



# MEMORANDUM

from the office of  
PLACER COUNTY COUNSEL  
Extension 4044

TO : Placer County Board of Supervisors

FROM : Anthony J. La Bouff, County Counsel  
Valerie D. Flood, Supervising Deputy County Counsel *VdF*

DATE : February 26, 2008

RE : Legal Background. Probation Officer Unit Modification Petitions.

## BACKGROUND.

The Meyers-Milias-Brown Act (MMBA- Government Code sections 3500 et. seq.) governs labor-management relationships within California local entities, including counties. The MMBA permits the County to establish local rules governing employment relations after consultation with the County's labor unions. At the same time, the MMBA establishes mandatory rights and duties governing all local agencies.

Placer County and its labor unions have agreed to local rules in the form of the Placer County Employer-Employee Relations Policy (EERP). The EERP was last amended and adopted by this Board on June 24, 2001. **(Attachment 1)** Among other matters, the EERP provides the procedures governing how a labor union is chosen to represent a group of employees and how bargaining units are created and modified.

Placer County has two exclusively recognized labor unions. The PPEO (Placer Public Employees Organization) and the PCDSA (Placer County Deputy Sheriffs' Association). The PPEO represents two employee bargaining units- the General Bargaining Unit and the Professional Bargaining Unit. The DSA represents one employee bargaining unit- sometimes referred to as the Law Enforcement Unit. County Deputy Probation Officers are currently members of the DSA Law Enforcement Unit.

## DISCUSSION.

The PPEO recently filed a petition which essentially requests two things. One, that a union election be held to determine if the Probation Officer series should sever their relationship with the DSA and be represented instead by the PPEO. Two, if the Probation Officers vote to be represented by the PPEO, the petition requests that they be placed in the PPEO Professional Unit. Under the terms of the EERP, this is a severance/ representation request (Article II, section 10) and a Unit Modification request

(Article II, section 9). The Employee Relations Officer found that the PPEO petition complied with the requirements of the EERP.

Subsequently, the DSA filed a petition which essentially requests two things. One, that the DSA should be included on the ballot in any election to be held pursuant to the PPEO Petition. Two, if the Probation Officers remain with the DSA the single DSA unit should be modified or split to create two bargaining units with the result that the Probation Officers would obtain their own unit within the DSA. The Employee Relations Officer found that the DSA petition complied with the requirements of the EERP.

Under the EERP, the "timing, form and processing" of a Severance Request incorporates the procedure provided for Unit Modification requests. The procedure for Unit Modification Requests has it's own process and incorporates aspects of the procedure provided for "Recognition Petitions" (Article II, sections 2-6).

The Board's determination at the February 26, 2008, meeting is limited to the question of whether the proposed bargaining units are appropriate bargaining units for the Probation Officer series. Because there will need to be a vote to determine who will represent the Deputy Probation Officers, your Board's determination will be made subject to the results of the election for exclusive representation. That election will be set after March 12, 2008.<sup>1</sup>

While your Board has latitude in determining bargaining unit composition, the policy and standards to be used in that determination are contained in the EERP, Article II, section 8, and in this situation also include the EERP section II definition of "Professional Employee". No one factor is given deference over the others, and the totality of the factors are to be considered in the context of the current circumstances. Under the MMBA, employees who are full-time peace officers have the right to join or participate in employee organizations which are composed solely of peace officers. However, peace officers do not have to participate in such employee organizations. It is the choice of the employee peace officer group. (Gov't Code section 3508) The standard for determining an appropriate bargaining unit is not whether a proposed bargaining unit is the best or only appropriate bargaining unit for a class of employees, but whether a proposed bargaining unit is "an" appropriate bargaining unit.

Under the EERP, Severance and Unit Modification Petitions (as well as all other possible petitions) may only be filed in February of any year. Similarly, your Board may take action on a unit modification request only in the month of February.

---

<sup>1</sup> The election can not be set until after the running of 30 days from notice to employees of the Petition compliance determination by the Employee Relations Officer. The election will be officiated by a neutral third party. All employee organizations who have submitted petitions in conformance with the EERP will be included on that ballot. The ballot will also allow Deputy Probation Officer employees to vote for no organizational representation. An employee organization must receive a numerical majority of all members eligible to vote to win.

# EMPLOYER-EMPLOYEE RELATIONS POLICY

## Article I -- General Provisions

### Sec. 1. Purpose:

This Policy is intended to provide for orderly procedures for the administration of employer-employee relations between the County of Placer (the County) and its employee organizations. However, nothing contained herein shall be deemed to supersede or conflict with the provisions of the Charter of the County of Placer, the Placer County Code (County ordinances), the Civil Service Commission Enabling Ordinance (hereinafter jointly known as "Local Law"), or valid and applicable state or federal law. Where Local Law provides procedures different than or inconsistent with any procedures contained in this Policy, then the procedures of Local Law shall be deemed the exclusive method. This Policy is intended to promote positive personnel management and employer-employee relations and to strengthen the merit and civil service system and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the County.

It is the purpose of this 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 in appropriate units and that are not preempted by Local Law or valid and applicable state or federal law. However, nothing herein shall be construed to restrict any legal or inherent exclusive County rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reasons; determine the content of job classifications; subcontract work; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; exercise complete control and discretion over its organization and the technology of performing its work; and manage the affairs of the County in the most economical and efficient manner, and in the best interests of its citizens.

### Sec. 2. Definitions:

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

- a. "Appropriate unit" means a unit of employee classes or positions, established pursuant to Article II -- Representation Proceedings hereof.

b. "County" means the County of Placer and, where appropriate herein, refers to the County Board of Supervisors or any duly authorized County representative as herein defined.

c. "Confidential Employee" means non-management employee who, in the course of his or her duties, has access to confidential information relating to the County's administration of employer-employee relations.

d. "Consult/Consultation in Good Faith" means to communicate orally or in writing with all effected employee organizations, whether exclusively recognized or not, for the purpose of presenting and obtaining views or advising of proposed actions in an effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposals with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article IV – Impasse Procedures hereof.

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

f. "Employee Relations Officer" means the County Executive Officer or his/her duly authorized representative, except as otherwise provided for by the Board of Supervisors.

g. "Exclusively Recognized Employee Organization" means an employee organization which has been formally acknowledged by the County as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article II – Representation Proceedings hereof, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

h. "Impasse" means that the representatives of the County and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

i. "Management Employee" means an employee having responsibility for formulating, administering or managing the implementation of County policies and programs.

j. "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 various types of physical, chemical and biological scientists.

k. "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition.

## Article II -- Representation Proceedings

### Sec. 3. Filing of Recognition Petition by Employee Organization:

An employee organization which seeks to be formally acknowledged as an *Exclusively Recognized Employee Organization* representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer. The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it. The Petition shall contain the following information and documentation:

- a. Name and address of the employee organization.
- b. Names and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- d. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the County.
- e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
- f. Certified copies of the employee organization's constitution and bylaws.
- g. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- h. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.
- i. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- j. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the County. Such written proof shall be

submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party. The "majority of the employees" requirement shall become effective upon the adoption of this Policy by the Board of Supervisors with respect to future Recognition Petitions, and shall not effect the status of any Exclusively Recognized Employee Organization which was recognized under the former policy of a "30% of the employees" requirement.

k. A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

**Sec. 4. County Response to Recognition Petition:**

Upon receipt of the Petition, the Employee Relations Officer shall determine whether: (a) There has been compliance with the requirements of the Recognition Petition, and (b) shall put before the Board of Supervisors the determination of the proposed representation unit as an appropriate unit in accordance with Article II, Sec. 8 - Policy and Standards for Determination of Appropriate Units.

If an affirmative determination is made on the foregoing two matters, the Employee Relations Officer shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Sec. 11 - Appeals, of this Policy.

**Sec. 5. Open Period for Filing Challenging Petition:**

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least 50% and otherwise in the same form and manner as set forth in Article II, Sec. 3 - Filing of Recognition Petition by Employee Organization. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Board of Supervisors shall determine the appropriate unit or units in accordance with the standards in Article II, Sec. 8 - Policy and Standards for Determination of Appropriate Units. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination

is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Article II, Sec. 11 - Appeals.

**Sec. 6. Election Procedure:**

Pursuant to Government Code § 3507(d) elections are required in every case as the basis of exclusive recognition of employee organizations. The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of this Policy. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article II shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the County, that is, the choice of no organizational representation. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the County in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all members eligible to vote. In an election involving three or more choices, where none of the choices receives a majority vote, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under this Policy pursuant to any petition in a 12-month period affecting the same unit. In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service. Costs of conducting elections shall be borne in equal shares by the County and by each employee organization appearing on the ballot.

**Sec. 7. Procedure for Decertification of Exclusively Recognized Employee Organization:**

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of February of any year following the first full year of recognition. However, no Decertification Petition can be filed within six (6) months of the beginning date of a Memorandum of Understanding. A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

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

b. The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit.

c. An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.

d. Proof of employee support that at least 50% of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this Section in the form of a Recognition Petition that evidences proof of employee support of at least 50%, that includes the allegation and information required under paragraph (c.) of this Section 7, and otherwise conforms to the requirements of this Article, Section 3 – Filing of Recognition Petition by Employee Organization.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article II. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Article II, Sec. 11 – Appeals. If the determination of the Employee Relations Officer is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Article II, Sec. 6 – Election Procedure.

During the "open period" specified in the first paragraph of this Sec. 7, the Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with this Sec. 7, which the Employee Relations Officer shall act on in accordance with this Sec. 7.

If, pursuant to this Sec. 7, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

**Sec. 8. Policy and Standards for Determination of Appropriate Units:**

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the County and its compatibility with the primary responsibility of the County and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

- a. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- b. History of representation in the County and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
- c. Consistency with the organizational patterns of the County.
- d. Effect of differing legally mandated impasse resolution procedures.
- e. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
- f. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.

Notwithstanding the foregoing provisions of this Section, managerial and confidential responsibilities, as defined in Sec. 2 – Definitions, of this Policy, are determining factors in establishing appropriate units hereunder, and therefore managerial

and confidential employees may only be included in a unit consisting solely of managerial or confidential employees respectively. Managerial and confidential employees may not represent any employee organization which represents other employees.

The Board of Supervisors shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section. The decision of the Board of Supervisors shall be final.

**Sec. 9. Procedure for Modification of Established Appropriate Units:**

Requests by employee organizations for modifications of established appropriate units may be considered by the Board of Supervisors only during the period specified in Article II, Sec. 7 - Procedure for Decertification of Exclusively Recognized Employee Organization. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Article II, Sec. 3 - Filing of Recognition Petition by Employee Organization, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Sec. 8 - Policy and Standards for Determination of Appropriate Units hereof. The Employee Relations Officer shall process, on behalf of the Board of Supervisors, such petitions as other Recognition Petitions under this Article II.

The Board of Supervisors may by its own motion propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Board of Supervisors shall determine the composition of the appropriate unit or units in accordance with Article II, Sec. 8 - Policy and Standards for Determination of Appropriate Units, and the Employee Relations Officer shall give written notice of such determination to the affected employee organizations. The Board's determination may be appealed as provided in Article II, Section 11 - Appeals. If a unit is modified pursuant to the motion of the Board, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Sec. 3 - Filing of Recognition Petition by Employee Organization hereof.

**Sec. 10. Procedure for Processing Severance Requests:**

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The timing, form and processing of such request shall be as specified in Sec. 9 - Procedure for Modification of Established Appropriate Units for modification requests.

**Sec. 11. Appeals:**

An employee organization aggrieved by an appropriate unit determination of the Board of Supervisors; or an employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Sec. 3 – Filing of Recognition Petition by Employee Organization), Challenging Petition (Sec. 5 – Open Period for Filing Challenging Petition), Decertification Petition (Sec. 7 – Procedure for Decertification of Exclusively Recognized Employee Organization), Unit Modification Petition (Sec. 9 – Procedure for Modification of Established Appropriate Units), or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition (Sec. 7 - Procedure for Decertification of Exclusively Recognized Employee Organization) has not been filed in compliance with the applicable provisions of this Article, may, within ten (10) days of notice of the final decision, request to submit the matter to mediation by the State Mediation and Conciliation Service, or may, in lieu thereof or thereafter, appeal such determination to the Board of Supervisors for final decision. Any appeal to the Board shall be filed within fifteen (15) days of notice of the final determination, or the termination of mediation proceedings, whichever is later.

Appeals to the Board of Supervisors shall be filed in writing with the Clerk of the Board, and a copy thereof served on the Employee Relations Officer. The Board shall commence to consider the matter within thirty (30) days of the filing of the appeal. The Board may, in its discretion, refer the dispute to a third party hearing process. Any decision of the Board of Supervisors on the use of such procedure, and/or any decision of the Board in determining the substance of the dispute shall be final and binding.

**Sec. 12. Revocation of Recognition:**

The Board of Supervisors, after a public hearing, may revoke the recognition of any employee organization which repeatedly violates any Federal, State, or Local Law, or any rules adopted herein, for the orderly and responsible administration of employer-employee relations.

**Article III -- Administration**

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

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

**Sec. 14. Employee Organization Activities -- Use of County Resources:**

Generally, access to County work locations and the use of County paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in this section or in a Memoranda of Understanding. Such access shall be limited to lawful activities consistent with the provisions of this Policy, that pertain directly to the employer-employee relationship, shall not include contacting employees on County time who are not members of the particular employee organization, and shall not include such internal employee organization business as soliciting membership or representation rights, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of County operations.

Any authorized representative of a recognized employee organization may contact members of his/her organization in County facilities provided he/she has first made arrangements with the Department Head, or designee, to provide for a time when such contact does not disrupt County business. There shall be a presumption that an employee is available to meet with an organization representative during the employee's personal time (regularly scheduled lunch and breaks, or outside of regular working hours).

No employee organization material shall be posted, or displayed at other than regularly existing bulletin boards. Departments shall allow the use of bulletin boards by employee organizations under the following conditions:

- (1) For internal departmental bulletin boards, it shall be posted on space as designated by the Department Head.
- (2) Posted material shall bear the identity of the organization posting it.
- (3) Posted material shall not be misleading, nor violate any Federal, State, or Local Law, or Civil Service Ordinance, law, statute, or rule.
- (4) Material shall be neatly displayed and shall be promptly removed when no longer timely.
- (5) It shall not be of such quantity as to prevent the use of such bulletin boards for other County purposes.
- (6) General public bulletin boards use will require approval by the County Executive prior to posting.

County facilities may be made available for use by recognized employee organizations provided that appropriate advance arrangements are made. The granting of such use may be conditioned on appropriate charges to offset the cost of such use.

When meeting with employer representatives, both the employer and employee organization shall designate a primary spokesperson. In addition to the primary spokesperson, the employer and employee organization may send not more than three advisors to such meeting, unless otherwise agreed upon by all parties. Such advisors shall not directly participate in discussions unless mutually agreed upon by all parties. If any of the intended advisors of the employee organization are County employees, the organization shall secure the pre-approval of the advisors' Department Head(s) such that the advisors' absence shall not disrupt County business.

With respect to participating in a grievance process pursuant to Local Law, or valid and applicable state or federal law, any grievant, or group of employees having a common grievance, may use no more than one-half (1/2) hour of a working shift for the preparation of a grievance. No more than one County employee belonging to the grievant's employee association may represent such grievant or group of employees having a common grievance in preparation of a grievance. If such preparation is to take place during working hours, any such grievant(s) shall first contact the affected department head(s) to arrange for a time and place for such preparation. The affected department head(s) shall act reasonably in such scheduling, however, may choose a place and time that will least disrupt County business.

Employees, employee organization representatives, and employer representatives shall, whenever participating in any meeting, act in a mature and responsible manner, and shall avoid actions which are designed to insult, intimidate, mislead, misrepresent, confuse, or incite illegal action, or action contrary to Local Law, or valid and applicable state or federal law.

**Sec. 15. Payroll Deductions:**

An exclusively recognized employee organization shall be entitled to request that payroll deductions be made for payment of organization membership dues.

**Sec. 16. Procedure for the Administration of the Policy:**

The County Executive Officer in conjunction with the Personnel Director, or their designees, are hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Policy after consultation with affected employee organizations.

All requests and reasons for addition, amendment or modification of the Employer-Employee Relations Policy shall be submitted in writing to the Personnel Director. The Personnel Director shall set up a meeting with the County Executive Officer, within a reasonable time to review and discuss the request. The Personnel Director and County Executive Officer shall set up a meeting with recognized employee organizations to consult on the request. Written notification of such meeting shall be sent by the Personnel Director to the interested parties stating the time, date and place of such meeting. Failure to attend such scheduled meeting by a representative of a recognized employee organization, or present a written statement shall be construed as agreement to whatever recommendations may be made by the group reviewing the request. After reviewing the request, each participant may submit to the Board of Supervisors its recommendation whether such amendment shall be adopted in whole, or in part. The proposed changes to the policy shall be submitted to the Board of Supervisors for action.

**Article IV -- Impasse Procedures**

**Sec. 17. Initiation of Impasse Procedures:**

If the meet and confer process has reached impasse as defined in Section 2 - Definitions of this Policy, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be: (a) To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and (b) If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

**Sec. 18. Impasse Procedures:**

Impasse procedures are as follows:

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

If mediation was not agreed to, or having so agreed the impasse has not been resolved, the Board of Supervisors may take such action regarding the impasse as it in its discretion deems appropriate as in the public interest. Any legislative action by the Board of Supervisors on the impasse shall be final and binding.

**Sec. 19. Costs of Impasse Procedures:**

The cost for the services of a mediator utilized by the parties, and other mutually incurred costs of mediation, shall be borne equally by the County and Exclusively Recognized Employee Organization. Separately incurred costs of a party, shall be borne by such party.

**Article V -- Miscellaneous Provisions**

**Sec. 20. Construction:**

This Policy shall be administered and construed as follows:

(a) Nothing in this Policy shall be construed to deny to any person, employee, organization, the County, or any authorized officer, body or other representative of the County, the rights, powers and authority granted by Local Law or valid and applicable state or federal law.

(b) This Policy shall be interpreted so as to carry out its purpose as set forth in Article I – General Provisions

(c) Nothing in this Policy shall be construed as making the provisions of California Labor Code Section 923 applicable to County employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sick-out or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the County, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by *contrary* Local Law or legally valid and preemptive state law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination, and may be replaced, to the extent such actions are not prohibited by preemptive law; and employee organizations may thereby forfeit rights accorded them under County law or contract.

**Sec. 21. Grievance Procedure Oversight:**

Violations of a grievance process/procedure pursuant to Local Law, or valid and applicable state or federal law, shall be reported in writing to the Employee Relations Officer, with a copy to the Personnel Director. The Employee Relations Officer shall act promptly to insure compliance therewith. This paragraph shall not be applicable to disagreement as to any decision, but only as to whether the correct procedure has been followed.

**Sec. 22. County Representatives:**

Except as may be otherwise provided herein, and except as otherwise provided for by the Board of Supervisors, the County Executive Officer and the Personnel Director, or their designees, will represent the County in any meet and confer or consultation with employee organizations, and will make recommendations concerning employer-employee relations. Where this Policy provides that the Board of Supervisors shall meet with or provide a hearing, other than an appeal hearing, to an employee organization on an issue to be decided by the Board, the meeting or hearing will be provided by the Employee Relations Officer, on behalf of the Board, who will then make recommendations to the Board based on the information obtained in the meetings or hearings.

**Sec. 23. Severability:**

If any provision of this Policy, or the application of such provision to any persons or circumstances, shall be held invalid, the remainder of this Policy, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

