



COUNTY OF TULARE EMPLOYMENT RELATIONS POLICY

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Section 1 **PURPOSE**

- (a) It is the purpose of this Policy to promote the improvement of personnel management and employer-employee relations by providing a uniform basis for recognizing the right of County employees to join organizations of their own choice and be represented by such organizations in their employment relationship with the County. Nothing contained herein shall be deemed to supercede the provisions of existing law, County ordinances, or County resolutions establishing and regulating the merit system of personnel administration.

Section 2 **DEFINITIONS**

- (a) The following definitions shall apply to this Policy: no interpretation of more general terms shall in any way conflict with the definitions in other ordinances and resolutions of the County, including the Personnel Administration Rules.
- (b) CERTIFIED EMPLOYEE ORGANIZATION, means a registered employee organization which has been certified as the exclusive representative for an appropriate representation unit pursuant to Section 11 of this Policy.
- (c) CONFIDENTIAL EMPLOYEE, means any employee who is privileged to information pertaining to the decision making process of County management affecting employee relations. Positions with such confidential duties will be designated as confidential positions by the Board (see Appendix A).
- (d) CONSULT or CONSULTATION, means verbal or written communication for the purpose of presenting and obtaining views or advising of intended actions.
- (e) COUNTY, means the County of Tulare, a political subdivision of the State of California, and where appropriate in this Policy, County refers to the Board of Supervisors, County Administrative Officer, or management representative.
- (f) EMPLOYEE, means any permanent or probationary full-time or part-time employee of the County.
- (g) IMPASSE, means that the representatives of a certified employee organization and the County have, after intensive good faith efforts, reached a point in their meet and confer sessions at which their differences are so great that further meetings in an effort to reach agreement on matters within the scope of meeting and conferring would be futile.
- (h) MANAGEMENT EMPLOYEES, means employees who have significant responsibilities for formulating or administering County or departmental policies and programs, including but not limited to department heads, assistant department heads, division chiefs, professional and staff management employees and section heads; and also means any supervisory employee who has authority in the interest of the County to perform or effectively recommend any of the following actions: responsibly direct other employees, or evaluate their performance, or adjust their grievances or hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline them. Positions with these responsibilities shall be designated as management positions by the Board of Supervisors.

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- (i) MANAGEMENT REPRESENTATIVE, means, for the purposes of this Policy, the Human Resources Director or his/her designated representative, or other individuals serving on a Meet and Confer team. For purposes of the Employment Relations Policy the Human Resources Director, or designee, is also the Employee Relations Officer.
- (j) MEDIATION, means effort by an impartial third party to assist in reconciling an impasse regarding wages, hours, and other terms and conditions of employment between representatives of the County and a certified employee organization through interpretation, suggestion and advice.
- (k) MEET AND CONFER, means that management representative(s) and certified employee organization representative(s) shall have the mutual obligation personally to meet and confer in good faith 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 pertaining to wages, hours, and other terms and conditions of employment. This mutual obligation shall not require either party to agree to a proposal or to make a concession.
- (l) PEACE OFFICERS, means, for the purposes of this Policy, the sworn peace officers in the following departments: Sheriff-Coroner's Department, District Attorney's office, and the Probation Department.
- (m) PROFESSIONAL EMPLOYEES, means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction in an institution of higher learning or its equivalent, including, but not limited to attorneys, physicians, registered nurses, engineers, architects, teachers, and the various types of physical, chemical and biological scientists.
- (n) REGISTERED EMPLOYEE ORGANIZATION, means an employee organization which has been registered with the Board, in accordance with Section 7, as an employee organization that represents employees of the County and has as one of its primary purposes representing such employees in their employment relations with the County.
- (o) REPRESENTATION UNIT, means a unit composed of County employees for the purpose of representation in employment relations matters and which has been found to be appropriate in accordance with Sections 8, 9, or 10 and Section 11 of this Policy.
- (p) SHOWING OF INTEREST, means the presentation to the County of a petition or authorization cards clearly stating that the employee authorizes an employee organization to represent him/her in his/her employment relations with the County and whose signature was obtained not more than 90 days earlier than the date said document is presented to the County.

Section 3 **RIGHTS OF EMPLOYEES**

- (a) Employees of the County shall have the following rights:
 - (1) To form, join, and participate in the activities of employee organizations of their

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own choosing for the purpose of representation in matters of employment relations.

- (2) To refuse to join or participate in the activities of employee organizations.
- (3) To represent themselves individually in their employment relations with the County, except that they may not enter into agreement which in any way is contrary to any memorandum of understanding reached between the County and the employee organization certified as the exclusive representative for the unit in which such employee is included.
- (4) A reasonable number of County employees, to be determined by the Human Resources Director, shall be permitted reasonable time off from their County employment duties without loss of compensation or other benefits when formally meeting and conferring with the County as representatives of a certified employee organization on matters within the scope of meeting and conferring.

Section 4 **RIGHTS OF THE COUNTY**

- (a) The rights of the County and its management employees are all existing County and management rights, including but not limited to the following rights to:
 - (1) Continue to exercise efficient and productive management practices consistent with Federal and State law and in compliance with County ordinances.
 - (2) Determine the County budget, organization, and the merits, necessity, and level of any activity or service provided to the public.
 - (3) Establish, plan for, and direct the work force toward the organizational goals of County government.
 - (4) Engage in all types of personnel transactions, including, but not limited to, the hiring, promotion, transfer, assignment, layoff, retention and classification of positions in accordance with County Ordinance and Personnel Administration Rules.
 - (5) Discipline or discharge employees for proper cause in accordance with County Ordinance and Personnel Administration Rules.
 - (6) Determine the methods, means, numbers and kinds of personnel, job or position content, and types of equipment required to accomplish the objectives and goals of the County.
 - (7) Effect a reduction in authorized positions when, for lack of work or other reasons, the positions are no longer needed.
 - (8) Take actions that may be required to carry out the mission of the County in emergencies.
 - (9) Exclude managerial and confidential employees from representing any employee organization which represents other employees of the County on matters within the scope of meeting and conferring.

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- (10) Designate peace officer positions or classes of positions which, if they choose, may participate in any employee organization certified to a representation unit composed solely of such peace officers.
- (11) Modify, supplement or otherwise change, following consultation with employee organizations, this Policy to comply with current Federal and State law, local ordinance, or to meet the developing need.

Section 5 **RIGHTS OF CERTIFIED EMPLOYEE ORGANIZATIONS**

- (a) Certified employee organizations shall have the following rights to:
 - (1) Represent their members in their employment relations with the County, in accordance with their certification as the exclusive representative of employees in an appropriate representation unit.
 - (2) Establish reasonable restrictions regarding who may join and may make reasonable provision for the dismissal of individuals from membership.
 - (3) A certified employee organization, subject to the provisions required by the County or negotiated between the management representative and certified employee organization representative, may use county conference rooms for meeting with employees in the unit for which it is the exclusive representative; may post material on bulletin boards located to serve employees in a unit it represents; and may visit work locations to consult with its members regarding business within the scope of representation. Any access to work locations shall require the approval of the appointing authority or person responsible for the location's operations.
 - (4) Dues deduction shall be permitted, according to negotiated agreement with management representatives, for members in a unit which is represented by a certified employee organization as the exclusive representative.
- (b) Nothing in this section shall prohibit any employee from appearing in his/her own behalf in his/her employment relations with the County.

Section 6 **RIGHTS OF REGISTERED EMPLOYEE ORGANIZATIONS**

- (a) Registered employee organizations shall have the right to represent their members in grievance matters and consult with management on matters pertaining to employment relations, except where said members are included in a representation unit for which an exclusive representative has been certified.
- (b) Nothing in this section shall prohibit any employee from appearing in his/her own behalf in his/her employment relations with the County.

Section 7 **REGISTRATION OF EMPLOYEE ORGANIZATIONS**

- (a) Employee organizations desiring to register to represent County employees in their employment relations with the County shall, first, submit to the Human Resources Director the following information:
 - (1) Name and address of the employee organization and the organization's local, district, and international if applicable.
 - (2) A copy of current constitution and bylaws, local and international if applicable.
 - (3) Current list of names and titles of its officers and the officers of its local, district, and international if applicable.
 - (4) Two representatives or their designees authorized to speak for the organization and the name and address of one representative to whom the Board's Agenda notice will be made available, and to whom such notices may be sent by regular United States mail or electronic mail and to whom telephone notices may be made.
 - (5) Evidence that the employee organization does now have County employees in their membership or that County employees have authorized said organization to represent them in their employment relations with the County.
 - (6) A list of classes containing employees who have authorized said employee organization to represent them in their employment relations with the County.
 - (7) A statement of the employee organization's objectives, including a statement that the employee organization has no restriction on membership based on race, creed, color, disability, age or sex.
 - (8) A written statement acknowledging review of this Policy, the Personnel Ordinance, and Personnel Administration Rules, and a statement agreeing to abide by the provisions of all laws pertaining to employment relations, including this Employment Relations Policy.

- (b) The Board of Supervisors shall hear a request for registration during a regular Board meeting. Registration shall be granted provided the Human Resources Director certifies that the required information in subsection (a) above has been filed with his/her office. A registered employee organization must submit a statement certifying the number of its County employee members not participating in payroll dues deduction to the Human Resources Director each year during the month of January.

- (c) Information required by this section must be current; changes or corrections shall be filed with the Human Resources Director promptly.

- (d) The submission of false statements or withholding of information required by this section shall constitute grounds for the withholding or withdrawal of registration and/or certification.

Section 8 **PETITIONS FOR CERTIFICATION**

- (a) A registered employee organization may request certification as the exclusive representative in an appropriate representation unit or in a unit which is proposed as an appropriate representation unit by: (1) filing with the Employee Relations Officer a petition (showing of interest) containing the signatures of 30% of the employees of the unit or proposed unit which clearly states that the employee authorizes said employee organization to represent him in his employment relations with the County; or (2) submitting authorization cards (showing of interest) signed by 30% of the employees of the unit or proposed unit which clearly states that the employee authorizes said organization to represent him in his employment relations with the County.

- (b) When a petition is filed as in subsection (a), the Human Resources Director shall notify all registered employee organizations and shall post notices on bulletin boards in the areas comprising the proposed unit. Registered employee organizations must indicate their interest as in subsection (c) within 20 calendar days from the date of notification. Employees may submit suggestions to the Human Resources Director during the 20-calendar-day period following posting in their area. If the Human Resources Director, the petitioning employee organization(s), and the interested employee organization(s) agree on a proposed unit, the Human Resources Director will recommend the proposed unit to the Board of Supervisors for their approval as an appropriate representation unit; if the Board approves, a representation election shall be scheduled in accordance with Section 11 of this Policy.

- (c) For the purpose of representation unit determination, an interested employee organization means any registered employee organization which claims that the unit proposed by an employee organization that has complied with subsection (a) above is inappropriate. Such organization may, on a 15% showing of interest in the proposed unit or in another unit including the proposed unit, challenge the composition of the proposed unit.

- (d) A proposed unit shall be described by listing the classes proposed to be included by the official payroll titles as they appear in the official salary schedules of the County. The number of positions in a proposed unit shall be determined by the official County Allocation List, showing authorized positions (excluding extra help), the number of employees by authorized positions less vacancies.

- (e) The following criteria shall be considered as guidelines for determination of appropriate representation units for the County service.
 - (1) The largest reasonable group of employees having an identifiable community of interest; the minimum number of units consistent with good employee relations.

 - (2) The effect the proposed representation unit would have on employment relations in the County.

 - (3) The effect the proposed representation unit would have on the efficient operation of the County and the responsibility of the County and its employees to serve the public.

 - (4) A single classification shall not be divided among two or more representation units, except where classes include management and confidential employees with other employees.

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- (5) Full freedom for County employees to exercise their rights granted under this Policy.
- (6) History of employee relations, in the County and in similar public jurisdictions.
- (7) Professional employees shall have the right to a separate vote in order to determine if they wish to be included in a unit with non-professional employees.
- (8) Management and confidential employees shall not be placed in a unit with other employees.
- (9) No unit shall be determined solely on the basis of the extent to which employees have been organized.

Section 9 **DISPUTED REPRESENTATION UNIT**

- (a) When agreement cannot be reached by the Human Resources Director and interested employee organizations on the appropriateness of a proposed representation unit or units, they may agree to submit the dispute for hearing and recommendations by a neutral party mutually acceptable to the Human Resources Director and all interested employee organizations.
- (b) In the event of a dispute on the appropriateness of a unit of representation for professional employees, upon request of any of the parties, the dispute shall be submitted to the California State Mediation and Conciliation Service for mediation or for recommendation for resolving the dispute.
- (c) The Human Resources Director, the petitioning organization, and other interested employee organization(s), if any, shall submit their recommendations on the disputed representation unit or units with detailed reasons therefor to the neutral party, or as in 9(b) the California State Mediation and Conciliation Service.
- (d) The neutral parties, or the California State Mediation and Conciliation Service (as in 9(b)), recommendation shall be submitted to the Board of Supervisors. The Board, after providing opportunity for comment by interested parties, shall approve or disapprove the recommendation. The Board may, if deemed appropriate, order further meet and confer sessions or seek a further recommendation from a second neutral party.

Section 10 **MODIFICATION OF A REPRESENTATION UNIT**

- (a) A petition for modification of a representation unit may be submitted to the Human Resources Director by a certified employee organization, or a registered employee organization, or an employee in the representation unit. Such petition must be filed with the Human Resources Director only during the thirty (30) day period commencing one-hundred-eighty (180) days prior to the termination date of the Memorandum of Understanding covering the bargaining unit(s) in question. Such petition shall explain fully the modification sought and the reasons therefor and contain the signatures (showing of interest) of a minimum of 30% of the employees who would be added to or deleted from the unit by the proposed modification.

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- (b) The Human Resources Director shall notify the certified employee organization, registered employee organizations, and post notice in the work areas of employees in the affected representation unit. The Human Resources Director shall meet with the petitioner or representatives of the certified employee organization and other registered employee organizations which so request and which submit evidence (showing of interest) that not less than 15% of the employees who would be added to or deleted from a representation unit by the proposed modification have authorized such registered employee organization to represent them in an attempt to mutually agree on an acceptable modification of the representation unit. The Human Resources Director also will meet and consider suggestions submitted by individual employees. Provided agreement can be reached, the Human Resources Director shall recommend the proposed modification or modifications to the Board of Supervisors for its approval as an appropriate representation unit or units and to modify existing units.
- (c) When no agreement can be reached on a proposed modification by the petitioner, certified employee organization, other interested employee organizations and the Human Resources Director, each of the parties, including employees who would be affected by the modification, shall document their position completely on the proposed modification, including their recommendations for submission to the Board. The Board may seek a recommendation from an objective neutral party or they may approve the Human Resources Director's recommendation without such assistance. The Board's decision shall be final.
- (d) If a modification results in the creation of a new unit, the Human Resources Director shall order a certification election in accordance with Section 11 of this Policy.
- (e) When a new class or classes are added to the classification plan or an existing class or classes are changed or modified, the Human Resources Director shall make an evaluation of the relationship of these classes to the existing representation units and make an assignment to the appropriate unit or units. Registered employee organizations or County employees who would be directly affected and who disagree with the Human Resources Director's assignment may file a protest with the Human Resources Director. Such protest will also include their recommendation of a unit assignment for the disputed classes and the reasons therefore. The Human Resources Director will meet with those protesting in an effort to reach agreement; he/she shall make recommendations to the Board of Supervisors. The Board shall approve the recommendation or order a neutral party recommendation if deemed appropriate.
- (f) The foregoing notwithstanding, employees shall remain covered under the currently effective memorandum of understanding until its termination date.
- (g) Nothing contained in this section shall be construed to deny any County employee the right to represent himself/herself and submit his/her recommendations concerning a proposed representation unit modification.

Section 11 **CERTIFICATION ELECTION PROCEDURE**

- (a) After an appropriate unit has been determined in accordance with Sections 8 and 9, the employees' choice among employee organizations for representation in their employment relations with the County shall be ascertained by a secret ballot election. The Human Resources Director shall arrange for the California State Mediation and

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Conciliation Service to conduct a secret ballot election in accordance with this Policy. In the event the California State Mediation and Conciliation Service declines to conduct an election, the County Clerk shall conduct the election; he/she may determine, if deemed appropriate, to use a mail ballot; he/she shall establish safeguards to insure accurate and reliable results.

- (b) Provided an employee organization submits evidence that 30% of the employees in an appropriate representation unit desires that such organization represent them in their employment relations with the County, an election shall be scheduled. Other employee organizations shall be included on the ballot, provided they can submit a 15% showing of interest in the unit. In the aforementioned case(s), an earlier showing of such interest, provided it covers the required percentage of employees in the unit, is acceptable.
- (c) The following general guidelines shall apply in the conduct of any representation election pursuant to this Policy:
 - (1) All ballots in a certification or decertification election for a representation unit shall contain a choice among all interested registered employee organizations, as provided in this Policy, and a choice of no organization.
 - (2) County employees whose names appear on the preceding month's payroll (last full payroll period) in full-time and part-time probationary or permanent status are eligible to vote in such election.
 - (3) When in an election procedure none of the choices receives a vote of approval from a majority of the employees voting in the representation unit, but over 50% of the employees voting in the representation unit vote for the employee organizations, a runoff election shall be held between the two choices receiving the first and second largest number of votes cast.
 - (4) Upon receipt of a report from the California State Mediation and Conciliation Service or the County Clerk of the results of an election, and that a registered employee organization has received a vote of more than 50% of the employees voting in the unit, the Human Resources Director shall certify that employee organization as the certified employee organization and as the exclusive representative for employees in that unit. In the event that less than 50% of the employees voting in the unit vote to be represented by an employee organization, no certification will be made.
 - (5) Not more than one representation election shall be held for a representation unit during a twelve-month period.
 - (6) Any expense incurred for a representation election shall be paid by the County.

Section 12 **DECERTIFICATION ELECTION PROCEDURE**

- (a) A petition for decertification of a certified employee organization may be submitted to the Human Resources Director by a registered employee organization or any employee in a representation unit. Such petition must be filed with the Human Resources Director

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only during the thirty (30) day period commencing one-hundred-eighty (180) days prior to the termination date of the Memorandum of Understanding covering the bargaining unit(s) in question. Such petition must contain the signatures, obtained within the preceding 90 days, of a minimum of 30% of the employees in the unit.

- (b) The Human Resources Director, within 20 days after notifying registered employee organization(s), and employees in the unit, shall arrange an election in accordance with the regular election procedures in Section 11. A certification election may be combined with a decertification election procedure; a registered employee organization may be placed on the ballot, provided it submits 15% showing of interest. The Human Resources Director shall decertify, certify, or announce no certification in accordance with the election results.

Section 13 **IMPASSE PROCEDURE**

- (a) If after a reasonable period of time, representative(s) of the County and the certified employee organization fail to reach agreement on wages, hours, and other terms and conditions of employment, the County or the employee organization shall provide a written notice of a declaration of impasse to the other party. The County and the certified employee organization may agree upon the appointment of a mediator mutually acceptable to both parties. The costs of mediation shall be divided equally between the County and the certified employee organization.
- (b) The Fact Finding procedures shall be in accordance with the Meyers-Milias-Brown section of the Government Code, 3505.4 et seq.

Section 14 **UNFAIR LABOR PRACTICES**

- (a) Employee organizations or any of their members shall neither directly nor indirectly:
 - (1) Interfere with, intimidate, restrain, coerce or discriminate against any employee because of their exercise of their rights under this Policy.
 - (2) Induce any supervisory employee, officer, or other agent of the County to interfere with employees in the exercise of their rights provided in this Policy.
 - (3) Engage in organizing activities, including distribution of literature within work areas of County buildings.
 - (4) Refuse to meet and confer in good faith, when acting as a certified employee organization for a representation unit.
 - (5) Interfere with or disrupt the orderly conduct of County business nor shall any County employee absent himself from his place of County employment without prior agreement with his appointing authority.
 - (6) Engage in conduct inconsistent with the provisions of Government Code Section 3509 and this Policy.

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- (b) The County or its management employees shall neither directly nor indirectly:
 - (1) Interfere with, intimidate, restrain, coerce or discriminate against any employee because of his/her exercise of his/her rights under this Policy.
 - (2) Encourage membership in any employee organization or dominate an employee organization by any means of support.
 - (3) Refuse to meet and confer in good faith with certified employee organizations.
 - (4) Take reprisals against any individual for use of the grievance or appeal procedure or other rights granted by this Employment Relations Policy.

Section 15 **MEETINGS AND CONFERENCES**

- (a) The County management representative(s) and the representative(s) of certified employee organizations representing an appropriate representation unit shall have the mutual obligation to meet and confer in good faith. The County will consult with registered employee organizations to exchange information, consider their suggestions, and process their members' grievances, provided such members are not employees in a representation unit for which there is a certified employee organization.
- (b) Employee organizations shall make their requests for meetings with the Human Resources Director on matters of County-wide or interdepartmental applicability. Employee organizations, following notification to the Human Resources Director, may consult with County department heads on internal departmental matters which concern interpretation or application of this Policy or a currently approved memorandum of understanding, grievances, and other employment relations matters for which a solution may be effected for the department and which would not have County-wide significance.
- (c) Nothing contained in this Policy shall be construed to deny the individual employee the right to represent himself/herself in his employment relations with the County.

Section 16 **AGREEMENTS**

- (a) If an agreement is reached by the representative(s) of the County and a certified employee organization, they shall jointly prepare and sign a written memorandum of such understanding, which shall not be binding, and present it to the Board for their consideration.

Section 17 **GRIEVANCES & DISCIPLINARY ACTION**

- (a) County employees may seek adjustment of their grievances through the Grievance Procedure set forth in their units Memorandum of Understanding or Personnel Rule 13, as applicable.

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- (b) Appeals for relief from disciplinary action may be made in accordance with their units Memorandum of Understanding or Personnel Rule 12, as applicable.

Section 18 **SEVERABILITY**

- (a) Nothing contained herein shall be deemed to supercede the provisions of Federal or State law, County Ordinances, the Personnel Administration Rules or other procedures established for the administration of the personnel system. If any section or paragraph of this Policy is held to be invalid, such decision shall not affect the validity of the remaining sections or paragraphs of this Policy.

APPENDIX

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CONFIDENTIAL EMPLOYEES designated by the Board may include, but are not limited to, the following:

1. Confidential classifications designated as 'K' classifications that are adopted by the Board of Supervisors and are listed in the Classification Listing as they are deemed to handle material confidential to the labor relations function.
2. All positions in the County Executive-Clerk of the Board's office.
3. All positions in the Human Resources & Development Department.
4. All positions in the County Counsel's Office.

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