

SUSPENSION



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

September 17, 2014

Erie County Legislature
92 Franklin Street – Fourth Floor
Buffalo, New York 14202

Re: Personnel Adjustments – Erie County Correctional Health Services

Dear Honorable Members:

The Erie County Department of Health 's Division of Correctional Health provides medical oversight and staff who provide health care at the Erie County Correctional Facility and Erie County Holding Center under an Interdepartmental Agreement with the Erie County Sheriff.

A CSEA grievance has been filed against the Division of Correctional Health with regards to the use of agency nursing staff to maintain certain staffing levels at the Erie County Holding Center and Erie County Correctional Facility as required by the U.S. Department of Justice by the Civil Service Employees Association.

Authorization is requested to create two new nursing positions in the Division of Correctional Health Services to settle the grievance and avoid costly arbitration. These additional positions would eliminate the use of agency nurses for anything other than long term absences of Erie County Correctional Health employees, or when represented employees do not make themselves available for overtime for needed coverage. This type of accommodation will satisfy the grieving party.

Should your Honorable Body require further information, I encourage you to contact Health Commissioner Gale R. Burstein. Thank you for your consideration on this matter.

Sincerely

A handwritten signature in black ink, appearing to read "Mark C. Poloncarz", with a long, sweeping flourish extending to the right.

Mark C. Poloncarz, Esq.
Erie County Executive

bqs/MCP
Enclosure

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MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Department of Health
Re: Personnel Adjustments – Erie County Correctional Health Services
Date: September 16, 2014

SUMMARY

Authorization is requested to create two additional nursing positions in the Department of Health's Division of Correctional Health Services, in order to provide healthcare services to the inmate populations of the Erie County Correctional Facility without the use of agency nursing staff.

FISCAL IMPLICATIONS

No additional County dollars are required for this request. Funding will be obtained from a budgetary transfer of funding from Account 516050 Payments to ECMCC in the amount of \$36,660 to fund personnel-related expense.

REASONS FOR RECOMMENDATION

To avoid a potentially protracted and costly arbitration process as the result of the grievance brought against the Department of Health by unions representing nurses in the Division of Correctional Health, the Department of Labor Relations has negotiated a proposal to hire two additional nursing staff to eliminate the need for regular assignment of agency nurses.

BACKGROUND INFORMATION

A grievance has been filed by the Civil Service Employees Association that represents nursing staff at the Erie County Correctional Facility. This grievance notes that agency nurses on contract with the County are routinely used to do the same work as union nurses. The use of these agency nurses has long been common practice in Correctional Health, for coverage issues when regular County Correctional Health employees are not available for needed coverage. The use of agency nurses has been helpful in filling vacant shifts and meeting the goals of Erie County's stipulated settlement with the United States Department of Justice.

After reviewing the grievances with the Department of Labor Relations and the Commissioner of Personnel, it was determined that the best course of action is to minimize the use of agency nurses for use during longer term absences of Correctional Health employees, when bargaining unit employees are not available to overtime to fill the needed shifts, and bring on additional union staff to fill the shifts that had been filled via contract nursing. This will ensure the county

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does not become responsible for paying damages, or back pay that could potentially result from these three grievances going to arbitration.

CONSEQUENCES OF NEGATIVE ACTION

Erie County could be a) subject to costly arbitration as the result of pending grievances over the use of agency nursing equal to the cost of an overtime shift plus union dues for every shift worked by a fee-for-service nurse since February 2014; and b) would be forced to cease utilizing agency nursing staff without any sufficient positions to fill now unmanned shifts.

STEPS FOLLOWING APPROVAL

The Health Department will work with the Division of Budget and Management, Department of Personnel, and the Department of Labor Relations to implement this request and take the appropriate steps necessary to recruit and hire qualified candidates.

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A RESOLUTION SUBMITTED BY HEALTH DEPARTMENT

RE: Personnel Adjustments – Erie County Correctional Health Services

WHEREAS, the Erie County Department of Health provides medical oversight and medical staffing to provide health care at the Erie County Correctional Facility and Erie County Holding Center under an Interdepartmental Agreement with the Erie County Sheriff; and

WHEREAS, adequate staffing for the Division of Correctional Health per standards set by the United States Department of Justice and the New York State Commission of Correction has previously relied upon a mixture of union nursing staff and contract agency nursing; and

WHEREAS, to resolve a grievance filed by Civil Service Employees Association representing nurses in the Division of Correctional Health and to avoid a prolonged and costly arbitration process that would likely be against the County, it is recommended to create new nursing positions and minimize the use of contract agency nurses; and

WHEREAS, to provide necessary nursing coverage without the use of agency nursing staff requires two additional nursing positions including two Licensed Practical Nurses; and

WHEREAS, funding for the implementation of this restructuring is available within the Division of Correctional Health's 2014 Budget.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the creation of two full time positions of Correctional Facility Medical Aide, JG 12, in the CSEA bargaining unit as noted in B-100# 7920; and be it further

RESOLVED, that the following budgetary adjustments to the 2014 Budget of the Division of Correctional Health are hereby authorized:

Fund 110 - 2014 Budget	
12760 - Correctional Health	
Expense Accounts	Increase/ (Decrease)
500000 Full Time Salaries	24,110
502000 Fringe Benefits	<u>12,550</u>
516050 Dept Payments to ECMC	(36,660)
Total	0

and be it further

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RESOLVED, that certified copies of this resolution will be forwarded to the County Executive, the Office of the Comptroller, the Department of Personnel, the Deputy Director of Labor Relations, the Division of Budget and Management, the Department of Law and to Commissioner Gale R. Burstein in the Erie County Department of Health.