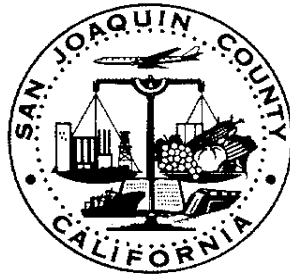


**SAN JOAQUIN COUNTY**  
**EMPLOYER-EMPLOYEE RELATIONS POLICY**



**Adopted by the  
BOARD OF SUPERVISORS  
January 11, 1977  
(Supersedes Policy adopted December 24, 1968)**

# SAN JOAQUIN COUNTY EMPLOYER-EMPLOYEE RELATIONS POLICY

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# SAN JOAQUIN COUNTY EMPLOYER-EMPLOYEE RELATIONS POLICY

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## SECTION 1. **PURPOSE**

The purposes of this Policy are to establish rules, regulations, and procedures for presentation, consideration, and resolution of employer-employee relation matters, to promote full communication between the County and its employees and to insure that County governmental functions and services are provided to the public in an orderly and uninterrupted manner for which the County and the employees assume equal responsibility. Additionally, the purposes of this Policy are to: 1) insure that County employer-employee relations practices are consistent with court cases interpreting the Meyers-Milias-Brown Act; 2) make the County policies consistent with amendments to the Meyers-Milias-Brown Act; and 3) reflect actual practice in the County. San Joaquin County recognizes that it has a responsibility to see that county employees and their representatives are fairly treated, fairly heard and responded to in a timely manner. The County and recognized employee organizations acknowledge that they have a responsibility to conduct their activities in a lawful, fair and orderly process consistent with this Policy.

This Policy is intended to supplement the Meyer-Milias-Brown Act as amended. Where the permissive or discretionary language of the Act conflicts with the language of this Policy, this Policy shall be applied. Nothing in this Policy is intended to deny any person or employee rights vested by Federal and State law nor to limit or modify the rights, powers and authority of the Board of Supervisors in all matters including maintenance of any legal action.

SECTION 2. **DEFINITIONS**

1. **BOARD:** Board of Supervisors of San Joaquin County.
2. **CERTIFICATION:** Official designation of an employee organization entitled to exclusive representation of employees in an appropriate representational unit.
3. **COMPLAINT:** Any dispute between the county and one or more employees or a recognized employee organization concerning the interpretation or application of ordinances, resolutions, policies, procedures or agreements, including memoranda of understanding, on matters within the scope of representation.
4. **CONFIDENTIAL EMPLOYEE:** Any employee(s) who, in the regular course of his/her duties, has access to or possesses information relating to his/her employer's employer-employee relations.
5. **CONSULT OR CONSULTATION:** Oral or written communication for the purpose of presenting and obtaining views on proposed actions.
6. **COUNTY:** The County of San Joaquin and its Board of Supervisors or its designees.
7. **COUNTY ADMINISTRATOR:** County Administrator of San Joaquin County or his/her designee.

8. DAY: Calendar day, unless otherwise expressly stated. (Any act required under this Policy to be performed by a particular time and the last day of which is a Saturday, Sunday or legal holiday, shall be performed by 5:00 p.m. on the next business day thereafter.)
9. DECERTIFICATION: Procedure for terminating a recognized employee organization as the officially designated organization entitled to exclusive representation of employees in an appropriate representational unit.
10. DEPARTMENT: An administrative unit of County government.
11. DEPARTMENT HEAD or APPOINTING AUTHORITY: The officer, board, commission, person or group of persons, whether appointed or elected, with lawfully delegated power to make an appointment of an individual to an allocated position in the service of San Joaquin County.
12. EMPLOYEE: Any person employed by the County, except those persons elected by popular vote or appointed to office by the Governor of this State.
13. EMPLOYEE ORGANIZATION: Any organization which includes, as members, employees of the County and which has as one of its primary purposes representing such employees in their employment relations with the County.

14. EMPLOYER-EMPLOYEE RELATIONS: The relationship between the County and its employees and their recognized employee organizations, or when used in a general sense, the relationship between management and employees or recognized employee organizations.
15. FACTFINDING: The investigation by one or more impartial persons to identify the major issues in a particular dispute, review the positions of the parties, make findings of fact, and, if mutually agreed to by the parties, make recommendations for the settlement of the issues in dispute.
16. IMPASSE: A deadlock in negotiations between a recognized employee organization and the County concerning matters about which they are required to negotiate.
17. MANAGEMENT EMPLOYEES: Any employee(s) in a position having significant responsibility for formulating County policies or administering County programs.
18. MEDIATION: The efforts of an impartial third party, functioning as an intermediary to assist the parties in reaching a voluntary resolution of an impasse of those matters contained within the scope or representation, as defined in Section 2-28 of this Policy, through suggestion, advice or other ways of stimulating agreement.

19. MEET AND CONFER IN GOOD FAITH: The mutual obligation of the County and representatives of recognized employee organizations personally to negotiate promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, proposals, and to endeavor to reach agreement on matters within the scope of representation.

Negotiations on salary and fringe benefits shall be conducted prior to the adoption by the County of its final budget for the ensuing year unless mutually agreed to otherwise. The process shall include adequate time for the resolution of impasses as provided for in this Policy.

20. MEMORANDUM OF UNDERSTANDING: A written memorandum incorporating matters on which agreement is reached in the negotiating process between the County and representatives of recognized employee organizations. Such memorandum of understanding shall not be binding upon the County until adopted by a majority of the Board by resolution. Additionally, it shall not be binding upon recognized employee organizations until ratified by the members of the recognized employee organization.

21. MODIFICATION: Procedure for redefining representation unit or units into alternative representation unit or units.

22. NEGOTIATE: To meet and confer in good faith.

23. PROFESSIONAL EMPLOYEES: Employees engaged in work requiring specialized knowledge and skills attained through completion of 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 processes) including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, or the various types of physical, chemical, and biological scientists.
24. PROOF OF EMPLOYEE APPROVAL: When used herein means that the employee organization submitting any request pursuant to Sections 8, 9, and 10 of this Policy has demonstrated proof of approval by the employees whom it desires to represent by means of any one or any combination of the following:
- (1) Signed and dated signatures on a petition.
  - (2) Signed and dated employee authorization cards.
  - (3) Documented evidence of current dues-paying employee organization membership, or payroll dues deductions using the payroll period immediately prior to the date on which the petition was filed.

For purposes of (1) and (2) above, only signatures of employees filling



budgeted positions within the proposed representation unit on the date the request is filed and whose signatures have been executed within thirty (30) days prior to the date the request is filed, shall be accepted as proof of employee approval.

25. RECOGNIZED EMPLOYEE ORGANIZATION: An employee organization, which has been certified in accordance with Section 10 of this Policy as representing the employees in a representation unit.
26. REPRESENTATION UNIT: An appropriate unit for purposes of employee representation established pursuant to Section 8 of this Policy.
27. REPRESENTATIVE(S): A person or persons authorized and designated in writing by an employee organization to represent the organization in dealing with the County.
28. SCOPE OF REPRESENTATION: The scope of representation shall include 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.

29. SUPERVISORY EMPLOYEE: Any employee, regardless of job description, having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to adjust their grievances, or effectively recommend such action, if, in connection with the foregoing functions, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgement.

SECTION 3. COUNTY MANAGEMENT: RIGHTS

It shall be the exclusive right of the County except as may be provided otherwise by Civil Service Rules, Memoranda of Understanding, or this Policy to make all decisions of a managerial or administrative character, including but not limited to:

1. To hire, promote, transfer, assign, classify positions, retain employees, and to suspend, demote, discharge or take other disciplinary action against employees.
2. To lay off or demote employees from duties because of lack of funds, in the interest of economy, or other legitimate reasons.
3. To determine the policies, standards, procedures, methods, means and personnel by which County operations are to be conducted.

4. To take whatever actions may be necessary to carry out the mission of the County in situations of emergency.
  
5. 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 of San Joaquin County.

SECTION 4. **EMPLOYEE'S RIGHTS**

Each employee shall have the following rights, which he/she may exercise in accordance with this Policy, law, ordinances, and rules and regulations:

- (a) The right to form, join, and participate in the activities of any employee organization of his/her own choosing for the purpose of representation on all matters within the scope of representation.
  
- (b) The right to be free from interference, intimidation, restraint, coercion, discrimination, or reprisal on the part of the County, other employees or employee organizations, with respect to his/her membership or non-membership in any employee organization or with respect to any lawful activity.
  
- (c) The right to refuse to join or participate in the activities of any employee organization.

- (d) The right to represent himself/herself individually in his/her employee relations with the County.

SECTION 5. **CONFIDENTIAL AND MANAGEMENT EMPLOYEES: REPRESENTATION LIMITATIONS**

Nothing herein shall prohibit management of confidential employee's membership in any employee organization.

1. Management and confidential employees may be represented by employee organization(s) in their dealings with the County in matters within the scope of representation. Management and confidential employees may not represent employees of the County who are not management or confidential.
2. The Board shall designate confidential and management employees in accordance with the definitions in Section 2 of this Policy. Disputes over the designation of confidential and management employees shall be resolved in the same manner as is provided for any unit determination question in Section 8-3 (b) of this Policy.

SECTION 6. **COMPLAINT PROCEDURE**

1. The complaint procedure shall parallel the Civil Service Grievance Procedure only in that the complaint shall be resolved at the lowest supervisory level

possible. However, if the complaint is not resolved at the department level it shall be submitted to the County Administrator for resolution. If the County Administrator is unable or unwilling to resolve the complaint, it shall then be filed with the Board of Supervisors for resolution by means of a hearing, the time and date of which shall be set by mutual agreement of the parties involved, except that prior to submission to the Board the parties may mutually agree to submit the complaint to a third party intervenor for review and recommendation on the resolution of the complaint.

2. Parties involved in the processing of grievances may, prior to the filing of the grievances with the final adjudicating body, mutually agree to submit the grievance to a third party intervenor for review and recommendation on the resolution of the grievance.
3. All complaints and grievances shall be presented and acted upon in a timely manner.
4. At any level of the complaint procedure the complainant and his/her representative shall be insured the opportunity of personally meeting with the adjudicating party.

SECTION 7. **RECOGNIZED EMPLOYEE ORGANIZATIONS: RIGHTS**

A recognized employee organization shall have the following rights:

1. REPRESENTATION: Upon request, to meet and confer in good faith with appropriate levels of County management regarding matters within the scope of representation.
  
2. ADVANCE NOTICE: Except in cases of emergency, each recognized employee organization affected shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation, proposal or other action directly relating to matters within the scope of representation proposed to be adopted by the County and shall be given the opportunity to meet and confer in good faith with the appropriate levels of management prior to its adoption. Written notice will customarily be provided by furnishing recognized employee organizations with advance copies of the agenda of the Board of Supervisors and Civil Service Commission meetings. In cases of emergency when County management determines that an ordinance, resolution, rule or regulation must be adopted immediately without prior notice or negotiations with a recognized employee organization, County management shall provide such notice and opportunity to negotiate at the earliest practicable time following the adoption of such ordinance, resolution, rule or regulations proposal, or other action.
  
3. REPRESENTATIVES-MEETING ATTENDANCE: Recognized employee organizations may have a reasonable number of employees who serve as official representatives released from work without loss of compensation

when meeting and conferring with management representatives where matters within the scope of representation are being considered. Such organizations shall submit a request for such release and shall include therewith a listing of such employees including their titles and departments to the management representative and departments concerned in advance of the meeting. The use of county time for this purpose shall not be excessive, nor shall it unreasonably interfere with the performance of county services as determined by the County. The reasonableness of the number of such employees shall be the subject of negotiation.

4. REPRESENTATIVES-ACCESS TO EMPLOYEES:

(a) Authorized representatives of recognized employee organizations shall be allowed reasonable access to employees of the unit at their work locations during the working hours of the employees' concerned for the purpose of discussing matters within the scope of representation, including but not limited to the processing of grievances and complaints and distributing materials and information provided that the work of the employee and the service to the public are not unduly impaired. The authorized representative shall give advance notice to the department head or his/her designated representative when contacting departmental employees during their duty period.

- (b) Reasonable solicitation for membership or other internal recognized employee organization business or campaigning shall be conducted only during the nonduty hours of all employees concerned, so long as normal work functions of County are not interfered with.

5. EMPLOYEE ORGANIZATION-COUNTY FACILITIES USE: County facilities shall be available to recognized employee organizations as follows:

- (a) County Buildings: Recognized employee organizations may be granted the use of county facilities for meetings composed of county employees within the bargaining unit provided space can be made available without interfering with county needs. Recognized employee organizations desiring the use of county facilities for such meetings shall obtain the permission of the designated county official for use of such facilities.

- (b) Bulletin Boards: Recognized employee organizations have the right to the reasonable use of existing bulletin board space in each building or department at a location agreed upon by the organization and the department, under the following conditions:

- (1) Materials shall be posted on space as designated.
- (2) Posted material shall bear the identity of the organization.



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

(4) Material shall be neatly displayed and shall be removed when no longer timely.

6. EMPLOYEE PAYROLL DEDUCTIONS: A recognized employee organization shall have the exclusive rights to payroll deduction for its members in any representation unit for which it is the duly recognized representative including regular dues and employee benefit program costs. Regular dues and employee benefit program costs may be deducted from the employee's individual paycheck. Payroll deductions shall be made only upon the revocable written authorization of the individual employee.

SECTION 8. ESTABLISHMENT OF REPRESENTATION UNITS

1. Upon adoption of this Policy by the Board of Supervisors, the Board shall also initially establish representation units. Thereafter, but not earlier than 12 months after the date of the initial establishment by the Board of the representation units, said units may be modified as hereinafter provided in this Policy.
2. UNITS-CRITERIA: Representation units shall be formally established in the county by the Board as hereinafter set forth. It is the policy to establish the

minimum number of units consistent with good employer-employee relations. To minimize the fragmentation of employee representation, the principal criterion for determining an appropriate representation unit shall be the largest feasible group of employees having an identifiable community of interest. In addition, the following criteria shall be applied in determining an appropriate representation unit:

- (a) In determining which unit includes the broadest possible group of employees who share a community of interest, the factors to be considered are: Similarity of skills, working conditions, job duties, training or education requirements.
- (b) The unit shall not adversely affect the efficient operation of the county services and sound employer-employee relations.
- (c) The history of employer-employee relations in the proposed unit and the county shall be considered.
- (d) Professional employees shall not be denied the right to be represented separately from nonprofessional employees.
- (e) A management or confidential unit shall not include employees other than management or confidential employees.
- (f) Law enforcement personnel consisting of peace officers as defined in

the Penal Code, may be included in a unit or units consisting solely of such employees.

- (g) No classification shall be included in more than one representation unit, except insofar as management, confidential or supervisory employees are a part of a managerial or confidential unit.
  - (h) The Board shall in no event establish a unit, consisting of other than professionals or confidential, supervisory or management employees, containing less than 5% of the total county employees without holding a hearing to determine whether or not the proposed unit in fact consists of the largest feasible group of employees having an identifiable community of interest.
3. (a) In the event of a dispute on the appropriateness of a representation unit, as established initially by the Board in accordance with Section 8-1 of this Policy, upon the request of any party who can show proof of employee approval of at least 50% plus one employee of the employees filling budgeted positions in such unit or 50% positions in the County work force, the dispute shall be resolved in the manner contained in Section 8-3 (b) of this Policy.
- (b) The dispute shall be submitted to the California State Conciliation

Service for mediation. Disputes must be filed within ten days of the Board of Supervisors' action to establish the representation unit. If the Service determines that the dispute still exists subsequent to mediation, the Board of Supervisors shall appoint a Hearing Officer who shall hear the dispute. The decision of the hearing officer shall be accompanied by a report indicating his/her rationale and may be adopted by the Board following a hearing on the matter. The hearing officer shall be selected in the same manner as fact-finders are selected under this Policy, or by any other manner mutually agreed to by the parties to the dispute.

4. The employee organizations currently recognized under the Policy adopted by the Board of Supervisors on December 12, 1968, shall remain recognized until the completion of the unit determination and certification process provided by this Section and Section 10 of this Policy.

SECTION 9. **MODIFICATION OF REPRESENTATION UNITS**

1. **REPRESENTATION UNITS-MODIFICATION REQUEST:** Employees or employee organizations may request of the County Administrator the modification of a representation unit. The request for modification shall contain the following:
  - (a) A description of the present representation unit and the date of the certification of the recognized employee organization.

- (b) The proposed modification of the unit.
- (c) A statement by the petitioners setting forth reasons for the requested modification.
- (d) A showing of proof of employee approval of at least 50% plus one of the employees filling budgeted positions within the proposed modified unit.

The request for a modification may be filed no sooner than 90 days and no later than 60 days before the expiration of a current Memorandum of Understanding between the County and the then recognized employee organization for the unit proposed to be modified or, where no MOU exists, one year from the date of certification of the recognized employee organization.

2. REPRESENTATION UNIT-REQUEST NOTICE: Upon verifying the material submitted as provided for in Section 2-23 of this Policy, the County Administrator shall give five (5) working days written notice of the request to all recognized employee organizations in any effected unit prior to any action being taken on such request by the County. Additionally, he shall post notice of the request in a place to which employees of the proposed unit will have access.

3. REPRESENTATION UNIT-CHALLENGES: Within thirty days from the date the notice to employees is posted, other employee organizations may challenge the appropriateness of the requested modified representation unit. The challenger may request a different modified unit or may challenge the change in the existing unit. Where the challenger submits a request for a different modified unit, it shall file with the County Administrator:

- (a) The proposed modified unit.
- (b) A statement setting forth the reasons why the proposed modified unit is requested.
- (c) A showing of proof that the challenging employee organization represents at least 50% plus one employee of the employees filling budgeted positions within the different proposed modified unit.

Where the challenger files for a retention of the existing unit and is other than the currently recognized employee organization, the challenging organization must show proof of approval that it represents at least 30% of the employees filling budgeted positions within the existing unit. Where the challenger is the currently recognized employee organization, no showing of proof is required. If a challenge is filed, the County Administrator shall notify the employee organization which submitted the original request for modification and that organization shall have seven days within which to amend or withdraw its request prior to its filing with the Board.

4. HEARING OF CHALLENGES: If the challenge is not resolved by amendment or withdrawal, the matter shall be considered in the same manner as in Section 8-3 (b) of this Policy.
  
5. PROCEDURES IN THE ABSENCE OF CHALLENGE: If no challenge is filed as provided in this Policy, the County Administrator shall submit his recommendations to the Board and a hearing shall be held. The Board shall either formally modify or deny modification of the representation unit. In the case of a modification, the certification procedure outlined in Section 10 of this Policy shall apply.
  
6. Where a memorandum of understanding exists for a unit and the unit is subsequently modified into two or more units, the terms of the memorandum shall apply to all classifications involved for the balance of the period of the memorandum of understanding.
  
7. ASSIGNMENT OR REASSIGNMENT OF JOB CLASSIFICATION TO REPRESENTATION UNITS: Each newly established job classification, or existing job classification which has been changed in respect to definition, class characteristics, duties or minimum qualifications, shall be assigned, or reassigned, to an appropriate representation unit by the Personnel Director of the County (hereinafter "Director"), or, if the Director finds that there is no appropriate unit to which such job classification may be assigned, or reassigned, the Director shall declare that no representation unit exists to

which such job classification may be assigned. He shall then recommend to the Board that a new unit be created. Written notice of such assignment, reassignment or recommendation of a creation of a new unit shall be given by the Director to all recognized employee organizations.

A recognized employee organization may appeal such assignment, reassignment or recommendation of creation of a new unit in the same manner as provided in Section 8-3 (b) of this Policy. The filing of such an appeal shall not stay the process of assignment but shall stay the process of reassignment or the creation of a new unit.

8. The County Administrator may on his own motion propose that an established unit be modified and/or a new unit be established. The County Administrator shall give written notice of the proposed modification or establishment to any affected recognized employee organization and shall hold a meeting concerning his proposed modification or establishment, at which time all interested recognized employee organizations shall be heard. Thereafter the County Administrator shall determine the composition of the appropriate unit or units and shall give written notice of such determination to the affected employees and recognized employee organizations. The County Administrator's determination may be appealed in the same manner as in Section 8-3 (b) of this Policy.

SECTION 10. **CERTIFICATION AND DECERTIFICATION OF A RECOGNIZED EMPLOYEE ORGANIZATION**



1. EMPLOYEE ORGANIZATION-CERTIFICATION REQUEST:

(a) An employee organization which seeks to become a recognized employee organization shall file a request for certification accompanied by proof of employee approval of at least 30% of the employees filling budgeted positions within the proposed or existing representation unit who desire the requesting employee organization to be their exclusive representative.

(b) Proof of employee approval for the purpose of certification is as defined in Section 2, paragraph 23, of this Policy provided, however, that no petition or authorization card may be used as proof of employee approval unless it specifically provides that the intent of the signer is to secure certification for the organization named therein. For purposes of this section only signatures of employees whose signatures have been executed within thirty calendar days prior to the date the request for certification is filed shall be accepted as proof of employee approval.

2. EMPLOYEE ORGANIZATION APPROVAL: ABSENCE OF CHALLENGE: If proof of employee approval of the requesting organization is over 50% of the employees filling budgeted positions in the unit, and no challenging employee organization submits proof of employee approval by at least 30% of the employees filling budgeted positions in the unit, the County Administrator shall recommend that the Board certify the requesting organization as the

recognized employee organization having exclusive representation for the unit. Such recommendation shall take place no later than 15 working days after submission of proof of such employee approval by the requesting organization to the County Administrator and verification by the County Administrator of the fact that the requesting organization has proof of approval of over 50% of the employees filling budgeted positions in the unit.

3. EMPLOYEE ORGANIZATION APPROVAL: CHALLENGE: If a challenging employee organization submits proof of employee approval of at least 30% of the employees filling budgeted positions in the unit, the County Administrator shall arrange for a secret ballot election. Such election shall be conducted by the State Conciliation Services pursuant to its rules. Employees eligible to vote shall be those in the unit who are filling budgeted positions and who were employed in those positions at least 30 days prior to the date of the secret ballot election. Such election shall occur no sooner than 15 days and no later than 45 days following the submission by the requesting organization of proof of employee approval of over 50% of the employees filling budgeted positions. In any case where proof of employee approval of a requesting organization is less than 50% plus one but at least 30% of the employees filling budgeted positions in the unit, the County Administrator shall arrange for a secret ballot election as hereinbefore provided this subsection.
  
4. ELECTION-ORGANIZATION ON BALLOT: In an election, the names of the petitioning organization and of any other employee organizations which

submit proof of employee approval of at least 30% of the employees filling budgeted positions in the representation unit shall appear on the ballot together with the choice of “No Representation.”

5. ELECTION-COST: The cost of conducting an initial certification election shall be borne by the County. The cost of conducting a decertification election, a modification election or a certification election resulting from a decertification or modification shall be borne by the party moving for the decertification or modification.
  
6. CERTIFICATION FOLLOWING ELECTION: The Board shall certify as a recognized employee organization, that organization, if any, receiving a number of valid ballots in a valid election, such number to be equal to 50% plus one (hereinafter “majority”) of the eligible employees voting. In the event that a majority of such ballots cast is for no representation, the Board shall certify that no recognized employee organization represents the employee filling budgeted positions within the representation unit. If none of the choices on the ballot receives a majority of the ballots cast, a runoff election shall be held between the choices receiving the two highest numbers of votes. The Board shall certify as the recognized employee organization for the representation unit, the choice receiving the majority vote of those eligible employees voting in a valid runoff election. In the event that a majority of such ballots cast is for no representation, the Board shall certify that no

recognized employee organization represents the employees filling budgeted positions within the representation unit.

7. UNFAIR ELECTION PRACTICES: Unfair election practices or challenges made to the conduct of an election which are not resolved by the State Conciliation Service during the course of the election shall be filed with the Board. Such challenges or unfair election practice charges shall be heard in accordance with the hearings provisions of Section 8-3(b) of this Policy.
  
8. DECERTIFICATION: A request for decertification of a recognized employee organization must be accompanied by proof of employee approval of at least 30% of the employees filling budgeted positions within the representation unit. Proceedings under this section shall not be instituted sooner than one year following certification of an employee organization as the exclusive representative for a unit. Thereafter such requests may only be filed no sooner than 90 days and no later than 60 days before the expiration of the current memorandum of understanding between the County and the recognized employee organization of the unit in question. Decertification shall take place by means of procedures outlined in Section 10, paragraphs 1 through 7 of this Policy, substituting the word “decertification” for the word “certification.” Except as otherwise provided, the recognized employee organization shall be decertified by the Board only if a majority of those eligible employees casting valid ballots in an election vote for decertification.

In the case of a decertification election in the unit concerned, such election ballot shall contain the choice of decertification or retention of certification of the existing recognized employee organization. Should such an election result in decertification, a subsequent certification election shall be held within 10 days after decertification. The election shall be conducted by the State Conciliation Service and such election's ballots shall contain the choices of the decertified employee organization, the party or parties having moved for such decertification and "no representation".

SECTION 11. **MEET AND CONFER**

1. Only recognized employee organizations shall be entitled to meet and confer with the County on matters within the scope of representation as provided by this Policy. It is part of the purpose of this process to result in competitive pay rates, the determination of which rates may include but not be limited to the following: (1) the County's ability to pay; (2) salaries paid to other governmental agencies of comparable population, size, work force and their proximity to San Joaquin County; (3) private industry; (4) current economic conditions; and (5) inter-relationship of classes within the County, one to another, regarding duties and responsibilities of such classes.
  
2. Agreements reached as a result of negotiations shall be included in a memorandum of understanding signed by the County or its designees as well as the duly designated representatives of the recognized employee

organizations. Such memoranda of understanding shall not be binding unless ratified by the recognized employee organization and approved by the Board.

## SECTION 12. **RESOLUTION OF IMPASSES**

Impasse procedures may be invoked only after deadlock in negotiations has been reached.

### A. Limitations

- (1) Only San Joaquin County or a recognized employee organization shall have the right to invoke the impasse procedure as hereinafter described.
- (2) Mediation and fact-finding shall apply only to disputes arising out of and in the context of the annual salary and employee benefit meet and confer sessions and where mutually agreed to otherwise or as provided for in this Policy.

### B. Impasse Initiation

Either the County or a recognized employee organization shall initiate the procedure by filing with the other party a written statement of impasse together with a statement of its position on the disputed issues. Such notice must be filed within fourteen (14) days after the last meet and confer session.

Within five (5) days after receiving the written notice a joint meeting shall be scheduled and held.

- (1) Such meeting shall be for the purpose of final position review by both parties in a last effort to reach agreement on the disputed issues.
- (2) If agreement is not concluded, mediation shall proceed in the manner hereinafter described. The fees and expenses of the mediator shall be payable one-half by the County and one-half by the recognized employee organization.
- (3) If agreement has not been reached at the impasse meeting described in paragraphs B and B (1) above, the parties, at such meeting, will attempt to agree upon an impartial mediator. If they cannot agree upon a mediator, each party shall submit, at such meeting, the names of three (3) persons to act as mediator and a designee of the California State Conciliation Service shall be added as the seventh name. Of the three (3) persons submitted by each party, at least one (1) shall be a person of recognized experience, training, and skill in the field of impasse resolution of labor-management disputes, and such person shall, in addition, have at some time prior to his selection acted as an impartial mediator or arbitrator in the resolution of labor – management disputes.

- (4) The selection shall be made as follows: The County representative shall strike from the list of seven (7) the name of one candidate, the recognized employee organization shall thereafter strike the name of one candidate, the names shall be stricken in this order until the name of one candidate remains. The remaining name shall be the mediator.

No later than seven (7) days after the selection of the mediator, the mediator shall commence mediation proceedings with all parties. All mediation proceedings shall be private. Such mediation proceedings must be completed within thirty (30) days from the date of commencement.

C. Roll of Mediator

The roll of a mediator is to assist the parties in reaching a voluntary resolution of an impasse on those matters contained within the scope of representation as defined in Section 2-28 of this Policy through suggestion, advice or other ways of stimulating agreement.

D. Public Statements

At no time will the mediator be empowered to make public statements, take a public position on the facts in dispute, nor shall the mediator's written statements be released, unless agreed to in writing by both parties. The



parties in mediation are free to make public statements and have public discussion of the issues in dispute unless mutually agreed to otherwise.

E. Termination

The mediation process shall end: (1) upon the signing of a memorandum of understanding by both parties covering all items in dispute; (2) upon the expiration of thirty (30) days from the beginning of mediation services; or (3) upon the written agreement of both parties, whichever is earliest. Mediation may be extended up to thirty (30) days by mutual agreement.

F. Fact-Finding Procedure

Subsequent to termination of the mediation process, as provided hereinabove and provided no agreement has been reached, either the County or such recognized employee organization, or the County and such recognized employee organization acting in concert, may elect to proceed to fact-finding and both parties shall then proceed to fact-finding.

(1) Election to proceed to fact-finding shall be communicated by delivery of written notice of such election to the other party within five (5) days of the termination of the mediation process.

(2) Within five (5) days after delivery of such notice, the parties shall schedule and hold a meeting for the purpose of selection of a Fact-Finder.

- (3) Should the parties fail to agree upon an impartial Fact-Finder, a Fact-Finder shall be selected by the procedure established hereinabove for selection of a mediator. The fees and expenses of the Fact-Finder shall be payable one-half by the County and one-half by the recognized employee organization. The Fact-Finder shall be furnished a copy of this procedure and any other conditions mutually agreed to, shall acknowledge in writing receipt thereof and shall proceed in strict compliance with the provisions herein set forth.
- (4) Not later than ten (10) days after selection of the Fact-Finder, each party shall submit and deliver in writing to the Fact-Finder and to the other party, and they shall receive within such period, a written statement of the issue or issues in dispute, specifically stating the position of that party last stated during the meet and confer process on such issue or issues, a statement of arguments raised by that party in support of such position or positions, and other documentation in support of the position or positions taken by that party.
- (5) Within five (5) days of the date on which the Fact-Finder was to receive the written statements of the parties as calculated pursuant to subsection (4) above, the Fact-Finder shall schedule and the parties shall hold with the Fact-Finder a joint meeting to discuss the statements of the parties and specify the issues thereby submitted to fact-finding.

(6) The Fact-Finder may utilize, as a basis for his/her Findings of Fact, only the following information:

(a) Information provided in writing by either party, provided that attached to such information is proof of service of such information upon the other party as provided in the California Code of Civil Procedure; (b) Information provided orally by either party only at a joint meeting of both parties and the Fact-Finder, and/or (c) Information developed by the Fact-Finder, as a result of his/her independent examination and research, which shall not include any information developed in unilateral discussions or communications between the Fact-Finder and either party. The party to whom service is required to be made pursuant to (a) may waive proof of service, in writing, as to any or all written material provided to the Fact-Finder by the other party. The Fact-Finder shall be accorded the full cooperation of the parties in ascertaining details of contentions raised or data presented by the parties. The Fact-Finder shall attach to his/her Findings of Fact a written statement of the information considered pertinent or persuasive by him/her in rendering a finding as to any fact and shall specify the source of such information (e.g., "Information provided by employer," or "Information provided by recognized employee organization," or "Information provided by U.S.

Department of Labor.”) The Fact-Finder shall proceed toward determination of the facts relating to the issues as rapidly as circumstances and full investigation permit and shall issue his/her Findings of Fact within a maximum of thirty (30) days after the statements of the parties have been submitted to him/her.

- (7) The time limits for the steps of these procedures may be modified by written agreement of the parties, except that, after a Fact-Finder has been selected, any such agreement modifying the time limits must be acceptable to the Fact-Finder.
- (8) Findings of Fact. The Fact-Finder shall issue the written Findings of Fact to the parties. A meeting may then be held with the Fact-Finder, written notice of which meeting shall be delivered to each party by the Fact-Finder at least three (3) days prior thereto.

If agreed to by the parties to the dispute, the findings of fact shall include recommendations as to resolution of issues in dispute. Nothing in this Policy shall prevent public disclosure or discussion by the parties of substantive issues in dispute unless mutually agreed to otherwise.

- (9) Other than in presentation of his/her Findings of Fact, as provided in the preceding paragraph, the Fact-Finder shall at no time make any public statement nor take a public position on the facts in dispute.

- (10) The Finding of Fact issued by the Fact-Finder shall be advisory only and shall not be binding on either party.
- (11) Issuance by the Fact-Finder of Findings of Fact, as provided hereinabove, terminates the fact-finding process.
- (12) Within three (3) days of the issuance of the Findings of Fact by the Fact-Finder or, in case a meeting is held with the Fact-Finder within three (3) days of such meeting, the parties shall schedule and hold a meeting to negotiate as to the Findings of Fact and to make a good faith effort to reach agreement as to each issue still in dispute.

G. All mediation and fact-finding proceedings shall be private.

### SECTION 13.

- 1. **UNFAIR EMPLOYER-EMPLOYEE RELATIONS PRACTICES:** In their dealings with each other, management and employee organizations shall be prohibited from the following practices:

A. Management:

- (1) Interfering with, restraining, coercing, disciplining or otherwise discriminating against any employee in the exercise of the

rights, including but not limited to the filing of grievances, complaints, giving of testimony or responding to investigations, assured by statute, law, ordinance, rule or regulation, agreement or this Policy.

- (2) Encouraging or discouraging membership in any employee organization by discrimination in regard to hiring, tenure, promotions or other conditions of employment.
- (3) Dominating or interfering with the administration, policies and programs of an employee organization or its members' participation therein.
- (4) Refusing to certify an employee organization qualified for such certification.
- (5) Refusing to hear, consult, or meet and confer in good faith with a recognized employee organization as required by this Policy.
- (6) Refusing or failing to cooperate with any duly designated mediators or fact-finders.

B. Employee Organizations:

- (1) Interfering with, restraining, coercing, disciplining or otherwise

discriminating against any employee in the exercise of the rights, including but not limited to the filing of grievances, complaints, giving of testimony or responding to investigations, assured by statute, law, ordinance, rule or regulation, agreement or this Policy.

- (2) Attempting to induce department heads to coerce any employee in the exercise of his/her rights under (1) above.
- (3) Coercing, attempting to coerce, or discipline any member of an organization which results in hindering or impeding the performance of his/her duties.
- (4) Discriminating against any employee with regard to the terms or conditions of membership because of race, color, creed, sex, or national origin.
- (5) Unauthorized use of County facilities.
- (6) Refusing to hear, consult, or meet and confer in good faith with management representatives of San Joaquin County as required by this Policy.
- (7) Refusing or failing to cooperate with a duly designated mediator or fact-finder.

C. Management and Employee Organizations:

It is recognized by the County and all recognized employee organizations that strikes, work stoppages, lock outs and other forms of concerted work action are inimical to stable, harmonious employer-employee relations and that all parties will strive towards a working environment which will preclude consideration of such actions. No employee or employee organization, its representatives or members shall cause, engage, or participate in, instigate or encourage concerted acts of work stoppage or strikes, however, under no circumstances shall an employee's statutory or constitutional rights be unlawfully infringed.

Upon notification confirmed in writing by the County to the recognized employee organization that certain of its members are engaged in a work stoppage, the recognized employee organization shall, at once, in writing direct such members to return to work immediately. Such notification by the recognized employee organization shall not constitute an admission by it that a strike is in progress or has taken place or that any particular member is or has engaged in a work stoppage. The notification shall be made solely on the request of the County. In the event that a work stoppage occurs, the recognized employee organization agrees to take all reasonable effective and affirmative action to secure the members return to work as promptly as possible. Failure of the recognized employee organization to issue such orders and or take such action shall be considered in determining whether or not the recognized employee organization caused or authorized the strike.



2. VIOLATIONS: Charges of violations of Section 13-1, 13-2, and 13-3 of this Policy may be initiated by the County, a recognized employee organization, or by an individual employee or group of employees. Such charges shall be filed in writing with the Board of Supervisors and served on the charged party promptly. Following an initial meeting of the parties to determine if the charge can be resolved mutually, and failing to do so, the parties shall appoint a hearing officer in the same manner as is provided in Section 12.F. (3) of this Policy. The hearing officer shall hear the charge and issue a decision and report indicating his/her rationale and such decision and report may be adopted by the Board of Supervisors.

#### SECTION 14.

1. ADMINISTRATION: The County Administrator is designated as the County's representative whose duty it shall be to meet and confer in good faith regarding matters within the scope of representation in an attempt to reach agreement with representatives of recognized employee organizations, and to consult with recognized employee organizations. The County Administrator is authorized to delegate these duties and responsibilities.
2. RULES AND PROCEDURES: The County Administrator is authorized to establish procedures to carry out the intent of this Policy. He also has the authority for the administrative interpretation of this Policy. Interpretations made by the County Administrator are subject to appeal to a hearing officer as provided in Section 8-3 (b) of this Policy.

SECTION 15. **AMENDMENTS**

After negotiating with recognized employee organizations, the Board may, from time to time, amend this Policy by resolution.

SECTION 16. **SEVERABILITY**

If any provision of this Policy or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Policy 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.

SECTION 17. **TITLE**

This document shall be cited as the San Joaquin County Employer-Employee Relations Policy.