

COUNTY OF KINGS

EMPLOYER-EMPLOYEE RELATIONS POLICY

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Effective June 21, 2011

EMPLOYER-EMPLOYEE ORGANIZATION RELATIONS RESOLUTION

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF KINGS:

ARTICLE I -- GENERAL PROVISIONS

Sec. 1. Statement of Purpose.

This Resolution implements Chapter 10, Division 4, of the Government Code of the State of California (Sections 3500 et seq.) captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the County and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of State Law, County ordinances, resolutions and rules which establish and regulate the merit system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen merit, and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the County.

It is the purpose of this Resolution 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. However, nothing herein shall be construed to restrict any legal or inherent exclusive County rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; determine the content of job classifications; subcontract work; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Sec. 2. Definitions.

As used in this Resolution, the following terms shall have the meanings indicated:

- a. "Appropriate Unit" means a unit of employee classes or positions, established pursuant to Article II hereof.
- b. "County" means the County of Kings, and, where appropriate herein, refers to the County Board of Supervisors or any duly authorized County representative as herein defined.
- c. "Confidential Employee" means an employee, who, in the course of his or her duties, has access to information relating to the County's administration of employer-employee relations.
- d. "Consult/Consultation in Good Faith" means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of proposed actions in a good faith effort to reach consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposals in an endeavor to reach agreement, nor is it subject to Article IV hereof.

- e. "Day" means calendar day unless expressly stated otherwise.
- f. "Employee Relations Officer" means the Human Resources Director or his/her duly authorized representative.
- g. "Impasse" means that the representatives 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.
- h. "Management Employee" means an employee having responsibility for formulating, administering or managing the implementation of County policies or programs. These employees have authority, in the interest of the County, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, 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.
- i. "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date of petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. The only authorization which shall be considered proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition.
- j. "The Recognized Employee Organization" means an employee organization which has been formally acknowledged by the County as the employee organization that represents the employees in an appropriate representation unit pursuant to Article II hereof, having the exclusive right to meet and confer in good faith concerning statutorily required subjects of bargaining pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

Terms not defined herein shall have the meanings set forth in the Meyers-Milias-Brown Act (MMBA).

ARTICLE II -- REPRESENTATION PROCEEDINGS

Sec. 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 the 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 matter, with a local, regional, state, national or international organization, and, if so, the name and address 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, religion, creed, sex or national origin, age, sexual orientation, mental or physical disability or medical condition.
- i. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- j. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that thirty (30) percent of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the County. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.
- k. A request that the Employee Relations Officer formally acknowledge the 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 the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

Sec. 4. County Response to Recognition Petition.

Upon receipt of the petition, the Employee Relations Officer shall within fifteen (15) days 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 Sec. 9 of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform the petitioning employee organization, and shall request the California State Mediation and Conciliation Service, or other agreed upon neutral third party, to give written notice of such request for recognition to the employees in the unit. The Employee Relations Officer shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization, 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 Sec. 12 of this Resolution.

Sec. 5. Open Period for Filing Challenging Petition.

Within thirty (30) 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 evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Sec. 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 Sec. 9 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 Sec. 12 of this Article II.

Sec. 6. Granting Recognition Without An Election

If the petition is in order, and the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Employee Relations Officer shall request the California State Mediation and Conciliation Service, or other agreed upon neutral third party, to review the count, form accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the Employee Relations Officer shall formally acknowledge the petitioning employee organization as the Recognized Employee Organization for the designated unit. If the neutral authority does not make an affirmative determination, the matter proceeds to election pursuant to Section 7.

Sec. 7. Election Procedure.

Upon determination of an appropriate unit the Employee Relations Officer shall within thirty (30) days, arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of this Resolution. 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 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 other authorized leaves of absence, and who are employed by the County in the same unit on the date of the election.

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. In an election involving three or more choices, where none of the choices receives 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 not 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 parties are unable to agree on a third party to conduct an election, the election shall be conducted by the State Mediation and Conciliation Service.

Sec. 8. Procedure for Decertification of Recognized Employee Organization.

A Decertification Petition alleging that the incumbent Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of July of any year following the first full year of recognition or during the thirty (30) day period commencing beginning one hundred eighty (180) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years. A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete.

- a. The name, address, and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- b. The name of the established appropriate unit and of the incumbent Recognized Employee Organization sought to be decertified as the representative of that unit.
- c. An allegation that the incumbent Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- d. Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this section.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this section in the form of a Recognition Petition that evidences proof of employee support of at least thirty (30) percent, that alleges the allegations and information required under Section 8, and otherwise conforms to the requirements of Section 3 of this Article.

The Employee Relations Officer shall initially determine whether the Petition has 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 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 Sec. 10 of this Article II. If the determination of the Employee Relations Officer is in the affirmative, or if the negative determination is reversed on appeal, he/she shall in either event give written notice within fifteen (15) days of such Decertification or Recognition Petition to the incumbent Recognized Employee Organization and to unit employees.

The Employee 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 decertification, and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Sec. 7 of this Article II.

Sec. 9. Policy and Standards for Determination of Appropriate Units.

The 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. Factors to be considered shall be:

- a) Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- b) 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.
- c) Consistency with the organizational patterns of the County.
- d) Number of employees and classifications, and the effect on the administration of employer employee relations created by the fragmentation of classifications and proliferation of units.
- e) 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, managerial and confidential employees work are determining factors in establishing appropriate units hereunder, and therefore managerial, and confidential employees may only be included in a unit consisting solely of managerial or confidential employees respectively. Managerial and confidential employees may not participate in representation of other employee organizations.

Under MMBA, professional employees have the right to be represented separately from non-professional employees.

Peace Officers have the right, to be represented in separate units composed solely of such peace officers.

The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new 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 this Section. Disputed allocations may be appealed in accordance with Section 12-Appeals.

Sec. 10. 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 Sec. 8 of this Article II. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the requirements set forth in Sec. 3 of this Article, shall contain 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 Sec. 8 hereof. 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 Sec. 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 hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Sec. 9 of this Article II, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 12 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Recognized Employee Organization for such new appropriate unit or units pursuant to Sec. 3 hereof.

Sec. 11. Procedure for Processing Severance Requests

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already part of a larger established unit represented by another recognized employee organization. The timing, form, and processing of such request shall be as specified in Sec. 10 for modification requests.

Sec. 12. Appeals.

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer under this Article II may, within ten (10) days of notice of the Employee Relations Officer's final decision, may request mediation to the California State Mediation and Conciliation Service pursuant to Government Code Sections 3507.1 and 3507.3, or may, in lieu thereof or thereafter, appeal such determination to the County Board of Supervisors for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of proceedings pursuant to Government Code Sections 3507.1 or 3507.3, whichever is later.

An employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Sec. 3); Challenging Petition (Sec. 5); Decertification or Recognition Petition (Sec. 8); Unit Modification Petition (Sec. 10) – or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition (Sec. 8) or Severance Request (Sec. 11) – has not been filed in compliance with the applicable provisions of this Article, may, within fifteen (15) days of notice of such determination, appeal the determination to the County Board of Supervisors for final decision.

Appeals to the Board of Supervisors shall be filed in writing with the Clerk of the Board, 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. The Board of Supervisors may, in its discretion, refer the dispute to a non-binding third party hearing process. Any decision of the Board of Supervisors on the use of such procedure, and/or any decision of the Board of Supervisors determining the substance of the dispute shall be final and binding.

ARTICLE III – ADMINISTRATION

Sec. 13. Submission of Current Information by Recognized Employee Organizations.

All changes in the information filed with the County by a Recognized Employee Organization under items (a) through (h) of its Recognition Petition under Sec. 3 of this Resolution shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

Sec. 14. Payroll Deductions on Behalf of Employee Organizations.

Upon formal acknowledgement by the County of a Recognized Employee Organization under this Resolution, only such Recognized Employee Organization may 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.

Sec. 15. Employee Organization Activities – 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, and shall be limited to lawful activities consistent with the provisions of this Resolution that pertain 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.

Sec. 16. Administrative Rules and Procedures.

The Employee Relations Officer is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Resolution after consultation with affected employee organizations.

ARTICLE IV – IMPASSE PROCEDURES

Sec. 17. Initiation of Impasse Procedures.

If the meet and confer process has reached impasse as defined in this Resolution, either party may initiate the impasse procedures by filing with the other party a written request for an 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, request initiation of impasse procedures by written notice of either party to the Board of Supervisors.

Sec. 18 Impasse Procedures.

The Board of Supervisors shall intervene in an impasse only after it has first determined that the parties have exhausted the possibilities of settlement by direct negotiation. This determination may be made on the basis of a review of the current position of the parties, hearings, or such other procedures as may be deemed appropriate as in the public interest.

When there has been a finding of the existence of an impasse the Board may select mediation or directly resolve the impasse as provided below:

- a. **Mediation.** If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.

If the parties failed to agree to submit the dispute to mediation or failed to agree on the selection of a mediator, or failed to resolve the dispute through mediation within fifteen (15) days after the mediator commenced meeting with the parties, the Board of Supervisors may discharge the mediator and directly resolve the impasse.

- b. **Board Resolution of Impasse.** If the impasse is not submitted to mediation or if so submitted, has not been resolved through such mediation, the Board of Supervisors 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.

Sec. 19. Costs of Impasse Procedures.

The costs for the services of a mediator utilized by the parties, and other mutually incurred costs of mediation shall be borne equally by the County and the Recognized Employee Organization(s).

ARTICLE V -- MISCELLANEOUS PROVISIONS

Sec. 20. Construction.

The 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 (or County charter provisions).
- b. This Resolution shall be interpreted so as to carry out its purposes as set forth in Article I.

c. Nothing in this Resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to County employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sick-out or other total or partial stoppage or slowdown of work. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination and may be replaced, to the extent such actions are not prohibited by preemptive law.

Sec. 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.