

**COUNTY OF MENDOCINO  
EMPLOYER-EMPLOYEE RELATIONS POLICY**

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COUNTY OF MENDOCINO EMPLOYER-EMPLOYEE RELATIONS POLICY  
ARTICLE 1 – STATEMENT OF PURPOSE

This Employer-Employee Relations Policy 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”. It is the purpose of the Policy 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 by providing orderly procedures for the administration of employer-employee relations between the County of Mendocino and its employee organizations.

The Board of Supervisors of County of Mendocino [“County”] desires to continue its practice of encouraging a relationship of trust, confidence, and mutual understanding between its employees and management under management law policies and practices that are fair and uniform toward all employees. To the extent the imposes on public employees an obligation to avoid work stoppage or other practices that would result in a failure to fulfill assigned duties, the County recognizes that it is responsible to see that County employees and their representatives are fairly treated, fairly heard, and responded to in a timely and thoughtful manner.

In order to establish an organized system of employer-employee relations and fulfill the highest duties of service to the public that all county workers (from department heads and management to general service employees) have, the County intends that this Policy [EERP] shall strengthen merit principles, the civil service or merit systems, and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between County employees and the County.

Nothing contained herein shall be deemed to supersede the provisions of existing federal, state or local law, rules or regulations or the provisions of the County Code or the rules of the Civil Service Commission or Merit System, which establish and regulate a merit or civil service system or which provide other methods for the administration of employee relations. Nothing in this EERP shall be construed to deny to the County or to any person, employee, sole recognized employee organization, or any authorized officer, body or other representative of the County, the rights, powers, duties or authority granted by federal, state or local law.

In accord with the provisions of California Government Code, section 3509, the enactment of this policy shall not be construed as making the provisions of California Labor Code, Section 923, applicable to Mendocino County employees.

ARTICLE 2 - RIGHTS AND RESPONSIBILITIES OF AN EMPLOYEE AND AN  
EMPLOYEE ORGANIZATION

- 2.1 An employee shall have the right to form, join, and participate in the lawful activities of employee organizations of the employee's own choosing.
- 2.2 An employee has the right to be free from interference, intimidation, restraint, coercion, discrimination, or reprisal on the part of his/her department head, his/her supervisor, other employees, or an employee organization, with respect to his/her membership or non-membership in any employee organization or with respect to any lawful activity associated with the meet and confer process.
- 2.3 An employee has the right to refuse to join or participate in the activities of an employee organization or employee organizations.
- a. An employee has the right to represent him/her self individually in his/her employment relations with the County, without the intervention of an authorized employee organization.
  - b. However, individual employees, other than executive employees, may not negotiate any matters such as, but not limited to compensation, terms and conditions of employment and work rules.
- 2.4 An employee may choose to belong to one or more employee organizations.
- a. However, an employee may only be represented by the employee organization that has been formally recognized for the purpose of representing employees within the unit to which his/her classification has been assigned.
  - b. An employee may only vote for representation, and be included in a showing of interest, in the unit to which his classification has been assigned.
- 2.5 All changes in the information filed with the County by a Sole Recognized Employee Organization under items (a.) through (h.) of its Recognized Petition under this EERP shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

ARTICLE 3 – RIGHTS AND RESPONSIBILITIES OF THE COUNTY

- 3.1 All County rights, corresponding or related to any County obligations and responsibilities, not specifically and expressly waived in this EERP or in a Memorandum of Understanding, remain with and are unmistakably reserved to the County.
- 3.2 The County has and will continue to retain, whether exercised or not, the clear, unmistakable and exclusive right to operate, administer and manage its services and the work force performing these services. Except as limited under law to meet and confer or bargain on impact, the exclusive rights of the County shall include, but are not limited to the following rights and responsibilities:

- a. Determine the organization of the County;
- b. Determine the mission and structure of its constituent agencies;
- c. Determine the necessity, nature, quantity and quality of services to be offered to the public;
- d. Determine the means of operations, the materials and personnel to be used;
- e. Determine appropriate use of public funds and establish funding priorities;
- f. Introduce new or improved methods or facilities and to change or alter personnel, level of work force, methods, means, materials and facilities;
- g. Exercise control and discretion over its organization and operation through its executive, managerial and supervisory employees;
- h. Establish and effect rules and regulations consistent with applicable law;
- i. Establish and implement standards of selecting County personnel and standards for continuing employment with the County;
- j. Direct the work force by determining the work to be performed and the personnel who shall perform the work;
- k. Assign overtime and /or the scheduling of work;
- l. Take disciplinary action;
- m. Relieve its employees because of lack of work, funds or for other lawful reasons;
- n. Determine whether material or services shall be made, purchased or contracted for; and
- o. Otherwise act in the best interest of efficient service to the citizens of Mendocino County.

3.3 The County retains its rights to take whatever actions it deems appropriate to manage an emergency.

- a. "Emergency" is defined as a declared state of emergency by the County, State, or Federal governing agency, and/or a situation where the health, welfare and/or safety of the public is at risk.
- b. The determination of whether an emergency exists is solely within the discretion of the County.
- c. If a recognized sole employee organization requests within a reasonable time, but no later than thirty (30) days, after the emergency conditions cease to exist, to meet and confer on County actions taken during an emergency, the County will meet and confer on these actions or the impact of the actions, to the extent such matters are within the scope of representation.

3.4. The County shall maintain records indicating whether a classification is represented by an employee organization or not, and if represented, the identity of that employee organization. The County shall maintain a copy of the current MOU for each sole recognized employee organization and a record of the current wages and benefits contained in the MOU for each authorized sole recognized employee organization.

## ARTICLE 4 - COUNTY REPRESENTATIVES

- 4.1. It is hereby recognized that labor relations at the County of Mendocino is a collaborative effort between the County Administrative Officer and the Human Resources Director. The County Administrative Officer and the Human Resources Director are jointly responsible for maintaining effective employee – employer relations between the County and its employees in labor relations matters which are countywide in scope or which are deemed by both the County Administrator and the Human Resources Director to have Countywide ramifications.
- 4.2. The Human Resources Director is hereby authorized to act as the Board’s representative in the meet and confer process and in the interpretation and administration of any Memorandums of Understanding reached between the County and any sole recognized employee organization. This representation and authority may be delegated by the Human Resources Director to any alternate representatives.
- 4.3. The Human Resources Director is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Policy after appropriate discussion with affected employee organizations.
- 4.4. Each department head may formulate rules and regulations, policies and practices consistent with County Ordinances, Resolutions, Rules and Regulations, and the Civil Service Ordinance and Rules or Merit Systems rules and regulations to implement the principles of this EERP. Such departmental rules and regulations, policies and practices, and any amendments thereto, must be consistent with appropriate MOUs and with Board approved rules and regulations, policies and practices.

## ARTICLE 5 – RECOGNITION AND DE-CERTIFICATION

- 5.1. The Board shall formally recognize only one qualifying employee organization in each appropriate representation unit as the sole recognized employee organization or representative to meet and confer on matters within the scope of representation. Such formal recognition as the sole employee organization may be either as a majority or exclusive representative. Notwithstanding any other provision of this EERP, the County, through its Human Resources Director, determines the appropriateness of the community of interest of any existing or proposed representation unit with appeal rights as set forth herein.
- 5.2. After appropriate discussion with affected units and informal discussions with an affected department head in his or her individual role as an appointing authority, the Human Resources Director shall assign each new classification or position to an appropriate unit or un-represented status, pursuant to the criteria set forth in this EERP.

- a. At the request of an employee, an employee organization, its representative, or the County [including an affected department head in his or her individual role as an appointing authority], an existing or proposed classification may be moved or changed to a more appropriate employee organization or unit without a vote or ballot count, with the consent of the Human Resources Director [after offering to discuss the impact with an affected department head in his or her individual role as an appointing authority], the employee(s) involved, and all affected sole recognized employee organizations, regardless of other provisions for unit modification set forth in this EERP.
- 5.3. The county recognizes the historical acknowledgement extended to existing employee organizations. The County further acknowledges the undue hardship and organizational uncertainty that would result from demanding immediate ballots for all current employee organizations simply in order to continue on-going employer-employee relations. Therefore a one-time process is hereby created to formally acknowledge existing recognized employee organizations with whom the County has historically met and conferred on matters within the scope of representation, as sole recognized employee organizations under this new EERP. However nothing in this section limits or removes the County's right or ability under this EERP to create, modify or re-organize an appropriate representation unit or de-certify an employee organization where appropriate.
- a. An employee organization existing at the time of enactment of this new EERP, with whom the County has historically met and conferred on matters within the scope of representation, that wishes to become a sole recognized employee organization shall file with the Human Resources Director a Petition for Acknowledgement of an Existing Employee Organization as a Sole Recognized Employee Organization before the expiration of the existing employee organization's current MOU, but in no case later than September 14, 2001.
  - b. This Petition shall contain the information required in sections 5.5.a through 5.5.i for a regular Petition to become a sole recognized employee organization.
    - (1) A list of classifications and employees in all current representation units may be obtained from Payroll in the County Auditor's office. This list will be deemed an accurate reflection of the information needed under section 5.5.i for the one time purpose of this Petition.
  - c. Instead of going through a petition and ballot process, for this purpose of initial acknowledgment of existing employee organizations as sole recognized employee organizations, the HR Director will certify the Petition as to form and content, and schedule the matter before the Board of Supervisors for formal acknowledgement as the sole recognized employee organization, at the earliest time reasonably possible.

- d. If an existing recognized employee organization with whom the County has historically met and conferred on matters within the scope of representation does not submit a Petition for an Existing Recognized Employee Organization to be Acknowledged as a Sole Recognized Employee Organization with the required information before the expiration of the existing employee organization's current MOU, but in no case later than September 14, 2001, the employee organization will be decertified and will cease to be acknowledged as a recognized employee organization by the County.
- 5.4. A group of employees or an employee organization that wishes to be formally acknowledged as a sole recognized employee organization of an existing unit of representation or the sole recognized employee organization by reorganizing, modifying, decertifying or creating an appropriate representation unit must file a petition with the Human Resources Director in compliance with the rules and procedures in this EERP. A petition for representation, or to re-organize, modify or create an appropriate representation unit or recognized employee organization if challenging an existing representative or recognized employee organization shall be treated simultaneously as a petition for de-certification.
  - 5.5. A petition to become a sole recognized employee organization for a new, existing, reorganized or modified unit filed by an employee organization or group of employees must contain the following information and documentation:
    - a. The name and address of the employee organization.
    - b. The names, titles and mailing addresses of its officers.
    - c. A statement that the employee organization has as one of its primary purposes, the obligation and responsibility of representing employees in their employment relations with the County.
    - d. A copy of the employee organization's current constitution, bylaws, and / or operating procedures, certified by a current officer of the employee organization to be true and correct.
    - e. A designation of one person and his/her street address [members of law enforcement may submit a P.O. Box address], email address, telephone and fax numbers. Such street address will signify an office address [or P.O. Box for law enforcement] to which notice will be sent by regular United States mail, and will be deemed sufficient notice on the employee organization for any purpose.
    - f. A designation of those persons who are authorized to speak on behalf of and act as representatives to the employee organization in any communications or interactions with the County.
    - g. An acknowledgement by the organization that it has no restriction on membership based on race, age, sex, religion, color, creed, national origin, mental or physical disability or medical condition, political affiliation, sexual orientation, marital status, or other unlawful criteria.

- h. 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, and an authorized contact person with, each such other organization.
  - 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. Show proof of support, as defined in this EERP, of at least thirty (30) percent of the employees in an existing or proposed appropriate representation unit.
  - k. A request that the Human Resources Director formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate and with a controlling community of interest, stating the reasons for the petition.
  - l. Any petition or declaration of intent for creation, recognition, reorganization or modification of a unit shall contain a section specifically stating why the proposed representation unit is appropriate and has a controlling community of interest. The section must address the criteria and factors guiding and determining community of interest as outlined in this Policy.
- 5.6. A petition to decertify a representation unit or employee organization - standing by itself without a request to re-organize, modify or create an appropriate representation unit or recognized employee organization shall contain the following information and documentation:
- a. The name and address of the petitioning group or employees or employee organization.
  - b. The name of the representation unit or employee organization that the petitioner wishes to de-certify.
  - c. A designation of one person to receive service of documents, and his/her street address, email address, telephone and fax numbers. Such street address will signify an address to which notice may be sent by regular United States mail, and will be deemed sufficient notice on the de-certification petitioner for any purpose.
  - d. A designation of those persons who are authorized to speak on behalf of and act as representatives of the petitioner in any communications or interactions with the County.
  - e. Show proof of support, as defined in this EERP, in the existing appropriate representation unit affected by the de-certification petition.
  - f. A request that the Human Resources Director formally de-certify the existing representation unit or sole recognized employee organization, with a clear and concise statement of the reasons for the petition.
- 5.7. Upon receipt of a Petition for recognition, modification, reorganization or de-certification of an existing appropriate unit or the creation of newly proposed appropriate representation unit or units, the Human Resources Director shall review the petition-as soon thereafter as practical but no longer than sixty (60) days, to determine if:

- a. The petition is in compliance with this EERP; and
  - b. The proposed unit is appropriate in accordance with this EERP.
- 5.8. If the Human Resources Director determines that the Petition is in compliance with the EERP and that the proposed unit is appropriate:
- a. S/he shall so inform the petitioning employee organization or group of employees,
  - b. Give written Notice of such Petition to the affected employees and/or affected “units”, and
  - c. Allow thirty (30) days after the Notice is sent out to receive written comments and challenges to the Petition.
    - (1) Any comments or challenges must be filed with the Department of Human Resources within these thirty (30) days.
    - (2) Any challenges by a group of employees or employee organizations to the Petition shall be in the same Petition form and meet the same requirements as a Petition set forth in this EERP, except that there shall not be a second open period for comments and challenges.
    - (3) After the thirty (30) days has passed the period for comments and challenges to the Petition shall be closed.
    - (4) If there are any challenges or competing petitions, the rules in this EERP regarding competing or challenging petitions shall apply.
  - d. The Human Resources Director has up to sixty (60) days to review the comments and challenges and issue a Notice that the Petition needs to be amended, or to make a final determination that the Petition complies with the EERP and is appropriate, and move the matter to ballot and election.
  - e. The petitioning group of employees or employee organizations have thirty (30) days from the date Notice of the Human Resources Director’ final determination is mailed or given to employees, to submit to the Human Resources Director an amendment to their Petition(s) to conform to the Human Resources Director’ final determination [if an amendment is needed], or to file an appeal pursuant to this EERP.
  - f. The Human Resources Director shall prepare an election ballot within thirty (30) days pursuant to Article 9 of this EERP – Election Procedures, after making a final unit determination as set forth herein or after the results of any appeal are final.
  - g. An election on the ballot in accordance with the rules in this EERP shall be held as soon thereafter as is practical.
- 5.9. If the Human Resources Director determines that the Petition or Petitions are not in compliance with the EERP or that the proposed unit is not appropriate:
- a. After offering to discuss and holding discussions with the petitioning employees or employee organizations that request a discussion, the Human Resources Director shall inform the petitioning party or parties in writing within sixty (60) days of the reasons for his/her final determination.
  - b. A petitioning employee organization or employees may appeal such final determination in accordance with the EERP.

- 5.10. A group of employees or an employee organization may file a competing Petition or challenge to a Petition for creation, recognition, de-certification, modification or re-organization of an appropriate representation unit.
- a. A competing or challenging Petition must be filed within thirty (30) days of the date written notice is sent by U.S. mail or given to affected employees and/or sole recognized employee organizations, that a valid recognition, creation, de-certification, modification or reorganization petition for an appropriate unit has been filed.
  - b. The competing or challenging employee organization may challenge a Petition, or file a competing request to be formally acknowledged as the sole recognized employee organization for either the employees listed in the Petition being challenged, or in an overlapping unit (one which corresponds with respect to some, but not all of the classifications or positions set forth in the Petition being challenged).
  - c. The competing or challenging Petition must otherwise comply with the petition requirements of this EERP and in particular evidence a showing of interest in the unit claimed to be appropriate.
  - d. If a competing or challenging petition seeks establishment of an overlapping unit, the Human Resources Director shall personally or by his/her representative, hold a hearing within sixty (60) days to elicit comments from employees and employee organizations on the overlapping petitions, for the purpose of ascertaining the more appropriate unit or units.
  - e. Within thirty (30) days after the hearing, the Human Resources Director shall make a final determination regarding the appropriate unit or units in accordance with the standards set forth in the Policy.
  - f. A petitioning group of employees or employee organizations shall have thirty (30) days from the date notice of this final determination of appropriate unit or units is mailed or given to employees, to submit to the Human Resources Director an amendment to their petitions to conform to such determination [if an amendment is needed], or to file an appeal pursuant to this EERP on this final unit determination.
  - g. The Human Resources Director shall prepare an election ballot within thirty (30) days pursuant to Article 9 of this EERP – Election Procedures, after making a final unit determination as set forth herein or after the results of any appeal are final. An election on the ballot shall be had as soon thereafter as is practical.
- 5.11. If a new unit is created from existing units pursuant to this EERP, and more than one sole employee organization or association represented the affected units, a representation election must be held at the time of creation of the new unit, in the manner set forth in this EERP, except for situations of mutual agreement between the County, the affected employee(s) and affected sole representatives as set forth in section 5.2.
- a. However, the costs of this election will be borne by the County government.
  - b. If only one sole employee organization representative is present, than the County will continue to recognize the sole representative.

- c. Employees who wish to decertify the representative of the new unit must follow the procedures set forth in this EERP.
- 5.12. The Human Resources Director must send a “Declaration of Intent” notice to affected employees and /or affected sole recognized employee organizations, if he/she intends to decertify an existing sole recognized employee organization or the representative thereof, or create a new, modified or reorganized appropriate representation unit.
- a. Contents of a Declaration of Intent:
    - (1) The Declaration shall state what classifications and sole recognized employee organizations (or the representatives thereof) will be affected by this action, and the approximate number of employees that will be affected.
    - (2) For a Declaration to modify, reorganize or create an appropriate unit, the Declaration shall contain a statement explaining why the proposed unit is appropriate and has a controlling community of interest, addressing the factors and criteria set forth in this EERP.
    - (3) If the Declaration is to de-certify or challenge an existing sole recognized employee organization or representative thereof, the Declaration shall state the reasons for the challenge or intent to de-certify.
  - b. Procedures for a Declaration of Intent:
    - (1) The Human Resources Director shall allow thirty (30) days from the date the Declaration was mailed or sent out, for written comments and challenges. Comments and such challenges to the Declaration are to be filed with the Human Resources Director.
    - (2) After the thirty (30) days for comments and challenges has passed, the Human Resources Director shall set the matter for Hearing before an Employee Relations Panel, called by the Human Resources Director, at the earliest convenient date not later than sixty (60) from the close of the period for comments and challenges.
    - (3) The Employee Relations Panel shall consist of one [1] representative of the Civil Service Commissioners, one [1] representative of the Board of Supervisors, one [1] representative of County Counsel, one [1] representative of the County Administrator’s Office, and one [1] representative of Human Resources who may be the Human Resources Director.
    - (4) Those individuals, groups of employees, sole recognized employee organizations or representatives that have responded in writing within the thirty (30) days to file comments, will be notified of the hearing and may arrange to comment or discuss their concerns at the time of the hearing.
    - (5) The Panel shall listen to comments, arrange and limit the times of comment and will discuss and decide the merits of the Declaration of Intent and Challenging Petitions.
    - (6) The decision of the Panel shall be final and binding, without right of appeal.

- 5.13. The cost of notice to employees shall be borne by the petitioning or moving party or parties. Employee organizations shall make arrangement for payment of such costs with the Human Resources Director at the time of filing the Petition of recognition, reorganization, modification, representation or de-certification.

#### ARTICLE 6 – APPEALS OF UNIT DETERMINATIONS

- 6.1 An employee or employee organization aggrieved by a final unit determination may appeal within thirty (30) days of Notice, the final unit determination of the Human Resources Director, in accordance with these rules.
- 6.2 The aggrieved group of employees or employee organization must file a Notice of Appeal with the Human Resources Director within thirty (30) days after the Notice of final unit determination by the Human Resources Director was mailed or sent to employees and/or the employee organizations.
- 6.3 Either the aggrieved employees or employee organization or Human Resources Director may move for the appeal to be mediated.
- a. Mediation shall be conducted by the State Mediation and Conciliation Service, or any other mutually agreed upon mediator or mediation service.
  - b. A Notice of Intent to Mediate may be filed with the Notice of Appeal, or separately.
  - c. A Notice of Intent to Mediate must be filed within fifteen (15) days [or the next business day thereafter] of the Notice of Appeal, and mailed to the other party or parties.
  - d. Parties are required to enter into mediation in good faith.
- 6.4 If the parties do not choose mediation in regard to unit determination, community of interest and appropriate units, the matter will be submitted to the Board of Supervisors for public hearing and final decision.
- a. An appeal to the Board of Supervisors shall be set by the Human Resource Director for Hearing within forty-five (45) days of the date of receipt of the Notice of Appeal, or thirty (30) days from the termination of mediation proceedings, whichever is later.
  - b. The Board of Supervisors may, in its discretion, refer the dispute to a third party hearing process.
  - c. Any decision of the Board of Supervisors on the use of such procedure, the choice of a neutral third party referee or arbitrator by the Board, and/or any decision of the Board of Supervisors or the neutral third party, determining the substance of the dispute shall be final and binding.

## ARTICLE 7 - UNIT DETERMINATION AND MODIFICATION CRITERIA

- 7.1 In order to avoid the harmful effects of over fragmentation of representation units or an administratively unwieldy multiplicity of representation units, the principal criterion for determining an appropriate representation unit is the creation of the largest feasible group of employees having an identifiable community of interest in the broadest possible units, which will result in a minimum number of units, but which still can engender an effective representation of employee interests and will promote the effectiveness and efficiency of County operations.
- 7.2 Employees shall not be deemed to have an identifiable community of interest solely by virtue of employment in the same department.
- 7.3 The following and such other subordinate community of interest criteria as the Human Resources Director may deem appropriate shall be considered in modifying, reorganizing, or where appropriate in decertifying, an established unit in order to determine an alternative appropriate unit, or in proposing the creation of a new appropriate unit:
- a. Similarity of the general kinds of work performed, the types and degrees of minimum qualifications of skills and abilities desired to perform such work, and the general kinds of working conditions attendant to such work.
  - b. Similarity of level of responsibility and authority:
    - (1) In any modification, re-organization or creation of units, other than acknowledgement of existing recognized employee organizations at the time of enactment of this EERP, employees in Executive classifications shall not be included in a unit in which employees in management, supervisory, or general classifications are present.
    - (2) In any modifications, re-organization or creation of units, other than acknowledgement of existing recognized employee organizations at the time of enactment of this EERP, employees in supervisory and management classifications shall not be included in a unit in which employees in executive and general classifications are present.
  - c. Security of County employer-employee negotiations shall be protected. Confidential employees shall not be included in any unit in which general or supervisory employees are present.
  - d. The representational rights and restrictions accruing to different classifications; statutorily authorized or required as well as the County's experience of fringe benefits accruing to different classifications; the appeal rights accruing by law to different classifications; and different statutorily required impasse procedure rights, including but not limited to binding interest arbitration, accruing by right to different classifications.

- e. To the extent legally required, professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of such professional employees.
- f. Consistency with organizational patterns in the County.
- g. The history of employee relations in the County is a factor that may be considered.
- h. Division of a single classification between two representation units shall be avoided, except as necessary to protect and maintain the security of employer-employee negotiations, by the use of confidential status.
- i. Full-time “peace officers” as that term is defined in California law controlling public employer-employee relations, have the right to be included in a unit that is composed solely of such peace officers.

#### ARTICLE 8 - DURATION OF RECOGNITION

- 8.1 Recognition of a formally recognized sole employee organization pursuant to a majority vote by eligible employees in an appropriate representation unit, may be revoked, decertified or otherwise changed by a majority vote of the employees within the unit in accordance with this EERP, only after a period of not less than twelve (12) months following the date of such formal recognition.
- 8.2 Recognition may be revoked by the Human Resources Director after notice, if the employee organization fails to maintain and update its officer information, address for service as set forth in this EERP within 30 days of a written request by certified mail from the Human Resources Director, or fails to respond after three (3) notices sent by certified mail to the last address supplied by the sole recognized employee organization pursuant to this EERP to meet and confer in good faith, or otherwise accept or counter the County’s proposals on issues within the scope of representation.

#### ARTICLE 9 - ELECTION PROCEDURES

- 9.1 Whenever an election regarding representation, de-certification or unit determination is held pursuant to this EERP, the Human Resources Director shall schedule a secret ballot election.
- 9.2 The procedures and regulations for such election shall be those that the party[ies] qualified to be on the ballot and the Human Resources Director agree to, and shall conform as closely as feasible to the election procedures and regulations utilized by the State Mediation and Conciliation Service.

- a. Such procedures and regulations may provide for the conduct of an election in whole or part by mail ballot.
- b. In the event a party and the Human Resources Director cannot agree on procedures and regulations, the Human Resources Director shall request the State Mediation and Conciliation Service to conduct the secret ballot election, and the party[ies] and the Human Resources Director shall abide by their procedures and regulations.

9.3 Employees entitled to vote in such election shall be those persons employed by the County in regular positions within classifications included in the designated appropriate unit who were employed by the County during the pay period which ended at least fifteen (15) days before the date the election commences, and are still employed by the County on the date they cast their ballots in the election, including those who did not work during such period because of illness, vacation or other authorized leaves of absence.

9.4 An employee organization shall be formally acknowledged as the Sole Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast.

- a. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast.
- b. Preferential or instant run-off voting procedures or processes may be used if agreed to by the parties, County and person or entity holding the election.

9.5 The cost of conducting elections, including any run-offs, shall be borne in equal share by each petitioning or moving party or employee organization. Costs of conducting an election or petition process, for the purpose of calculating apportionment of costs as set forth in this section, do not include the costs or time of Human Resources staff or County administrative employees to collect, file or process petitions or ballots.

9.6 Ballots

- a. In an Employee Representation Election initiated by a Petition for Recognition, Re-organization or Modification, there shall be placed on the ballot:
  - (1) the name of the petitioning employee organization and organizations that have established the required proof of support that the Human Resources Director has determined to be valid and sufficient for such an election; and
  - (2) a choice of "no employee organization", reserving for the employees the right to represent themselves individually in their employment relations with the County.
- b. When an election results from the Human Resources Director filing a Declaration, there shall be placed on the ballot:
  - (1) the name of the employee organization that had been formally recognized as the sole representative of the unit or units which are subject to the Petition;
  - (2) the name[s] of any competing employee organization[s] that has[have] established the required proof of support; and

- (3) a choice of "no employee organization" reserving for the employees the right to represent themselves individually in their employment relations with the County.

#### ARTICLE 10 - OPERATING AND GRIEVANCE PROCEDURES

- 10.1 All matters pertaining to Civil Service Ordinance and Rules and other topics delegated to the Civil Service Commission shall be filed with the Human Resources Director for presentation to the Commission.
- 10.2 All matters that pertain to interpretation of the County's compliance with a section or clause of an MOU shall be handled by the grievance procedure contained within that MOU.
- 10.3 The County shall create pursuant to a consultation in good faith process required by law, a separate grievance or complaint procedure for disputes or grievances relating to the EERP.
  - a. To the extent a dispute or grievance regarding the terms, conditions, interpretation, application, enforcement or construction of the EERP or matters related thereto, is not covered by a MOU with a sole recognized employee organization, the grievance procedures set forth in Article XVII of the Mendocino County Employer-Employee Relations Policy, Resolution 68-32, as Subsequently Amended, remain in force and shall be used until such time as said grievance procedures are replaced or superceded by a separate grievance or complaint policy or procedure enacted by the County.
- 10.4 All other matters relative to this EERP shall be filed with the Human Resources Director.

#### ARTICLE 11 - IMPASSE PROCEDURES

- 11.1 If the meet and confer process has reached impasse as defined in this EERP either party may declare impasse. For impasse to be reached or declared, one of the parties must provide notice to the other party in writing that the negotiations are at impasse. Such notice shall include a statement of the issue or issues on which impasse is declared. Either party may initiate the impasse procedures by filing a written request for an impasse meeting, together with a statement of its position on all outstanding issues. Such request shall be filed within 15 days of receipt or issuance of the notice of impasse.
- 11.2 No statutorily required binding impasse procedure may be invoked unless these impasse procedures have been complied with.
- 11.3 An impasse meeting shall then be scheduled promptly by the Human Resources Director. 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.

- 11.4 If impasse is not resolved, either party may request mediation. Both parties may mutually agree to go to non-binding early neutral evaluation or neutral fact-finding.
- a. The parties may mutually agree upon a mediator or mediation service provider.
  - b. If the parties do not agree, the matter shall be mediated by the State Conciliation and Mediation Service.
  - c. All mediation proceedings shall be private.
  - d. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- 11.5 Each party shall bear the burden of their own costs. The cost for the services of a mediator or other neutral third party utilized by the parties, and other mutually incurred costs of mediation shall be borne equally by the County and Sole Recognized Employee Organization. Separately incurred costs shall be individually borne by such party.

## ARTICLE 12 – UNFAIR LABOR PRACTICES

- 12.1 The continued and uninterrupted provision of service to the public is of paramount importance, and is an inalienable duty of public employment.
- 12.2 It shall be an unfair labor practice for the:
- a. County or employee organization to interfere with, restrain, or coerce employees in the exercise of the rights recognized or granted in this EERP, or to retaliate against employees for invoking his/her rights under law or under this EERP.
  - b. County or an employee organization to dominate or interfere with the formation of any employee organization or contribute financial support to it, provided the rights recognized or granted to employee organizations by this EERP shall not be construed as financial support.
  - c. County or employee organization to refuse to meet and confer in good faith on matters within the scope of representation.
  - d. County to discriminate against an employee for membership in an employee organization or for engaging in a lawful activity of, with, or in support of, the employee organization.
- 12.3 It shall be an unfair labor practice for an employee, an employee organization or its representatives to:
- a. interfere with the County's exercise of its rights under law or under this EERP.
  - b. attempt to cause or cause the County to unlawfully discriminate against an employee.
  - c. threaten, coerce, or restrain any person, for the object of forcing the County to recognize an employee organization, forcing any person to stop doing business with the County, forcing the County to meet and confer with an employee organization not formally recognized as the sole employee representative in an appropriate representation unit or forcing the County to assign work to a particular employee organization, trade or craft.
  - d. attempt to cause or cause the County to pay for services not performed.

- e. use County facilities without authorization.
- f. solicit members, dues and other internal employee organization business during duty hours, except during meal or rest breaks without prior authorization, either generally or issue specific, by the Department Head, with the approval of the Human Resources Director.
- g. conduct a work stoppage or slow down in violation of the law, or an existing and current Agreement or Memorandum of Understanding.

12.4 In the event that any unfair labor practice is initiated by an employee or employee organization, the appropriate sole recognized employee organization is required to exercise its resources and, abilities, and exert effective, appropriate and diligent efforts to ensure compliance with this EERP.

- a. Failure to so will be considered an unfair labor practice.
- b. In consideration of and as a condition of initial and continued employment by the County, of which providing service to the public is a paramount duty, employees recognize that any unfair labor or employee relations actions by them are in violation of their conditions of employment, except as expressly otherwise provided by legally preemptive federal, state or contrary local law.
- c. In the event employees engage in such actions, they shall subject themselves to discipline including termination of employment, and may be replaced, to the extent such action is not prohibited by preemptive law.
- d. Employee organizations may thereby forfeit rights accorded them under County law and/or contract, including but not limited to the withholding of fees and dues deductions, upon order of a court with competent jurisdiction, the Public Employment Relations Board, or other appropriately empowered agency or neutral third party.

#### ARTICLE 13 – CONSTRUCTION AND SEPARABILITY

13.1 If any subsection or provision of this EERP or any addendum or amendment thereto should be held to be invalid by operation of law or by a tribunal of competent jurisdiction, or if compliance or enforcement of any section or provision should be restrained by such tribunal or the enactment of superseding law by rule or regulation of a higher governmental authority, such subsection or provision shall be suspended and be of no force and effect. Such invalidation of a part or portion of this EERP shall not invalidate any remaining portions and those remaining portions shall remain in full force and effect unless those remaining portions were contingent upon the operation of the invalidated section.

13.2 In the event that a part or portion of this EERP is invalidated as per the above, the County or any recognized employee organization that is subject to the provisions of this EERP has the right to initiate meet and confer on the effect of such suspension.

## ARTICLE 14 - DEFINITIONS

For the purpose of this Policy, the following definitions shall apply:

- 14.1 “Appropriate representation unit” means an appropriate unit of employees with a recognized community of interests in classifications and positions formally acknowledged by the County pursuant to this Policy.
- 14.2 "Board" means the Board of Supervisors of the County of Mendocino.
- 14.3 "Civil Service Commission" means the Civil Service Commission of the County of Mendocino.
- 14.4 “Confidential employee” means an employee so designated by the Human Resources Director who, in the course of his/her duties, has access to confidential information relating to the County’s strategy development, position or funding regarding labor negotiations or employer-employee relations activities.
- 14.5 “Discussion” as used in this EERP, is a non-binding informal process or dialog between the County and an employee or employee organization used to explore concepts, ideas or interests outside of the obligations of meet and confer or impact bargaining. Discussion also includes meetings or dialogs preliminary to actual meet and confer. Discussion is not a meet and confer process. Discussion includes involvement in an advisory committee, where matters of mutual or shared concern are discussed that might lead to the meet and confer process.
- 14.6 "County" means the County of Mendocino, a political subdivision of the State of California.
- 14.7 “Day” means calendar day unless expressly stated otherwise.
- 14.8 “Declaration of Intent” means a Notice filed by the Human Resources Director informing employees, and sole recognized employee organizations of the County’s intent to decertify an existing sole recognized employee organization or the representative thereof, or create a new, modified or reorganized appropriate representation unit.
- 14.9 "Department" means an office, department, agency, or institution of the County, administered by a Department Head, and designated as a separate department by the Board of Supervisors.
- 14.10 "Department Head" means the chief executive officer of a department.

- 14.11 “Early neutral evaluation” as used in this EERP is a private, non-binding, confidential processes using a neutral third party to assist the parties in evaluating their respective positions, interests or issues, legal conclusions or interpretation of facts.
- 14.12 “Employee” means for the purposes of this EERP, a person employed by the County other than a person elected to office by popular vote or appointed to office by the Governor of California.
- 14.13 “Executive Employee” means any employee [exclusive of an elected official] who has primary responsibility for planning, organizing, staffing, directing, controlling, formulating, or administering County policies or programs: including, at least, Department Heads and administrative positions customarily recognized to be at Department Head level.
- 14.14 “General Employee” means an employee whose position is not allocated to an executive, management, or supervisory classification and whose position is not designated confidential.
- 14.15 "Impasse" means that the representatives of the County and the representatives of a Recognized Sole Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters within the scope of representation and which they are required to meet and confer upon, remain so substantial and prolonged that further meeting and conferring would be futile.
- 14.16 “Majority” means the numerical majority of valid votes cast, 50% of valid votes cast within the meaning of this EERP, plus one additional valid vote.
- 14.17 “Management Employee” means an employee so designated by the Human Resources Director whose duties include the performance of administrative, office or non-manual work related to management policies or programs or general business operations of the County or supervision of the implementation of County policies and programs generally.
- 14.18 “Mediation” is a private, non-binding, confidential process of facilitating discussions or negotiations using a neutral third party.
- 14.19 "Meet and confer in good faith" means that a public agency, or such representatives as it may designate, and representatives of recognized sole employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to freely exchange information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the public agency of its final budget for the ensuing year. The process should include adequate time for the resolution of impasses where specific procedures for such resolution are contained in local rule, regulation, or

ordinance, or when such procedures are utilized by mutual consent.

- 14.20 “Neutral fact finding” as used in this EERP is a private, non-binding, confidential processes using one or more third parties –including at least one neutral party - to assist the interested parties in determining or evaluating the facts, legal conclusions, or the interested parties respective positions, interests or issues.
- 14.21 “Professional Employee” means an employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and the various types of physical, chemical, and biological scientists.
- 14.22 “Proof of Employee Support” or “proof of support” means proof that at least 30% of employees within an existing or proposed representation unit support a Petition affecting that existing or proposed representation unit, or desire and intend to be represented by the petitioning group of employees or employee organization for the purpose of meeting and conferring on wages, hours and other terms and conditions of employment within the scope of representation. Such proof must consist of either (1) a signed and dated authorization card within (90) ninety days prior to the filing of the petition or (2) a signed and dated petition or petitions within (90) ninety days prior to the filing of the petition. An undated signature shall be invalid for the purposes of calculating proof of support and only the authorization last signed by the employee within 90 days shall be valid for purposes of calculating proof of support. Such Petition shall comply with the following:
- a. Be in a format accepted by the Human Resources Director or neutral third party conducting a representation election.
  - b. An authorization card or petition to reorganize, modify or create an appropriate representation unit shall contain a clear demonstration that the employee desires and intends to be represented by the petitioning group of employees or employee organization for the purpose of meeting and conferring on wages, hours and other terms and conditions of employment. To effect this clear intent by the employee the authorization shall prominently contain the following, or substantially similar statement and be approved by the Human Resources Director:  
“I, the undersigned, hereby authorize [name of petitioning employee organization] to be my sole recognized employee organization representative in all employment relations with the County with respect to wages, hours, and other terms and conditions of employment within the scope of representation.”
- 14.23 “Recognized Employee Organization” means an employee organization which has been formally acknowledged in writing by the County as the sole employee organization that:
- a. Is recognized to represent the employees in a representation unit deemed by the County to be appropriate pursuant to this Policy.

- b. Has the right and obligation to personally meet and confer in good faith, in order to represent such employees, promptly upon request by the County and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

14.24 “Representation” as used in this EERP refers to the right of public employees to collectively have an employee organization represent them in matters regarding their wages, hours and other terms and conditions of employment within the “scope of representation” [see definition].

- a. This EERP sets out the processes, procedures and criteria for how employees will be grouped together in units for the purposes of representation [“appropriate representation units”].
- b. This EERP additionally establishes how a representative [“sole recognized employee organization”] may be acknowledged by the County and chosen or elected by the employees in the unit to be represented.
- c. Conversely some employees by the nature of their duties are un-represented.
- d. All employee units regardless of the nature of their duties may choose by petition and ballot, to be un-represented in their employer-employee relations with the County.
- e. While un-represented employees do not individually have meet and confer rights, they may “discuss” [see the definition of “discussion”] these wages, hours and other terms and conditions of employment with the proper representatives of the county.

14.25 “Scope of Representation” means matters relating to employment conditions and employer-employee relations, including but not limited to wages, hours, and other terms and conditions of employment. However, scope of representation shall not include any County rights reserved to it by operation of law, this EERP or an MOU, nor shall the scope of representation include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

14.26 “Sole Recognized Employee Organization” means the organization that has been recognized by the County as the only organization for an appropriate representation unit that the county will meet and confer with over the terms and conditions of employment within the scope of representation.

14.27 “Supervisory Employee” means any employee so designated by the Human Resources Director having credible power to recommend to the appointing authority whether 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 that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

## **SECTION XVI – OPERATING PROCEDURES**

All matters will be presented in accordance with the following:

- A. All matters pertaining to Civil Service Ordinance and Rules and other topics delegated to the civil Service Commission shall be filed with the Personnel Director for presentation to the Commission.
- B. All matters that pertain to an employee grievance shall be handled by the procedure set forth in Section XVII.
- C. All other matters shall be filed with the Personnel Director, who, together with the County Administrative Officer, shall present the matter to the Mendocino County Board of Supervisors.
- D. All matters properly before the County Board of Supervisors may be referred to the Personnel Relations Committee or to other representatives of the Board who shall then meet and confer with the authorized representatives of the recognized employee organization and report their findings to said Board.

## **SECTION XVII - GRIEVANCE PROCEDURES**

- A. Procedure is hereby established to permit systematic consideration of an individual employee grievance. The objective of this procedure is to resolve grievances as informally as possible and near as possible to the job level in which the grievance has arisen.
- B. The employee may request the assistance of another person of his own choosing in preparing and presenting his grievance.
- C. A grievance is a complaint by an individual employee with respect to the manner in which a policy or practice or regulation relating to his employment is or is not applied to him individually; provided that any such complaint for which appeal is provided in Chapter 3.16 (Civil Service) of the Mendocino County Code shall not be subject to this policy.
- D. A County Grievance Committee and alternates shall be appointed each January 1 by the Board of Supervisors. It shall consist of a County employee selected from a list of ten County employees, submitted by a Level One organization; a department head and the County Administrative Officer as Chairman. In any grievance where a conflict exists an alternate shall sit in the place of the committee member.

Conflict will exist whenever the grievant is from the same department as any of the committee members. Other conflict may be found to exist in the particular circumstance of a grievance.

*E.* The grievance procedures shall be as follows:

- ( 1 ) An aggrieved employee shall first discuss his grievance informally with his immediate supervisor. Initial discussion shall be sought by an employee not later than ten working days after the cause for grievance occurred.
- ( 2 ) If the grievance is not satisfactorily adjusted within three working days, the employee may present his grievance in writing to his higher level supervisor with a copy to the immediate supervisor within five working days after the expiration of the aforesaid three working days. The responsible supervisor at this level shall hear the grievance and render a decision in writing within five working days.
- ( 3 ) If the employee remains aggrieved, he may appeal in writing within five working days to the department head who shall render a written decision on the grievance within seven working days.
- ( 4 ) If the employee remains aggrieved, he may appeal in writing within seven working days to the County Grievance Committee. The County Grievance Committee shall hold a hearing within five working days after receipt of the written grievance. All correspondence dealing with the grievance shall be filed with the Committee prior to the hearing. The Committee majority shall render a decision in writing within five working days after the date of the hearing.
- ( 5 ) If the employee or department head does not agree with the decision of the Grievance Committee, either party may appeal in writing to the Grievance Appeals Board within seven working days after the Grievance Committee has issued its decision. The Grievance Appeals Board shall consist of the five members of the County's Civil Service Commission sitting ex-officio as the Grievance Appeals Board. Any appeal addressed to the Grievance Appeals Board shall be filed in the Personnel Department which shall then immediately contact members of the Appeals Board to arrange for a hearing date within seven working days of the receipt of the appeal.

The Grievance Appeals Board shall render a written decision within ten working days after the conclusion of the hearing. The decision of the Grievance Appeals Board shall be final. (Rev. 3/77)

- F. The time limits specified in any subsection of this grievance procedure may be extended to a definite date by mutual agreement between the employee and the department head.

### **SECTION XVIII - GENERAL PRINCIPLES**

- A. It shall be an unfair employee relations practice for the County:
- ( 1 ) To interfere with, restrain, or coerce employees in the exercise of the rights recognized or granted in this policy.
  - ( 2 ) To dominate or interfere with the formation of any employee organization or contribute financial support to it, provided the rights recognized or granted to employee organizations by this Policy shall not be construed as financial support.
  - ( 3 ) To refuse to meet and confer in good faith with representatives of recognized employee organizations on matters within the scope of representation.
  - ( 4 ) To retaliate against employees for invoking their rights under law or under this policy.
  - ( 5 ) To discriminate against employees for membership in employee organizations or for engaging in activities of the organization.
- B. It shall be unfair employee relations practice for employee organizations or their representatives or their members from:
- ( 1 ) Unlawfully restraining or coercing employees in the exercise of their rights under law under this policy.
  - ( 2 ) Causing an employer to unlawfully discriminate against an employee.
  - ( 3 ) Refusing to meet and confer with the employer as required by law.