

MARIPOSA COUNTY
EMPLOYER-EMPLOYEE RELATIONS POLICY OUTLINE

SECTION 1	Purpose
SECTION 2	Definitions
SECTION 3	County Rights
SECTION 4	Employee Rights
SECTION 5	Unfair Employment Relations Practices
SECTION 6	Employee Organization - Registration
SECTION 7	Employee Organization - Recognition
SECTION 8	Registration Employee Organization Rights
SECTION 9	Recognition Employee Organization Rights
SECTION 10	Representation Proceedings
SECTION 11	Impasse Procedure
SECTION 12	Construction
SECTION 13	Separability

MARIPOSA COUNTY
EMPLOYER-EMPLOYEE RELATIONS POLICY

SECTION 1. PURPOSE

This Resolution implements Chapter 10, Division 4, Title 1 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 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 personnel system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen methods of administering employer-employee relations.

It is the specific purpose of this Resolution:

1.1 To establish an orderly system for conducting employer-employee relations within the County.

1.2 To establish a system to facilitate communication between management and employees and to provide for the exchange of information and ideas.

1.3 To clarify in writing the rights and obligations of employee, employee organizations, and County management in the conduct of employer-employee relations activities.

1.4 To provide a system whereby employees may make a free and unencumbered choice as to what method of representation rights and privileges they so desire to govern their working relationship with their employer.

1.5 To provide procedures for meeting and conferring in good faith with Recognized Employee Organizations, regarding matters that directly and significantly 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 (or the County Code).

SECTION 2. DEFINITIONS

As used in this Resolution, the following terms shall have the meaning as indicated.

2.1 "Board" - The Board of Supervisors of Mariposa County

2.2 "Confidential Employee" - means any employee who, in the regular course of his/her duties, has access to or possesses information related to his/her employer's employer-employee relations. Confidential positions shall be designated by the Board of Supervisors following a meet and consult process with employee organizations.

2.3 "County" means the County of Mariposa and, where appropriate, refers to the Board of Supervisors or any duly authorized County Representative.

2.4 "Day" means calendar day unless expressly stated otherwise.

2.5 "Employee" means any person employed by the County, excepting those persons elected by popular vote, appointed to fill the unexpired term of an elected office, or appointed to office by the Governor of the State of California.

2.6 "Employee Organization" means an organization which includes employees of the County and which has as one of its prime purposes representing such employees in their relations with the County. Such employee organizations include those registered in accordance with Section 6 or recognized in accordance with Section 10.

2.7 "Employer-Employee Relations" means the relationship between the County and its employees and their exclusively recognized employee organization, or when used in a general sense, the relationship between County management and employees or employee organizations.

2.8 "Extra Help Employee" means any employee who is not a regular full-time employee and is paid on an hourly basis.

2.9 "Employee Relations Officer" means the County Director of Human Resources or his/her duly authorized representative.

2.10 "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.

2.11 "Management Employee" means an employee having responsibility for formulating, administering or managing the implementation of County policies and programs. Management employees are designated by the Board of Supervisors without a meet and confer or meet and consult process.

2.12 "Meet and Confer" means the process whereby representatives of the County and of recognized employee organizations in good faith exchange information, opinions and proposals in an attempt to reach timely agreement on wages, hours and other terms and conditions of employment, as contemplated by Government Code Section 3505.

2.13 "Meet and Consult" means to communicate orally or in writing for the purposes of presenting and obtaining views or advising of intended actions and does not involve the exchange of proposals and counter-proposals in an endeavor to reach agreement.

2.14 "Proof of Employee Support" means

(1) an authorization card recently signed and personally dated by an employee, provided that the card has not been subsequently revoked in writing by the employee;

(2) a verified authorization petition or petitions recently signed and personally dated by an employee; or

(3) employee dues deduction authorizations, using the payroll register for the period immediately prior to the date a 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 as 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 such proof of support.

2.15 "Recognized Employee Organization" means a registered employee organization which has been formally acknowledged by the County as the sole employee organization representing the employees in an appropriate representation unit pursuant to Section 10 herein, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

2.16 "Registered Employee Organization" means an employee organization which has been acknowledged by the County as an employee organization that represents employees of the County.

2.17 "Regular Full-Time Employees" means all permanent and probationary salaried employees, excluding extra help employees.

2.18 "Representation Unit or Unit" means a unit appropriate for employee representation as established in accordance with Section 10.1.

2.19 "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 responsibly 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.

2.20 Terms not defined herein shall have the meanings as set forth in the Meyers-Milias Brown Act.

SECTION 3. COUNTY RIGHTS

In order to maintain the efficiency of County operations, the County of Mariposa, through its management representatives, shall retain the right, in accordance with applicable laws and regulations to manage and supervise its employees.

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:

3.1 The exclusive right to determine the mission of its constituent departments, commissions, and boards.

3.2 Set standards of service.

3.3 Determine the procedures and standards of selection for employment.

3.4 Direct its employees.

3.5 Take disciplinary action.

- 3.6 Relieve its employees from duty because of lack of work or for other lawful reasons.
- 3.7 Determine the content of job classifications.
- 3.8 Subcontract work.
- 3.9 Maintain the efficiency of governmental operations.
- 3.10 Determine the methods, means and personnel by which government operations are to be conducted.
- 3.11 Take all necessary actions to carry out its mission in emergencies; and
- 3.12 Exercise complete control and discretion over its organization and the technology of performing its work.

Nothing in this policy shall be construed to interfere with the County's right to manage its operations in the most economical and efficient manner consistent with the best interests of all the citizens, taxpayers, and employees of Mariposa County.

SECTION 4. EMPLOYEE RIGHTS

Except as otherwise provided by state and Federal law, employees of Mariposa County shall have the right to form, join and participate in activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. County employees also have the right to refuse to join or participate in the activities of employee organizations, and shall have the right to represent themselves.

SECTION 5. UNFAIR EMPLOYMENT RELATIONS PRACTICES

In their dealings with each other, management and employee organizations shall be prohibited from the following practices:

5.1 Management:

5.1.1 Interfering with, restraining or coercing any employee in the exercise of the rights assured by the Government Code or the Mariposa County Employer-Employee Relations Policy.

5.1.2 Encouraging or discouraging membership in any employee organization by discrimination in regard to hiring, tenure, promotions or other conditions of employment.

5.1.3 Dominating or interfering with the administration, policies and programs of an employee organization or its members' participation therein.

5.1.4 Disciplining or otherwise discriminating against any employee because he or she has filed a complaint or given testimony under the provisions of this Employer-Employee Relations Policy.

5.1.5 Unreasonably withholding recognition of an employee organization.

5.1.6 Refusing to hear, consult, or meet and confer in good faith with recognized employee organization as required by Government Code Section 3505.

5.2 Employee Organizations:

5.2.1 Interfering with, restraining, or coercing any employee in the exercise of rights assured by the Government Code, or the Mariposa County Employer-Employee Relations Policy.

5.2.2 Attempting to induce department heads to coerce any employee in the enjoyment of his/her rights under the Mariposa County Employer-Employee Relations Policy and/or the Government Code.

5.2.3 Coercing, attempting to coerce, or disciplining an employee which results in hindering or impeding the performance of his/her duties.

5.2.4 Discriminating against any employee with regard to the terms or conditions of membership because of race, color, religion, creed, sex, sexual orientation, gender identity or expression, marital status, age, disability, veteran status, national origin, or any other grounds protected by the state and federal law.

5.2.5 Disruptive activities which are detrimental to the conduct of the County's affairs.

5.2.6 Unauthorized use of County facilities.

5.2.7 No organization shall engage in organization activities or distribute pamphlets or brochures or similar literature the major purpose of which is organizational in nature on County time except as provided pursuant to Memorandum of Understanding or state or federal law.

5.2.8 Refusing to consult, or meet and confer in good faith with management representatives of Mariposa County as required by Government Code Section 3505.

5.2.9 All requests for information shall be directed to the Employee Relations Officer or his/her designee only, except requests dealing with department matters only and not dealing with County policy matters.

SECTION 6. EMPLOYEE ORGANIZATIONS: REGISTRATION

An employee organization that desires to become a registered employee organization shall file with the Employee Relations Officer written application for registration which shall include:

6.1 Name and mailing address of the organization, its local officer and/or representatives.

6.2 The names and mailing addresses of each area, state, national association, and other organizations with which it is directly affiliated.

6.3 Certified and complete copies of the Articles of Incorporation or Constitution, the By-Laws, and any other written rules or regulations governing the organization, along with all amendments thereto.

6.4 A designation of those persons, not exceeding two in number, and their addresses, to whom notices, sent by regular United States mail will be deemed sufficient notice to the organization for any purposes.

6.5 A statement that the organization has no restriction on membership based on race, religion, creed, national origin, age, sex, marital status, color, sexual orientation, gender identity or expression, disability, veteran status, national origin, or any other grounds protected by the state and federal law. All statements and accompanying documents shall be signed and certified by the President and Secretary of the organization.

SECTION 7. REGISTERED EMPLOYEE ORGANIZATIONS: RIGHTS

7.1 Representation:

Registered employee organizations may consult with the appropriate levels of County management on matters of concern to the organization and its members. The County is not, however, obligated to meet and confer in good faith or to enter into written agreement with registered employee organizations unless they are recognized pursuant to Section 10.

7.2 Copies To Be Made Available:

Each registered employee organization shall, upon request to the Employee Relations Officer, be provided with a copy of any negotiated agreement and of this Policy.

SECTION 8. EMPLOYEE ORGANIZATIONS: RECOGNITION

The Board shall grant exclusive recognition to employee organizations which have been certified pursuant to Section 10 of this Policy.

SECTION 9. RECOGNIZED EMPLOYEE ORGANIZATIONS: RIGHTS

In addition to the rights provided a registered employee organization, a recognized employee organization shall have the following rights:

9.1 The right to meet and confer in good faith with authorized management representatives of the County regarding wages, hours, and other terms and conditions of employment within the scope of representation as provided in Government Code Section 3505. If agreement is reached by the representatives of the County and a recognized employee organization, they shall prepare a written memorandum of such understanding, which shall not be binding, and present it to the Board of Supervisors for acceptance. If the Board of Supervisors adopts the written Memorandum of Understanding, it shall become binding on the parties. The County is under no obligation to meet and confer in good faith with any employee organization, unless it has been certified as a recognized employee organization.

9.2 The right to reasonable notice and appropriate information in advance of matters affecting its membership as set forth in Paragraph 9.1 above. However, in emergencies, pursuant to Government Code 3504.5, the Board of Supervisors may take action on a particular item without such advance notice provided that such notice shall be furnished as soon as practicable.

9.3

9.3.1 Formally meeting and conferring with County representatives on matters within the scope of representation.

9.3.2 Testifying or appearing as the designated representative of the employee organization in conferences, hearings, or other proceedings before the Board, or an agent thereof, in matters relating to a charge filed by the employee organization against the County or by the County against the employee organization.

9.3.3 Testifying or appearing as the designated representative of the employee organization in matters before a personnel or merit commission.

9.3.4 The employee organization being represented shall provide reasonable notification to the employer requesting a leave of absence without loss of compensation pursuant to subdivision (a).

9.3.5 For the purposes of this section, "designated representative" means an officer of the employee organization or a member serving in proxy of the employee organization.

9.4 The right to the reasonable use of existing bulletin board space and other means of communication. For bulletin boards, the employee organization may have reasonable use in each building or department at a location agreed upon by the organization and the department, under the following conditions:

9.4.1 Material shall be posted on space as designated.

9.4.2 Posted material shall bear the identity of the organization.

9.4.3 Posted material shall not be misleading, contain any deliberate misstatements or violate any Federal, State or County laws.

9.4.4 Material shall be neatly displayed and shall be removed when no longer timely.

9.5 The privilege of using County facilities for meeting purposes only provided that appropriate advance arrangements are made. A charge at the prevailing County rates may be made to offset the cost of such use.

9.6 The right to have an authorized representative contact members of his/her organization in County facilities and leave literature and material for distribution, provided he/she has first made arrangements with the department head, or his/her representative, to provide for a time which does not disrupt County business.

9.7 Employee organizations may adopt reasonable restrictions regarding who may join and make reasonable provisions for the dismissal of individuals from membership.

SECTION 10. REPRESENTATION PROCEEDINGS

10.1 Policy and Standard 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 and that fragmentation and/or proliferation of units shall be avoided. Factors to be considered shall be:

10.1.1 Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions;

10.1.2 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;

10.1.3 Consistency with the organizational patterns of the County;

10.1.4 Effect of differing legally mandated impasse resolution procedures;

10.1.5 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.

10.1.6 Effect on the classification structure and impact on the stability of the employer/employee relationship of dividing a single or related classification series among two or more units.

Notwithstanding the foregoing provisions of this section, managerial, supervisory and confidential responsibilities, as defined in Section 2 are determining factors in establishing appropriate units hereunder, and therefore such managerial, supervisory and confidential employees may only be included in units that do not include non-managerial, non-supervisory and non-confidential employees. Managerial, supervisory and confidential employees may not represent any employee organization which represents other employees on matters within the scope of representation.

The Employee Relations Officer shall, after written notice to and meeting and consulting with recognized 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.

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

10.1.8 Professional employees have the right to be represented separately from non-professional employees;

10.1.9 The decision of the Employee Relations Officer shall be final.

10.2 Filing of Recognition Petition by an Employee Organization:

An employee organization which seeks to be formally acknowledged as an exclusively 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, the responsibility of 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 name and address of each such other organization.
- f. **Certified** copies of the employee organization's constitution and bylaws.
- 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, 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 a majority 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 exclusively 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.

Any list of members of any organization, either in form of an application for recognition or on file with the County, is confidential and shall not be open to public inspection, except as required by law.

10.3 County Response to Recognition Petition:

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

10.3.1 There has been compliance with the requirements of Section 10.2, and

10.3.2 The proposed representation unit is an appropriate unit in accordance with Section 10.1.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform all employee organizations, shall give written notice of such request for recognition to the employees in the proposed unit and 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 therefor in writing. The petitioning employee organization may appeal such determination in accordance with this Resolution.

10.4 Open Period for Filing Intervening 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 petition to be formally acknowledged as the recognized employee organization of the employees in the same or in an overlapping unit exclusively (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 percent (30%), and otherwise in the same form and manner as set forth in Section 10.2. Only signatures of employees in the proposed unit shall count toward the thirty percent (30%) required hereunder. If such intervening petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions of 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 10.1. The petitioning employee organizations shall have fifteen (15) days from the date of 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 10.8.

10.5 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 another 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 Exclusive Recognized Employee Organization for the designated unit.

10.6 Election Procedures:

Where recognition is not granted pursuant to Section 10.5 above, the Employee Relations Officer shall arrange for a secret ballot election. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this section shall be included on the ballot. The ballot shall also reserve to employees the choice of selecting no employee organization to represent them in their employment relations with the County. Employees entitled to vote in such election shall be those persons employed as regular full-time employees within the designated appropriate unit as determined by the Employee Relations Officer, 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 exclusively on the date of the election. An employee organization shall be formally acknowledged as the recognized employee organization for the designated appropriate unit as determined by the Employee Relations Officer following an election or run-off election if it receives 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 runoff 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** (1) valid election under this Resolution pursuant to any petition in a twelve (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.

Costs of conducting elections shall be borne in equal share by the County and by each employee organization appearing on the ballot. By way of example if there are three (3) organizations on the ballot each organization and the County would each pay twenty-five percent (25%) of the costs incurred. Arrangements for the election, such as polling places and times, shall be made with mutual consent of all parties.

Any Petitioning employee organization may withdraw its petition upon five (5) days prior notice. In the event that any other employee organization has qualified for the ballot pursuant to Section 10.4, the intervener shall have the option to proceed with the election as if it were the petitioner. Withdrawal of a petition under this provision shall result in a six (6) month bar against the filing of a new petition by the withdrawing employee organization.

10.7 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 unit may be filed with the Employee Relations Officer only when a contract bar is not in place. The contract bar shall be in place for the first year after recognition is granted to an organization if there is no Memorandum of Understanding in effect, or if a Memorandum of Understanding is in effect, during the thirty (30) day period commencing ninety (90) days prior to the termination date of a Memorandum of Understanding then in effect, providing that such Memorandum of Understanding has a term of no more than three (3) years, including any extension thereof. If a Memorandum of Understanding, including any extension thereof, has a term of more than three (3) years, no bar shall be in place every three years during a window period as stated above commencing at the end of the first 3-year period of the term of the Memorandum of Understanding and followed by subsequent 3-year ending periods.

10.7.1 The name, address and telephone number of petitioner and a designated representative authorized to receive notices or requests for further information;

10.7.2 The name of the established appropriate unit and of the incumbent recognized employee organization sought to be decertified as the representation of that unit;

10.7.3 An allegation that the incumbent recognized employee organization no longer represents a majority of the employees in the appropriate unit exclusively, and any other relevant and material facts relating thereto; and

10.7.4 Proof of employee support that at least thirty percent (30%) 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 by 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 lieu of filing a Decertification Petition, file a Petition under this section in the form of a Recognition Petition that evidences proof of employee support of at least thirty percent (30%) and otherwise conforms to the requirements of Paragraph 1 of this section.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of Section 10. 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 therefor

in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 10.8. 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 Decertification or Recognition Petition to the incumbent recognized employee organization and to unit employees exclusively.

In the event that the Decertification Petition complies with the request set forth herein, 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 fully filed hereunder, the question of representation. Such election shall be conducted in conformance with Section

During the "open period" specified in Section 10.4, the Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent exclusively Recognized Employee Organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with this section, which the Employee Relations Officer shall act on in accordance with this section.

If pursuant to this Section 10.6 a different employee organization is formally acknowledged as the recognized employee organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

10.8 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 "open period" specified in the first paragraph in Section 10.4. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the "open period" requirements 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 Section 10.1. The Employee Relations Officer shall process such petitions as other Recognition Petitions in accordance with Section 10.

The Employee Relations Officer may propose during the "open period" that an established unit be modified. Such proposal shall be based on the determination that the established unit no longer adheres to the criteria set forth in Section 10.1. 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 Section 10.1 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 10.10.

10.9 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 a 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 Section 10.8 for modification requests.

10.10 Appeals:

An employee organization aggrieved by a unit determination may appeal such determination to the Board of Supervisors for final decision, within thirty (30) days of notice of the Employee Relations Officer's determination.

An employee or employee organization aggrieved by a determination of the Employee Relations Officer that any Petition has not been filed in compliance with the applicable provisions of this section may, within fifteen (15) days of notice of such determination, appeal the determination to the Board for final decision.

Appeals to the Board of Supervisors shall be filed with the Clerk of the Board, and a copy thereof served on the Employee Relations Officer. The Board shall commence to consider the matter within thirty (30) days of the filing of the appeal, within ten (10) days of notice of the Employee Relations Officer's final decision, request to submit the matter to mediation by the State Mediation and Conciliation Service, or may, in lieu thereof or thereafter. The Board may, in its discretion, refer the dispute to a third party hearing process. Any decision of the Board on the use of such procedure, and/or any decision of the Board determining the substance of the dispute shall be final and binding.

SECTION 11. IMPASSE PROCEDURES

11.1 Initiation of Impasse Procedures:

If the meet and confer process has reached impasse as defined in Section 2 of 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 issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

- a. To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and
- b. If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

11.2 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.

In the event that costs are incurred for mediation they shall be divided one-half to the County and one-half to the recognized employee organization or recognized employee organizations.

11.3 Fact Finding:

11.3.1 If the parties agree to, and do participate in mediation, and if mediator is unable to effect settlement of the controversy, the employee organization may present a request to the County and the Public Employment Relations Board (PERB) to submit the impasse to fact-finding. This request by the employee organization to submit the impasse to fact-finding must be made no sooner than 30 days, but no later than 45 days, following the selection of a mediator by the parties.

11.3.2 If the parties do not agree to participate in mediation, the employee organization may present a request to the County and PERB to submit the impasse to fact-finding no later than 30 days following the date that either party has provided the other a written notice of declaration of impasse.

11.3.3 Within five (5) working days after PERB's determination that the request for fact finding is sufficient, 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, and one member shall be appointed by the Exclusively Recognized Employee Organization. PERB shall, within five (5) working days after making its determination that the request for fact-finding is sufficient, submit the names of seven persons, drawn from the list of neutral fact-finders established pursuant to Government Code section 3541.3(d). PERB shall thereafter designate one of the seven persons to serve as the chairperson unless notified by the parties within five (5) working days that they have mutually agreed upon a person to chair the panel in lieu of a chairperson selected by PERB.

11.3.4. Jurisdictional and Procedural Requirements for fact-finding:

11.3.4.1 The panel shall, within ten (10) days after its appointment, meet with the parties or their representatives, either jointly or separately, and may make inquiries and investigations, hold hearings, and take any other steps it deems appropriate. The panel shall have subpoena power with regard to hearings, investigations and inquiries.

11.3.4.2 Subject to the stipulations of the parties, the fact-finders shall consider, weigh and be guided by the following measures and criteria in arriving at their findings and recommendations:

- a. State and federal laws that are applicable to the employer.
- b. Local rules, regulations, or ordinances.

- c. Stipulations of the parties.
- d. The interests and welfare of the public, and the financial ability of the public agency.
- e. Comparison of the wages, hours, and conditions of employment of the employees involved in the fact-finding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.
- f. The consumer price index for goods and services, commonly known as the cost of living.
- g. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- h. Any other facts not confined to those specified in paragraphs (a)-(g), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations, including, but not limited to:
 - (i.) Maintaining appropriate compensation relationships between classifications and positions within the County.
 - (ii.) Other legislatively determined and projected demands on agency resources (i.e., budgetary priorities as established by the governing body).
 - (iii.) Allowance for equitable compensation increases for other employees and employee groups for the corresponding fiscal period(s).
 - (iv.) Revenue projections not to exceed currently authorized tax and fee rates for the relevant fiscal year(s).
 - (v.) Assurance of sufficient and sound budgetary reserves, and;
 - (vi.) Constitutional, statutory, and County Code limitations on the level and use of revenues and expenditures.

11.3.5 Findings and Recommendations:

Within thirty (30) days after the appointment of the fact-finding panel, or, upon agreement by both parties within a longer period, the panel shall make written findings of fact and advisory recommendations for the resolution of the issues in dispute.

11.3.5.1 The findings and recommendations shall be limited to the issues originally referred to the fact-finding panel.

11.3.5.2 The fact-finder or chairperson of the fact-finding panel shall serve such findings and recommendations directly on the Employee Relations Officer and the designated representative of the Exclusively Recognized Employee Organization before they are made available to the public.

11.3.5.3 The panel's findings and recommendations shall remain confidential at this stage.

11.3.5.4 Any member of a fact-finding panel shall be accorded the right to file dissenting written findings of fact and recommendations.

11.3.6 The parties shall attempt to reach an agreement by negotiation on the basis of the fact-finder's report.

11.3.7 If these parties have not resolved the impasse within ten (10) days after service of the findings and recommendations upon them, the County shall make them public by submitting them to the Clerk of the Board for consideration by the Board in connection with its legislative consideration of the impasse.

11.3.8 If the parties have not reached an agreement within fifteen (15) days after receiving the fact-finder's report, they shall, within the next seven (7) days, submit in writing their positions on the unresolved issues to the Board.

The report of findings and recommendations will become public when submitted to the Board in connection with the Board's legislative consideration of the impasse.

11.3.8.1 The Employee Relations Officer shall submit a copy of the fact-finder's report to the Board along with his/her own recommendations.

11.3.9 After any applicable mediation and fact-finding procedures have been exhausted, but no earlier than ten (10) days after the fact finders' written findings of fact and recommended terms of settlement have been submitted to the parties, the Board may hold a public hearing regarding the impasse, and take such action regarding the impasse as it in its discretion deems appropriate as in the public interest, including implementation of the County's last, best and final offer.

The Board shall then make the final decision which is binding on all parties. Nothing in this paragraph shall preclude the use of binding fact-finding upon mutual agreement of both parties.

11.3.10 Nothing shall preclude the fact-finders from attempting to resolve the impasse by mediation at any stage of the proceedings prior to the issuance of the fact-finding report.

11.4 Impasse Proceedings Without Fact Finding:

In the event the exclusively Recognized Employee Organization does not invoke fact-finding, the matters subject to the impasse declaration will be submitted to the Board of Supervisors for a final decision on the impasse, as set forth in Section 11.3.9.

11.5 Cost:

The costs of mediation shall be divided equally between the parties.

The costs for the services of the panel chairperson agreed upon by the parties shall be equally divided between the parties, and shall include per diem fees, if any, and actual and necessary travel and subsistence expenses. The per diem fees shall not exceed the per diem fees stated on the chairperson's résumé on file with PERB. The chairperson's bill showing the amount payable by the parties shall accompany his or her final report to the parties and PERB. The parties shall make payment directly to the chairperson.

Any other mutually incurred costs shall be borne equally by the parties. Any separately incurred costs for the panel member selected by each party shall be borne by that party.

SECTION 12. CONSTRUCTION

This resolution shall be administered and construed as follows:

12.1 Nothing in this resolution shall be construed to deny to any person, employee, and 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.

12.2 This resolution shall be interpreted so as to carry out its purposes as set forth in Section 1.

12.3 Nothing in the resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to County employees.

SECTION 13. SEPARABILITY

It is understood and agreed that this resolution is subject to all current and future applicable Federal and State laws and regulations and the current provisions of the County of Mariposa. If any part or provision of this resolution is in conflict or inconsistent with such applicable provisions of those Federal, State or County enactments or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part of provision shall be suspended and superseded by such applicable law or regulations, and the remainder of this resolution shall not be affected thereby.

Created: 08/70 (B/S Res. 70-62)

Revised: 06/90 (B/S Res. 90-299); 07/15 (B/S Res. 15-365)