

EMPLOYEE RELATIONS POLICY

ARTICLE I - GENERAL PROVISIONS

Section 1. Purpose

The purpose of this resolution is to provide orderly procedures for the administration of employer-employee relations between the County and its employee organizations. Nothing in this policy shall be deemed to supersede the ordinance and rules which establish and regulate the civil service system.

This resolution is intended to provide procedures for meeting and conferring in good faith with recognized employee organizations regarding matters that directly affect and primarily involve the wages, hours, and other terms and conditions of employment of employees in appropriate units and that are not preempted by Federal or State law. Nothing herein shall be construed to restrict any legal or inherent exclusive County rights with respect to matters of general legislative or managerial policy.

Section 2. Definitions

Any term not defined herein which is defined by the Meyers-Milias-Brown Act shall have the meaning set forth herein.

- a. "Active status" means the time period during which a payroll time record is produced for an employee.
- b. "Administrative Management Employee" means an employee customarily having responsibility for formulating, administering or managing the implementation of County policies and programs.
- c. "Appropriate Unit" means a unit of employee classes or positions established pursuant to Article II hereof.
- d. "Confidential Employee" means an employee who, routinely, in the course of his or her duties, has advance knowledge of decisions relating to the County's employer-employee relations or advance knowledge of information developed for the purpose of making decisions relating to the County's administration of employer-employee relations.
- e. "Consult/Consultation in Good Faith" means to communicate orally or in writing for the purpose of presenting and obtaining views; and, as distinguished from meeting and conferring in good faith, is not subject to Article IV hereof.
- f. "County" means the County of Sonoma, the Sonoma County Water Agency and other special districts governed by the Board of Supervisors.
- g. "Day" means calendar day unless expressly stated otherwise.
- h. "Employee Relations Officer" means the Director of Personnel and Employee Relations or duly authorized representative.
- i. "Impasse" means that the representative of the County and a recognized employee organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

- j. "Mediation" means the efforts of a neutral third person, or persons, as provided in this Policy, who function as intermediaries to assist the parties in reaching a voluntary resolution to an impasse.
- k. "Meet and confer in Good Faith" means that the representatives of the County and of a recognized employee organization have the mutual obligation to personally meet and communicate privately, either orally or in writing, promptly upon request by either party and continue for a reasonable period of time, including the time necessary for utilization of the interest dispute impasse procedure in Article IV, in order to exchange timely information opinions and proposals and to endeavor to reach agreement on matters within the scope of representation, and to execute a written Memorandum of Understanding, for presentation to the Board of Supervisors, if requested by either party, incorporating any and all such understandings so agreed upon, provided that such obligation does not compel either party to agree to a proposal or to make a concession. The Memorandum of Understanding shall not be binding unless and until it is adopted by the Board of Supervisors.
- l. "Professional employee" means an employee engaged in work:
 - 1. predominately intellectual and varied in character as opposed to routing mental, manual, mechanical, or physical work;
 - 2. involving the consistent exercise of discretion and judgment in its performance.
 - 3. of such a character that the output produced or the result accomplished can not be standardized in relation to a given period of time; and
 - 4. requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical process; or
 - 5. an employee who has completed the courses of specialized intellectual instruction and study described in (4), above, and is performing related work under the supervision of a professional person to qualify to become a professional employee as defined in (1) through (4), above.
- m. "Recognized Employee Organization" means an employee organization which has been formally acknowledged by the County as the sole employee organization which represents the employees in an appropriate representation unit pursuant to Article II hereof.
- n. "Scope of representation" means all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.
- o. "Supervisory Employee" means any employee having authority, in the interest of the County, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or

to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

ARTICLE II - REPRESENTATION PROCEEDINGS

Section 3. Filing of Recognition Petition by Employee Organization

An employee organization that seeks to be formally acknowledged as the recognized employee organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

- a. Name and address of employee organization.
- b. Names and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- d. A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the County.
- e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the names and addresses of each such other organization.
- f. Certified copies of the employee organization's constitution and by-laws.
- g. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- h. A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin.
- i. The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- j. A petition signed by thirty per cent of the employees in unit claimed to be appropriate thereby designating the employee organization to represent them in their employment relations with the County. Such written proof shall be submitted for confirmation to Employee Relations Officer.
- k. A request that the Employee Relations Officer formally acknowledge to petitioner as the recognized employee organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith. The petition, including all accompanying documents, shall be accompanied by an affidavit by the duly authorized officer(s) of the employee organization executing it is true, correct and complete.

Section 4. County Response to Recognition Petition

Upon receipt of the Petition, the Employee Relations Officer shall determine whether:

- a. There has been compliance with the requirements of the Recognition Petition, and
- b. The proposed representation unit is an appropriate unit in accordance with Section 8 of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty days (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to meet and confer thereon with such petitioning employee organization if it has been previously recognized by the County or shall consult with such petitioning employee organization if it has not been previously recognized by the County, and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section 10 of this resolution.

Section 5. Open Period for Filing Challenging Petition

Within fifteen (15) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition in the same form and manner as set forth in Section 3 of this Article II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard.

Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Section 8 of this Article II. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 10 of this Article II.

Section 6. Election Procedure

The Employee Relations Officer shall arrange for a secret ballot election to be conducted by the California State Conciliation Service in accordance with its rules and procedures subject to the provisions of this resolution, or by another party engaged by the County and the concerned employee organization(s). All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article II shall be included on the ballot. The choice of "no organization" shall also be included on the ballot.

Employees entitled to vote in such election shall be those persons employed in regular allocated positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period

because of illness, vacation or authorized leaves of absence, and who are employed by the County in the same unit on the date of the election.

Temporary and intermittent extra-help employees who have actually worked during a minimum of 6 out of the previous 13 pay periods and have worked a minimum of 500 hours in the 12 months prior to the date the election commences and are in active status on the date of the election in a job classification in the designated appropriate unit shall also be entitled to vote in such election. A seasonal extra-help employee who has returned to County employment for at least the second season and has worked a minimum of 500 hours in a classification in the designated appropriate unit shall be entitled to vote in such an election if the employee is in active status on the date the election commences. Nothing in this resolution shall in any way be construed as conferring property rights on these employees. Extra-help employees as defined above shall only be entitled to vote in elections involving a unit that includes or seeks to include extra-help employees.

An employee organization shall be formally acknowledged as the recognized employee organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. If an election involving three or more choices, where none of them received a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under this resolution pursuant to any petition in a 12-month period affecting the same unit.

In the event that the State Conciliation Service is unable or unwilling to provide any of the services required of it under this Section, another impartial third party agreed to by the County and the concerned employee organization(s), shall perform said services.

Costs of conducting elections shall be borne in equal shares by the County and each employee organization appearing on the ballot.

In the event the petitioning organization has a majority of the employees in an appropriate unit currently on dues deduction and no valid challenging petition has been filed, the County shall formally acknowledge the employee organization as the recognized employee organization.

In the event that no agreement is reached among affected employee organizations for the conduct of secret ballot elections, the Employee Relations Officer shall, upon approval by the Board of Supervisors, provide for the conduct of secret ballot elections without a signed agreement by the County Elections Department. The costs of said elections shall be borne by the County. (Added May 4, 1976, B/S Resolution #53538.)

Section 7. Procedure for De-certification of Recognized Employee Organization

A De-certification Petition alleging that the incumbent recognized employee organization no longer represents a majority of the employees in the established appropriate unit may be filed with the Employee Relations Officer only during the month of December of any year following the commencement of the first full year of recognition, except that, if a Memorandum of Understanding is in effect, said petition is to be filed during the thirty (30) day period commencing two hundred and seventy (270) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years.

The De-certification Petition shall include an allegation that the incumbent recognized employee organization no longer represents a majority of the employees in a given appropriate unit and shall contain the signatures of a minimum of 30% of the employees in the recognized bargaining unit.

The Employee Relations Officer shall initially determine whether the De-certification Petition and accompanying Recognition Petition if any, have been filed in compliance with the applicable provisions of this Article II. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization, and, if such determination thereafter remains unchanged, shall return such Petition(s) to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 10 of this Article II. If the determination of the Employee Relations Officer is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such De-certification Petition and any accompanying Recognition Petition to unit employees and the affected employee organization.

The Employees Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of de-certification, and, if an accompanying Recognition Petition was duly filed, and, in the event de-certification of the incumbent recognized employee organization is voted, the question of representation. Such election shall be conducted in conformance with Section 6 of this Article II.

Section 8. Policy and Standards for Determination of Appropriate Units

The basic policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the County and its compatibility with the primary responsibility of the County and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. In determining the broadest feasible grouping of positions that share an identifiable community of interest, consideration shall be given to similarity of the general kinds of work performed, types of qualifications required, and the general working conditions; history of representation in the County and

similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized; consistency with the organizational patterns of the County; number of employees and job classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units; and the effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.

Notwithstanding the foregoing provisions of this section, Management, Confidential and Supervisory employees may only belong to a unit composed solely of other Management, Confidential or Supervisory employee, respectively. Management and Confidential employees may not represent any employee organization which represents other employees except as representatives for their own respective bargaining units. Professional employees shall not be denied the right to be represented in a separate unit from non-professional employees.

The Employee Relations Officer shall, after notice to and meeting and conferring with affected employee organizations, allocate new job classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of the Section.

Section 9. Procedure for Modification of Established Appropriate Units

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Section 7 of this Article II. The relevant period is that which pertains to the bargaining unit from which the positions or job classifications are requested to be removed. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the requirements set forth in Section 3 of this Article, shall continue a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 8 hereof. Signatures of 30% of the employees in classifications that the employee organization is seeking to modify shall be submitted with the petition. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article II.

The Employee Relations Officer may, on his/her own motion, propose during the period specified in Section 7 of this Article, that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall meet and confer over the proposed modification(s), with all affected employee organizations. Therefore the employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 8 of this Article II, and shall give written notice and reasons for such determination to the affected employee organizations. Disputes over the Employee Relations Officer=s determination shall be resolved through the impasse procedure specified in Article IV of this Article. If the employees are moved, pursuant to the motion of the Employee Relations Officer, from one bargaining unit to another bargaining unit represented by the

same recognized employee organization, neither a recognition petition nor an election is required.

If employees are designated as Confidential or Administrative Management pursuant to a motion of the Employee Relations Officer, neither a recognition petition nor an election is required.

If a unit is modified, pursuant to the motion of the Employee Relations Officer, by placing hitherto unrepresented positions or job classifications into a bargaining unit represented by a recognized employee organization, a petition signed by 30% of the employees in those hitherto unrepresented positions or job classifications may be filed within 30 days of notification of the change requesting a referendum on the bargaining unit change. An election will thereafter be held in accordance with the procedures outlined in Section 6 with only two choices on the ballot: "remain unrepresented" or "be placed into the designated unit". The outcome of the election shall be determined in the same manner as election conducted under Section 6 for recognition petitions.

If a unit is modified pursuant to the motion of the Employee Relations Officer such that a new unit is created or that an existing unit is substantially modified so that it represents a different community of interest, employee organizations may thereafter file Recognition Petitions seeking to become the recognized employee organization for such new appropriate unit or units pursuant to Section 3.

Section 10. Appeals

If the meet and confer process over the appropriate unit determination reaches impasse as defined in this resolution, the impasse procedures of Article IV of this resolution shall be utilized to resolve the dispute.

An employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Section 3); Challenging Petition (Section 5); or De-certification Petition (Section 7) - or employees aggrieved by a determination of the Employee Relations Officer that a De-certification Petition (Section 7) - has not been filed in compliance with the procedural requirements of the Article, may, within fifteen (15) days of notice of such determination, appeal his/her determination to the Board of Supervisors for final decision.

Appeals to the Board of Supervisors shall be filed in writing with the Assistant Clerk of the Board of Supervisors, and a copy thereof served on the Employee Relations Officer. The Board of Supervisors shall commence to consider the matter within thirty (30) days of the filing of the appeal and its decision shall be final and binding.

ARTICLE III - ADMINISTRATION

Section 11. Submission of current information by Recognized Employee Organizations

All changes in the information filed with the County by a recognized employee organization under a. through h. of its Recognition Petition under Section 3 of this resolution shall be submitted in writing to the Employee Relations Officer within thirty (30) days of such change.

Section 12. Payroll Deductions on Behalf of Employee Organizations

Upon formal acknowledgment by the County of a recognized employee organization under this resolution, only such recognized employee organization shall be provided payroll deductions of membership dues and insurance premiums for plans sponsored by such organization upon the written authorization of employees in the unit represented by recognized employee organization on forms approved therefore by the County. The providing of such service to the recognized employee organization by the County shall be contingent upon and in accordance with applicable administrative procedures.

An employee organization which qualifies as recognized employee organization after the effective date of this resolution shall retain for those members who were on dues deduction as of January 1, 1976, the dues deduction privilege.

Section 13. Employee Organization Activities C Use of County Resources

Access to County work locations and the use of County paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures, shall be limited to activities pertaining directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of County operations.

Section 14. Administrative Rules and Procedures

The Director of Personnel and Employee Relations is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this resolution after meeting and conferring with affected employee organizations.

ARTICLE IV - IMPASSE PROCEDURES

Section 15. Initiation of Impasse Procedures

If the meet and confer process has reached impasse as defined in this resolution, either party may initiate the impasse meeting, together with a statement of its position on all disputed issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such impasse meeting shall be:

- a. To identify and specify in writing the issue or issues that remain in dispute;
- b. To review the position of the parties in a final effort to resolve such disputed issue or issues; and
- c. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

Section 16. Impasse Procedures

- a. If the parties so agree, the dispute shall be submitted directly to the Board of Supervisors for determination.
- b. If they do not so agree within a reasonable period of time, the dispute shall be submitted to mediation. All mediation proceeds shall be private.
- c. If the parties failed to agree to submit the dispute directly to the Board of Supervisors, and failed to resolve the dispute through mediation within fifteen (15) days after the mediator commenced meeting with the parties, the parties may agree to submit the impasse to fact find. If the parties fail to agree on fact-finding, the impasse shall be submitted to the Board of Supervisors for such action as in its legislative discretion deems appropriate as in the public interest.
- d. If the parties agree to fact-finding, they may agree on the appointment of one or more fact-finders, a fact-finding panel of three (3) shall be appointed in the following manner: One member of the panel shall be appointed by the Employee Relations Officer, one member shall be appointed by the recognized employee organization, and those two shall name a third, who shall be the chairman. If they are unable to agree upon a third, they shall select the third member from a list of nine (9) names to be provided by the State Conciliation Service, the one to serve to be determined by the alternate striking of names, with the party who is to strike the first name to be determined by change method. The following statute the jurisdictional and procedural requirements for fact-finding:
 1. Subject to the stipulations of the parties, the fact-finders shall determine and apply all the following measures and criteria in arriving at their findings and recommendations:
 - a). The fact-finders shall compare the total compensation and hours of the employees involved in the fact-finding proceeding with the total compensation and hours of other employees performing similar services in public and private employment in the same and comparable communities. The fact-finders shall make similar comparisons with respect to conditions of employment other than forms of compensation and hours. "Total compensation" shall mean all wage compensation, including but not limited to premium, incentive, minimum, standby, out-of-class and deferred pay; all paid leave time; all allowances, including but not limited to educational and uniform benefits; medical and hospitalization benefits; and insurance, pension and welfare benefits.
 - b). The fact-finders shall then adjust the results of the above comparisons based on the following factors:
 - (i) Equitable employment benefit relationships between job classifications and positions within the County.
 - (ii) The pattern of change that has occurred in the total compensation of the employees in the unit at impasse as compared to the pattern of change in the average consumer price index for goods and services, commonly known as the cost-of-living index.
 - (iii) The benefits of job stability and continuity of employment.
 - (iv) The difficulty, or lack thereof, of recruiting and retaining qualified personnel.

- c). The fact-finder(s) shall then determine recommendations based on the comparisons as adjusted above subject to the financial resources of the County to implement them, taking into account:
 - (i) Other legislatively determined and projected demands on agency resources, and
 - (ii) Assurance of sufficient and sound budgetary reserves, and
 - (iii) Statutory limitations on tax and other revenues and expenditures.
- d). The fact-finder(s) shall make written findings of fact and recommendations for the resolution of the issues in dispute, which shall be presented in terms of the criteria, adjustments, and limitations specified above. Any member of a fact-finding panel shall be accorded the right to file dissenting written finding of fact and recommendations. The fact-finder or chairman of the fact-finding panel shall serve such findings and recommendations on the Employee Relations Officer and the designated representative of the recognized employee organization. If these parties have not resolved the impasse within ten (10) days after service of the findings and recommendations upon them, the fact-finder or the chairman of the fact-finding panel shall make them public by submitting them to the Assistant Clerk of the Board of Supervisors for consideration by the Board of Supervisors in connection with the Board' s legislative consideration of the issues at impasse.
- e). If the impasse has not been resolved, through fact finding, the impasse shall be submitted to the Board of Supervisors who shall take such action regarding the impasse as it in its discretion deems appropriate as in the public interest. Any legislative action by the Board of Supervisors on the impasse shall be final and binding.

Section 17. Costs of Impasse Procedures

The costs for the services of a mediator and fact-finder or chairman of a fact-finding panel utilized by the parties, and other mutually incurred costs of mediation and fact-finding, shall be borne equally by the County and the recognized employee organizations. The cost for a fact-finding panel member selected by each party, and other separately incurred costs shall be borne by each party.

ARTICLE V - MISCELLANEOUS PROVISIONS

Section 18. Construction

This resolution shall be administered and construed as follows:

- a. Nothing in this resolution shall be construed to deny to any person, employee, organization, the County, or any authorized officer, body or other representative of the County, the rights, powers and authority granted by Federal or State Law.
- b. This resolution shall be interpreted so as to carry out its purposes as set forth in Article I.

Section 19. Employee Rights

- a. Subject to the procedures provided for in this resolution, employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations.
- b. Employees shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employee relations with the County.
- c. The County and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against employees because of the exercise of their rights under this resolution.

Section 20. County Rights

- a. It is the exclusive right of the County to make all decisions of a managerial or administrative character including but not limited to:
 - (i) The nature and extent of services to be performed.
 - (ii) The methods, means and personnel by which the County's operations are to be conducted.
 - (iii) Such other decisions as may be necessary to organize and operate the County in the most efficient manner and in the best interest of all the citizens of the County.
- b. The exercise of the rights delineated in this Section does not preclude employees or recognized employee organizations from consulting or raising grievances about the adverse consequences that decisions on these matters may have on employees.

Section 21. Severability

If any provision of this resolution, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.