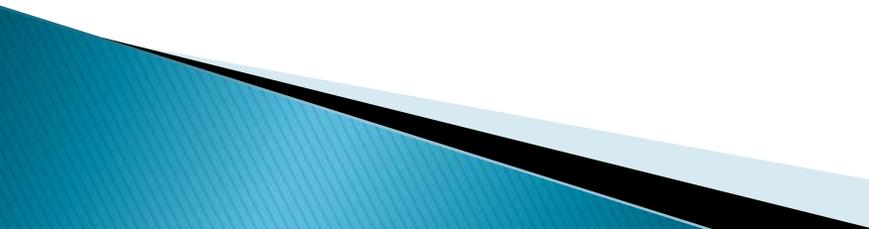


# Words Have Meaning

- ▶ PCS – Permanent Civil Service
  - ▶ PEX – Permanent Exempt
  - ▶ TEX – Temporary Exempt
- 

# *Skelly v. State Personnel Board* (1975)

Ruled that permanent Civil Service employees have a property interest in their employment which is protected by the due process (14<sup>th</sup> Amendment of U.S. Constitution), and cannot be terminated without due process of law.



# SF Charter Section 10.104:

- ▶ All employees of the City and County shall be appointed through competitive examination (PCS) unless exempted by this Charter (PEX & TEX). The following positions shall be exempt from competitive civil service selection, appointment and removal procedures, and the person serving in the position shall serve at the pleasure of the appointing authority...
- ▶ (Note: I added the parentheticals above. They don't appear in the Charter)

# SEIU MOU sections 609 and 611

- ▶ 609. An employee may not be disciplined or discharged without just cause and without written notice of the intended action. The City agrees to follow the principles of progressive discipline.

...

- ▶ 611. Employees covered by this agreement with temporary status shall be subject to termination or dismissal for just cause only, and the rights described in these sections of the Agreement, including the right to expedited or regular arbitration, in the appropriate case, upon their completion of six (6) months of service.

# The Big Takeaway...

- ▶ Despite what the MOU says, PEX and TEX employees do NOT have just cause rights.

# Stipulation

- ▶ The parties agree that all issues...are settled and resolved with the exception of the following issue: Whether the Mediation/Arbitration Board...had authority to make an award affecting the at-will status of employees designated as exempt employees pursuant to the Charter...The parties have agreed that this issue and the parties respective positions shall be preserved until finally resolved on the merits by a court of competent jurisdiction. Further, the parties have agreed that the continuation of such language in their subsequent agreement shall be without prejudice to their respective legal positions as to the validity or appropriate interpretation of such language.

# Words Have Meaning

What do these words mean...?

- ▶ The parties agree that all issues...are settled and resolved with the exception of the following issue:  
Whether the Mediation/Arbitration Board...had authority to make an award affecting the at-will status of employees designated as exempt employees pursuant to the Charter...

# Words Have Meaning

What do these words mean...?

- ▶ The parties have agreed that this issue and the parties' respective positions shall be preserved until finally resolved on the merits by a court of competent jurisdiction.

# Words Have Meaning

Now, what do these words mean...?

- ▶ Further, the parties have agreed that the continuation of such language in their subsequent agreement shall be without prejudice to their respective legal positions as to the validity or appropriate interpretation of such language.

# Remember the Big Takeaway...

Despite what the MOU says, PEX  
and TEX employees do NOT  
have just cause rights.

