services and make necessary expenditures in the performance of duties, subject to appropriation.

(7) determine any issue regarding the negotiability of any collective bargaining proposal.

(8) Exercise any other powers and perform any other duties and functions specified in this article of an administrative nature.

Sec. 2-5-77 – Right Accompanying Exclusive Representation.

An employee organization recognized as the bargaining agent for employees in an appropriate bargaining unit shall have the following rights:

(a) To speak on behalf of all members of the unit and shall be responsible for representing the interests of all members of the bargaining unit without discrimination and without regard to employee organization membership; and

(b) To meet at reasonable times and places to engage in good faith collective bargaining on matters that, under this article, may be the subject of collective bargaining, in an effort to reach an agreement, subject to the tentative approval of the city manager or the city manager's designee with responsibility for the employees in the bargaining unit.

(c) To meet with bargaining unit employees on the premises of the city in non-secure areas during times when the employees are on break or in a non-duty status. Any other employee organization that has submitted a petition and established a valid question concerning representation of the bargaining unit shall also be permitted to meet with bargaining unit employees with the same limitations. This subsection shall not restrict an exclusive bargaining agent and the city from negotiating for greater access to employees by the exclusive bargaining agent as provision of a collective bargaining agreement.

(d) To meet with newly hired employees, without charge to the pay or leave time of any of the employees for a maximum of 30 minutes, within 30 calendar days from the date of hire, during new employee orientations, or if the city fails to conduct new employee orientation, at individual or group meetings.

(e) To be the only labor organization eligible to receive from the city amounts deducted from the pay of employees as authorized by written assignment of the employees, for the payment of regular and periodic dues to the exclusive bargaining agent, unless two exclusive bargaining agents of city employees agree that they can both receive deductions from the same employee. Any such authorization may be revoked in accordance with the terms of the authorization which shall provide a period of irrevocability of not more than one year. An authorization that satisfies the Uniform Electronic Transactions Act (Virginia Code § 59.1-479 et seq.), including, without limitation, electronic authorizations and voice authorizations, shall be valid for employee's authorizations for payroll deductions and authorization for representation for purposes of a petition filed by an employee organization for exclusive representation.

(f) To be represented at any formal discussions between one or more representatives of the city and one or more employees in the bargaining unit or their representatives concerning (1) any matter that is within the scope of collective bargaining as set forth in the definition of collective bargaining (see Section 2-5-68); or (2) any examination of bargaining unit employees by a representative of the city in connection with an investigation if the employee reasonably believes that the

examination involves matters covered by any collective bargaining agreement then in effect, and the employee requests representation.

(g) Notwithstanding any other provision in this section, an individual employee may present a personal complaint, concern or question at any time to the city without the intervention of an employee organization, provided that any such organization that is recognized by the city as the exclusive bargaining agent for the bargaining unit in which the employee is a member is afforded an effective opportunity to be present and to offer its view at any meetings held to adjust the matter and that any adjustment made shall not be inconsistent with the terms of any applicable collective bargaining agreement. Such employee or employees who utilize this avenue of presenting personal complaints, concerns or questions to the city shall not do so under the name, or by representation, of an employee organization.

Sec. 2-5-82 – Prohibited Practices.

Neither the city nor any exclusive bargaining agent shall refuse to negotiate in good faith with respect to matters within the scope of collective bargaining as defined in Section 2-5-68.

(a) The city and its agents shall not:

- (1) Interfere with, restrain or coerce employees in the exercise of rights granted by this article;
- (2) Dominate or interfere in the administration of any employee organization;
- (3) Encourage or discourage membership in any employee organization, committee, or association including by discrimination in hiring, tenure, or other terms and conditions of employment;
- (4) Discharge or discriminate against any employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under this article or because the employee has formed, joined, or chosen to be represented by any exclusive bargaining agent;
- (5) Deny the rights accompanying certification as the exclusive bargaining agent as conferred by this article;
- (6) Refuse to participate in good faith in any agreed-upon impasse resolution procedures or those set forth in this article; or
- (7) Refuse to reduce a collective bargaining agreement to writing and sign such agreement provided all conditions for an enforceable agreement, as set forth in this article, have been met.

Sec. 2-5-83 – Time Limits.

Any time limits in this article may be extended by written agreement of the city, the employee organization and any other appropriate parties.

BACKGROUND FACTS

AFSCME was certified as the exclusive representative of the Administrative and Technical bargaining unit on or about January 2, 2025. (See LRA Case No. 24-RC-01, Certification No. 004). On or about March 11, 2026, AFSCME was certified as the exclusive representative of the Professional bargaining unit. (See LRA Decision No. 26001). Prior to the secret ballot election for the Professional bargaining unit, the City and AFSCME agreed on a list of those employees included in the unit.

On or about June 15, 2026, Ernesto Tamayo (“Tamayo”), the City’s Chief Labor Relations Officer (“CLRO”), emailed the Union stating:

This notice is to advise AFSCME Local 3001 that the following twelve (12) employees were previously identified as potentially eligible for inclusion in the Professionals bargaining unit.

Upon further examination of the applicable FLSA status governing each position, the City has determined that these employees are not eligible for representation in the Professionals bargaining unit.

Eligibility for inclusion in the Professionals bargaining unit is limited to positions designated as FLSA-exempt. Each of the positions listed below carries an FLSA non-exempt designation. Accordingly, the incumbents do not meet the unit eligibility criteria and will not be included in the Professionals bargaining unit.

The email identified 12 employees in four job titles, Environmental Health Specialist II (one employee); Family Services Specialist II (one employee); Probation Officer (two employees); and Therapeutic Recreation Leader (eight employees).

On or about June 18, 2026, the Union emailed Tamayo asking whether or not the City intended to include the twelve employees in the Administrative & Technical unit and, if not, to provide a basis for exclusion. The Union requested a response by June 22, 2026. The City did not respond to the Union’s message prior to the Union’s filing of the Prohibited Practice Charge and Petition for Unit Clarification on or about July 9, 2026. Concerning the Petition for Unit Clarification, the Union requests “that the LRA clarify that the employee positions ... if not appropriately placed in the Professional bargaining unit, are included in the Administrative and Technical unit and direct the City to immediately and retroactively include all such positions in the Administrative and Technical unit and make employees whole for any losses they may have incurred based on their prior misclassification.”

At a scheduled collective bargaining session in June 2026, the City refused to allow a member of the Union’s bargaining team participate because the employee was one of the twelve employees identified in the June 15, 2026 email from Tamayo.

On or about July 13, 2026, Tamayo sent the Union a letter concerning “Professional Bargaining Unit Eligibility Determinations – Twelve Employees Identified June 15, 2026.” The letter stated, in relevant part:

I write in follow-up to the City’s June 15, 2026 notice regarding the bargaining unit eligibility of the twelve employees identified in that notice, and to your June 18, 2026 correspondence requesting the City’s position on their unit placement.

Since issuing the June 15 notice, the Office of Labor Relations has continued to examine the basis for the FLSA classification determinations underlying that notice. Having identified questions regarding the accuracy of those determinations, the City has asked the Department of Human Resources to conduct a review of the FLSA classification applicable to each of the twelve positions at issue.

Pending the outcome of that review, the twelve employees identified in the June 15, 2026 notice will continue to be treated as members of the Professionals bargaining unit certified in LRA Decision No. 26001, consistent with their status prior to that notice. The City is not removing these employees from the Professionals bargaining unit.

Should the Department of Human Resources’ review confirm that the FLSA non-exempt designations identified in the June 15 notice are accurate, the City will file a petition for unit clarification with the Labor Relations Administrator, in accordance with LRA Rule 1500.7, to resolve the appropriate bargaining unit placement for the affected positions. The City does not intend to make any further change to the affected employees’ bargaining unit status outside of that process.

We will provide a further update once the Department of Human Resources’ review is complete.

Tamayo also verbally informed the Union of the City’s updated position.

On or about September 4, 2026, the City informed the Union and the LRA of the outcome of the FLSA determinations for three of the four position titles following the review of Segal, the compensation and human resources consulting firm whom the City engaged to conduct the review. The review determined the FLSA status of the Environmental Health Specialist II position as exempt. The review determined the FLSA status of the Probation Officer and Therapeutic Recreation Leader as non-exempt. Concerning the Family Services Specialist II position, the City filed a Petition for Clarification asserting the incumbent is an intermittent employee as defined by Sec. 2-5-68, and not appropriately included in any bargaining unit per the CBO.

POSTIONS OF THE PARTIES

The Union asserts, in part, that the City and the Union agreed to include the 12 employees in the Professional bargaining unit earlier this year. Then, on or about June 15, 2026, Tamayo sent an email to the Union asserting the City was unilaterally removing the employees from the bargaining unit based on their FLSA status. Though the Union sought clarification from the City as to whether these employees would be placed in the Administrative & Technical bargaining unit, the City did not respond before July 9, 2026, the day on which the Union filed the Prohibited Practice Charge. The Union further states: “To the Union’s knowledge, the City has kept all twelve employees in a non-union status since unilaterally removing them from the professional bargaining unit.” (Union Petition at 4).

In its Answer, the City asserts, in part:

The City did not change the affected employees’ bargaining unit status; upon discovering the classification error, the City confirmed on July 10, 2024, that the employee would remain in the Professional Unit as originally agreed. Because no change in unit status occurred, the employees were never stripped of representation, and the Union’s status as exclusive representative was never disturbed. Nor has the City refused to recognize the Union or refused to place the employees in the appropriate unit; to the contrary, the City affirmed the existing placement and committed to addressing any future change if warranted, only through the unit clarification process set forth in LRA Decision 26001.

(City Answer at 4).

ANALYSIS AND DECISION

On or about June 15, 2026, Tamayo emailed the Union, stating in part: “Eligibility for inclusion in the Professionals bargaining unit is limited to positions designated as FLSA-exempt. Each of the positions listed below carries an FLSA non-exempt designation. Accordingly, the incumbents do not meet the unit eligibility criteria and will not be included in the Professionals bargaining unit.” (underline added). There can be no debate that had the City actually followed through with attempting to unilaterally remove 12 employees from the Professional bargaining unit, the City would have engaged in a clear-cut violation of the CBO. This is so because the City does not have the authority to remove positions from a certified bargaining unit. The CBO makes clear this authority resides with the LRA and there is a process in place by which the City and/or the Exclusive Representative may petition the LRA to request clarification of the bargaining unit.

However, in July 2026, the City communicated with the Union, verbally and in writing, that the individuals had not been removed from the Professional bargaining unit. The City further clarified that it was engaged in reviewing the FLSA status of the positions in question and, if necessary, would engage in the process of petitioning the LRA for a unit clarification once the review of FLSA status was complete. The LRA recognizes the City did not communicate its

intention to follow the appropriate processes concerning unit clarification until after the instant charge was filed. Nonetheless, though the City communicated its intention to engage in an act which would have violated the CBO, the City did not actually do so. Thus, the City did not violate the CBO.

ORDER

By virtue of and pursuant to the powers vested in the Labor Relations Administrator codified at Title 23, Chapter 5, Article E, Collective Bargaining, Sections 2-5-67 through 2-5-80 of the Code of the City of Alexandria, it is hereby ordered:

- 1.The Prohibited Practice Charge is dismissed.

BY:

CITY OF ALEXANDRIA LABOR RELATIONS ADMINISTRATOR

Sarah Miller Espinosa, J.D.

September 23, 2026

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