

1 **13.0201 Purpose.**

2 It is the purpose of this chapter:

3 (a) To establish an orderly system for conducting employer-employee
4 relations within the County.

5 (b) To establish a system to facilitate communications between management
6 and employees and to provide for the exchange of information and ideas.

7 (c) To clarify in writing the rights and obligations of employees, employee
8 organizations, and County management in the conduct of employer-employee relations
9 activities.

10 **13.0202 Definitions.**

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

12 (a) "Agency shop" means an arrangement that requires an employee, as a
13 condition of continued employment, either to join the exclusive recognized employee
14 organization or to pay the organization a service fee in an amount not to exceed the
15 standard initiation fee, periodic dues, and general assessments of the organization.

16 (b) "Authorized employee representation unit" means a unit of employee job
17 classes and/or positions established pursuant to Section 13.0205 herein, or hereafter
18 created pursuant to Section 13.0206 herein.

19 (c) "Certify" means the process by which the County formally acknowledges
20 an employee organization as the exclusive recognized employee organization that
21 represents County employees in an authorized representation unit.

22 (d) "Confidential employee" means an employee who, in the regular course of
23 his or her duties, has access to, or possesses information relating to, the County's
24 employer-employee relations program.

25 (e) "Consult/consultation in good faith" means to communicate orally or in
26 writing for the purpose of presenting and obtaining views or advising of intended actions
27 on matters outside the scope of representation; and does not involve the exchange of
28 proposals and counterproposals in an endeavor to reach agreement.

1 (f) "County" means the County of San Bernardino, and, where appropriate
2 herein, refers to the Board of Supervisors or any duly authorized County representative.

3 (g) "Day" means calendar day unless expressly stated otherwise.

4 (h) "Emergency" means an unforeseen circumstance requiring immediate
5 action, a sudden unexpected happening, or an unforeseen occurrence or condition.

6 (i) "Employee" means any person employed by the County, excepting those
7 persons elected by popular vote or appointed to office by the Governor of the State of
8 California.

9 (j) "Employee organization" means any organization which includes
10 employees of the County and which has as one of its primary purposes representing
11 such employees in their relations with the County, or any organization that seeks to
12 represent employees in their relations with the County.

13 (k) "Exclusive recognized employee organization" or "exclusive
14 representative" means an employee organization that has been certified by the County
15 as the employee organization, which received the majority of votes in a valid
16 representation election for an authorized employee representation unit.

17 (l) "Impasse" means the representatives of the County and an exclusive
18 recognized employee organization have reached a point in collective bargaining,
19 conferring in good faith, where their differences on those matters intended to be
20 included in a memorandum of understanding, and concerning which they are required to
21 meet and confer, remains so substantial and prolonged that further meeting and
22 conferring would be futile.

23 (m) "Interest dispute" means a disagreement between County management
24 and an exclusive recognized employee organization concerning matters within the
25 scope of representation.

26 (n) "Meet and confer in good faith" means that a public agency, or such
27 representatives as it may designate, and representatives of exclusive recognized
28 employee organizations, shall have the mutual obligation personally to meet and confer

1 promptly upon request by either party and continue for a reasonable period of time in
2 order to exchange freely information, opinions, and proposals, and to endeavor to reach
3 agreement on matters within the scope of representation prior to the adoption by the
4 public agency of its budget for the ensuing year. The process should include adequate
5 time for the resolution of impasses where specific procedures for such resolution are
6 contained in local rule, regulation, or ordinance, or when such procedures are utilized by
7 mutual consent.

8 (o) "Memorandum of understanding" means a written document prepared by
9 the County and the exclusive recognized employee organization, which sets forth those
10 matters within the scope of representation upon which both parties have agreed. Such
11 document shall not be binding on the County until such time that it has been approved
12 by the Board of Supervisors.

13 (p) "Rights dispute" means a disagreement between County management
14 and an exclusive recognized employee organization or employees who are not
15 members of an exclusive recognized employee organization, concerning the
16 interpretation, application, or violation of any memorandum of understanding.

17 (q) "Service" or "serve" means notification by mail or by personal service, and
18 shall be deemed complete upon mailing, hand delivery or leaving a copy at the principal
19 office of the party or representative.

20 **13.0203 County Management Rights.**

21 Subject to the provisions of any current memorandum of understanding, which is
22 in full force and effect, all management rights and functions shall remain vested
23 exclusively with the County except those which are clearly and expressly limited in this
24 chapter. It is recognized merely by way of illustration that such management rights and
25 functions include but are not limited to:

26 (a) The right to determine the mission of each of its groups, agencies,
27 departments, institutions, boards, and commissions.

28 (b) The right of full and exclusive control of the management of the County

1 supervision of all operations; determination of the methods and means of performing
2 any and all work; and composition, assignment, direction, location, and determination of
3 the size and mission of the work force.

4 (c) The right to determine the work to be done by the employees, including
5 establishment of levels of service and staffing patterns.

6 (d) The right to change or introduce new or improved operations, methods,
7 means or facilities; or, to contract for work to be done.

8 (e) Subject to the Personnel Rules, the right to hire, schedule, set and enforce
9 performance standards, promote, transfer, release and lay off employees; to suspend,
10 demote, reduce in step or grade, discipline and discharge employees for cause; to
11 prescribe qualifications for employment and determine whether they are met; and to
12 otherwise maintain orderly, effective, and efficient operations.

13 **13.0204 Employee's Rights.**

14 (a) All employees shall have the following rights which may be exercised in
15 accordance with state law, the County Charter, and applicable ordinances, rules and
16 regulations or as provided in a current memorandum of understanding that is in full
17 force and effect.

18 (1) The right to form, join, and participate in the activities of employee
19 organizations of their own choosing for the purpose of representation on all matters of
20 employer-employee relations.

21 (2) The right to refuse to join or participate in the activities of employee
22 organizations and the right to represent themselves individually in their employment
23 relations with the County.

24 (3) The right to be free from interference, intimidation, restraint,
25 coercion, discrimination, or reprisal on the part of an appointing authority, supervisor,
26 other employees, or employee organizations as a result of their exercise of rights
27 granted in Section 13.0204(a)(1) and (2).

28 (b) Employees who are full-time peace officers as that term is defined in

1 Chapter 4.5 of Title 3, Part 2 of the Penal Code shall have the right to join or participate
2 in employee organizations which are composed solely of such peace officers and which
3 concern themselves solely and exclusively with the wages, hours, working conditions,
4 welfare programs, and advancement of the academic and vocational training and
5 furtherance of the police profession, and which are not subordinate to any other
6 organization.

7 **13.0205 Authorized Employee Representation Units.**

8 (a) The following representation units are established for employer-employee
9 relations purposes. Definitions are general in nature and serve as an illustration and
10 guide in the unit placement of classifications.

11 (1) Management Unit.

12 Definition: Shall include classifications or positions which under
13 administrative direction of a group or department head have departmental responsibility
14 for implementing program requirements through supervisors; formulating, administering,
15 and managing County policies and programs; and, are responsible for employee
16 relations at the department level, including adherence to labor contracts, grievance
17 procedures, employee relations provisions of the County Code, and the training of
18 supervisory employees.

19 (2) Safety Management and Supervisory Unit.

20 Definition: Shall include classifications of employees qualifying as
21 a "county peace officer" as defined in Section 31469.1 of the County Employees'
22 Retirement Law of the California Government Code or are full-time "peace officers" as
23 that term is defined in Sections 830.1 and 830.3(b) of the California Penal Code and are
24 so assigned to the unit by the Board of Supervisors; and, having responsibility for
25 implementing program requirements; formulating, administering, and managing County
26 policies and programs; or, having authority to hire, transfer, suspend, lay off, recall,
27 promote, discharge, assign, reward, evaluate, or discipline other employees, or
28 responsibility to direct them, or to adjust their grievances, or to effectively recommen.

1 such action if in connection with the foregoing the exercise of such authority is not of a
2 merely routine or clerical nature, but requires the use of independent judgment.

3 (3) Supervisory Unit.

4 Definition: Shall include classifications or positions having authority
5 to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, evaluate,
6 or discipline other employees; or responsibility to direct them; or, to adjust their
7 grievances; or, to effectively recommend such action if in connection with the foregoing
8 the exercise of such authority is not of a merely routine or clerical nature, but requires
9 the use of independent judgment.

10 (4) Professional Unit.

11 Definition: Shall include classifications requiring the performance of
12 work that is either predominantly intellectual, philosophical, largely governed by
13 conceptual understandings, and varied in character, involving continuing exercise of
14 independent discretion and judgment in work performance and requiring specialized
15 knowledge and skills equivalent to that attained by a prolonged course of intellectual
16 instruction in an institution of higher learning, or hospital, as distinguished from general
17 academic training or from apprenticeship training; or, any employee who is performing
18 in a training capacity under the direction of a professional person in preparation to
19 qualify as a professional employee as defined above.

20 (5) Safety Unit.

21 Definition: Shall include classifications of employees qualifying as
22 a "county peace officer" as defined in Section 31469.1 of the County Employees'
23 Retirement Law of the California Government Code or are fulltime "peace officers" as
24 that term is defined in Sections 830.1 and 830.3(b) of the California Penal Code and are
25 so assigned to the unit by the Board of Supervisors due to the nature of the work being
26 directly related to the law enforcement function, which work does not involve work of a
27 supervisory or management nature as described herein.

28 (6) Technical and Inspection Unit.

1 Definition: Shall include classifications requiring the use of specific
2 skills, knowledge and abilities in the inspection of facilities and/or conditions to
3 determine compliance with appropriate rules, laws, codes, and regulations; or requiring
4 use of specific knowledge or techniques as opposed to a broad, philosophical, or a
5 theoretical field of knowledge; employs practical knowledge marked by characteristics of
6 specialized experience related to the performance of specifically delineated techniques
7 entailing a particular subject or subjects.

8 (7) Craft, Labor and Trades Unit.

9 Definition: Shall include classifications requiring competence in
10 one (1) or more crafts or trades; thorough knowledge and skill in the use of manual or
11 equipment operations; use of machines, tools, or other special equipment for the
12 repetitive production of single purpose jobs, which may include responsibility for a
13 product or maintenance of equipment; or, use of manual or physical dexterity necessary
14 to complete a specific work objective, which requires minimal exercise of independent
15 judgment and is normally learned through on-the-job training. Usually includes all jobs
16 that are apprenticeable.

17 (8) Clerical Unit.

18 Definition: Shall include classifications performing work concerned
19 with preparing, recording, transcribing, transferring, systematizing, and preserving
20 written and oral communications and records; operating business, office, accounting,
21 and routine electronic data processing equipment; collecting and recording of fees; or
22 collecting, recording, compiling, and tabulating financial, statistical or other data.
23 Personal, telephonic and routine written contact with the public on procedural and
24 information matters is normally characteristic of clerical unit positions.

25 (9) Administrative Services Unit.

26 Definition: Shall include classifications characterized by work
27 consisting of that which inherently includes the regular exercise of independent
28 discretion and judgment, in support of the management and operation of a

1 organization, requiring general academic degree work, rather than a specific, job related
2 professional degree.

3 (10) Exempt Unit.

4 Definition: Shall include classifications that have been determined
5 to formulate and administer significant executive responsibilities under the direction of
6 an Assistant Executive Officer, an elected official, a department head or on behalf of the
7 Chief Executive Officer, as well as positions that have significant involvement in the
8 County's employer-employee relations program or, those with access to highly
9 confidential information and involvement with matters of significant impact to County
10 operations.

11 (11) Specialized Peace Officer Unit.

12 Definition: Shall include classifications of employees qualifying as
13 "peace officers" as that term is defined in the California Penal Code who are entitled to
14 a separate "peace officer" only unit pursuant to Government Code section 3508,
15 excepting therefrom those "peace officers" as defined in Section 830.1 and 830.3(b) of
16 the California Penal Code who qualify as a "county peace officer" as defined in Section
17 31469.1 of the County Employees' Retirement Law of the California Government Code
18 and excluding the classifications of Probation Officer I, Probation Officer II and
19 Probation Officer III. Such classifications are so assigned to the unit by the Board of
20 Supervisors due to the nature of the work being directly related to the limited law
21 enforcement function which work does not involve work of a supervisory or
22 management nature as described herein.

23 (12) Specialized Peace Officer Supervisory Unit.

24 Definition: Shall include classifications of employees qualifying as
25 "peace officers" as that term is defined in the California Penal Code who are entitled to
26 a separate "peace officer" only unit pursuant to Government Code section 3508,
27 excepting there from those "peace officers" as defined in Section 830.1 and 830.3(b) of
28 the California Penal Code who qualify as "county peace officer" as defined in Section

1 31469.1 of the County's Employees' Retirement Law of the California Government
2 Code; and, having responsibility for implementing program requirements; formulating,
3 administering, and managing County policies and programs; or, having authority, to
4 hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, evaluate, or
5 discipline other employees, or responsibility to direct them, or to adjust their grievances,
6 or to effectively recommend such action, if in connection with the foregoing the exercise
7 of such authority is not of a merely routine or clerical in nature, but requires the use of
8 independent judgment.

9 (13) Attorney Unit.

10 Definition: Shall include classifications in the District Attorney,
11 Public Defender and Child Support Departments, excluding classifications in the
12 Supervisory Unit and Exempt Group, requiring admission to the State Bar of California,
13 and requiring the performance of legal work that is either predominantly intellectual,
14 philosophical, or largely governed by conceptual understandings, and varied in
15 character, involving continuing exercise of independent discretion and judgment and
16 work performance, and requiring specialized knowledge and skills equivalent to that
17 obtained by a prolonged course of intellectual instruction in a law school.

18 (14) Nurses Unit.

19 Definition: Shall include all classifications of employees defined as
20 being in the classified service pursuant to the Personnel Rules for the County of San
21 Bernardino, excluding classifications in the Supervisory Nurses Unit and Exempt Group,
22 requiring licensure by the Board of Registered Nursing as a registered nurse, and are
23 so assigned to the unit by the Board of Supervisors due to the nature of work being
24 directly related to the practice of nursing as defined in Business and Professions Code
25 section 2725 which work does not involve work of a supervisory or management nature
26 as described herein.

27 (15) Supervisory Nurses Unit.

28 Definition: Shall include all classifications of employees, excluding

1 classifications in the Nurses Unit and Exempt Group, requiring licensure by the Board of
2 Registered Nursing as a registered nurse and: having responsibility for implementing
3 program requirements, formulating, administering, and managing County policies and
4 programs; or, having authority to hire, transfer, suspend, lay off, recall, promote,
5 discharge, assign, reward, evaluate, or discipline other employees, or responsibility to
6 direct them, or to adjust their grievances, or to effectively recommend such action if, in
7 connection with the foregoing, the exercise of such authority is not of a merely routine or
8 clerical nature, but requires the use of independent judgment.

9 (16) Per Diem Nurses Unit.

10 Definition: Shall include the classifications of Interim Permit
11 Nurse - Per Diem, Registered Nurse I – Per Diem, Registered Nurse II – Per Diem,
12 ARMC Float Pool Nurse – Per Diem and employees who are authorized to work as an
13 Interim Permit Nurse, excluding classifications in the Supervisory Nurses Unit, Nurses
14 Unit, Exempt Group, and those employees working pursuant to an individual contract.

15 (17) Probation Unit.

16 Definition: Shall include the classifications of Probation Officer I,
17 Probation Officer II and Probation Officer III. Such classifications are assigned to the
18 unit by the Board of Supervisors due to the nature of the work and does not involve
19 work of a supervisory or management nature as described herein.

20 (b) The County shall have the exclusive right to allocate any classification
21 established subsequent to the assignments herein to an authorized employee
22 representation unit(s). The right to determine units and assign classifications to such
23 units is the exclusive right of the County subject to the provisions of this chapter of the
24 County Code.

25 (c) The foregoing units are determined to be authorized employee
26 representation units based upon relationships within the classification structure and
27 treatment unique to these units as to similar type of grievances, common application of
28 benefits and working conditions, factors used in rating performance; impact of achieving

1 an effective level of employee representation, historical employer-employee
2 relationships; the numerical size of the unit, desires of employees, the relationship of
3 the unit to organizational structure of the County, and the effect on the existing
4 classification structure of dividing a single class among two (2) or more units; the effect
5 of the proposed unit on the efficient operations of the County and the compatibility of the
6 unit with the responsibilities of the County and its employees to serve the public; and,
7 the effect that the unit will have on employer-employee relations emphasizing the
8 availability and authority of County representatives to bargain effectively with the
9 exclusive recognized employee organization. The relevant and overriding consideration
10 in establishing the units is to establish units composed of the largest number of
11 employees that have a community of interest regardless of precise preparatory
12 qualifications, common supervision or interchangeability of skills, and any other relevant
13 factors; provided, however, that sworn peace officers have the right to be included in a
14 unit of representation comprised exclusively of sworn peace officers as provided by
15 state law.

16 (d) Employees working on a seasonal, temporary or casual basis or students
17 whose primary purpose is educational training shall not be included in any authorized
18 employee representation unit.

19 **13.0206 Bargaining Unit Composition.**

20 The Board of Supervisors shall decide the bargaining unit appropriate for the
21 purposes of collective bargaining. In determining the appropriateness of each
22 bargaining unit, the Board shall consider the factors specified in Section 13.0205(c). A
23 representation unit does not have to be the most appropriate unit, only an appropriate
24 unit.

25 (a) Modification of Existing Units.

26 The unit modification process is used to consolidate existing bargaining
27 units or to sever classifications from an existing unit to create a new separate unit or to
28 expand the existing unit by adding new classifications. An existing authorized employee

1 representation unit may be modified upon petition of the Employee Relations Division of
2 the Human Resources Department or an employee organization. Unit modification is
3 used when all or a substantial number of the total positions are removed from an
4 existing authorized employee representation unit and placed in a new or existing
5 authorized employee representation unit. The existing unit proposed to be modified
6 and/or the proposed new unit must be appropriate standing alone.

7 (1) Unit Modification Proposed by Employee Relations Division.

8 (A) Content and Timing of Statement.

9 The Employee Relations Division may, at any time, propose
10 that an existing authorized employee representation unit be modified by filing a
11 statement with the Director of Human Resources containing the following: (1) the basis
12 for the proposed modification; and (2) a description of the bargaining unit proposed
13 specifying the classifications to be removed from the existing authorized employee
14 representation unit(s) and placed in a separate authorized employee representation
15 unit.

16 (B) Notice of Proposed Unit Modification.

17 Upon receipt of the statement from the Employee Relations
18 Division, the Director of Human Resources shall (1) advise all employees in the
19 proposed new authorized employee representation unit of such proposed unit
20 modification by posting notice at appropriate work locations for thirty (30) days; and (2)
21 shall serve notice of the filing to all exclusive recognized employee organizations.

22 (C) No Challenges to Appropriateness of Proposed Unit.

23 If no challenge is filed by an employee organization within
24 thirty (30) days after service of the notice of the filing of the petition, the Director of
25 Human Resources shall submit the proposed bargaining unit modification to the Board
26 of Supervisors.

27 (D) Challenges to the Appropriateness of Proposed Unit.

28 Within thirty (30) days after service of the notice of the filing

1 of the petition, a challenge may be filed, in writing, with the Director of Human
2 Resources by an employee organization. A challenge by an employee organization
3 shall state the grounds upon which such employee organization has an interest. In
4 addition, the challenge shall clearly indicate the reasons why the proposed unit
5 modification is not appropriate. Any challenge shall be accompanied by proof of
6 support of ten percent (10%) or more of the employees proposed to be removed from
7 an existing authorized employee representation unit, provided, however, that the
8 incumbent exclusive representative shall not be required to provide proof of support in
9 order to file a challenge. "Proof of support," for purposes of this section, shall mean
10 individually signed employee authorization cards dated within the thirty (30) day
11 challenge period setting forth the intent of the employees with respect to representation
12 by the employee organization.

13 (E) Hearing on Challenges.

14 Upon receipt of a challenge to the appropriateness of the
15 unit, a hearing officer shall be selected by the County from the hearing officer pane
16 established pursuant to Section 13.0206(e) to conduct a hearing. Following the
17 hearing, the hearing officer shall issue an advisory opinion and award that: (1) grants or
18 denies the challenge; or (2) recommends modification of the authorized employee
19 representation unit proposed by the Employee Relations Division. If the hearing officer
20 recommends modification, consolidation and/or the creation of a new authorized
21 employee representation unit, as applicable, the Director of Human Resources shall
22 submit the recommendation to the Board of Supervisors.

23 (F) Creation of New Employee Representation Unit.

24 A newly authorized employee representation unit shall be
25 created upon approval of the Board of Supervisors.

26 (2) Unit Modification Proposed by Employee Organization.

27 (A) Content and Timing of Petition.

28 An employee organization may propose that an existir

1 authorized employee representation unit be modified by filing a petition with the Director
2 of Human Resources. Such petition shall be filed during the thirty (30) day period
3 beginning not earlier than three-hundred and sixty days (360) days and ending not later
4 than three-hundred and thirty (330) days before the expiration date of any memorandum
5 of understanding covering classifications in the authorized employee representation unit
6 proposed to be modified or at any time after expiration of such memorandum of
7 understanding.

8 A petition for modification shall contain:

9 (I) The name and street address of the employee
10 organization.

11 (II) The name, title, mailing address and business
12 telephone numbers of the employee organization's principal representative.

13 (III) A statement of the reasons why the unit
14 modification is appropriate.

15 (IV) A statement that the employee organization
16 has no restriction on membership based on race, color, creed, national origin, sex, age,
17 physical handicap, marital status, sexual orientation or political affiliation.

18 (V) A statement that the primary purpose of the
19 employee organization is to represent employees on matters concerning wages, hours,
20 and other terms and conditions of employment.

21 (VI) A statement as to whether the employee
22 organization is a chapter of, or affiliated directly or indirectly in any manner, with a local,
23 regional, state, national or international organization, and, if so, the name and address
24 of each such organization.

25 (VII) Certified copies of the employee organization's
26 constitution and by-laws.

27 (VIII) The date of expiration of any memorandum of
28 understanding or extension of such memorandum.

1 (IX) A description of the unit proposed by the
2 employee organization specifying the classifications to be removed from the existing
3 authorized employee representation unit(s) and placed in a separate authorized
4 employee representation unit.

5 (X) Individually signed employee authorization
6 cards dated within thirty (30) days prior to the filing of the petition which show proof of
7 support of forty percent (40%) or more of the employees within the proposed new
8 authorized employee representation unit, including forty percent (40%) of the
9 employees proposed to be removed from an existing unit and placed in the proposed
10 new unit. Such signed employee authorization cards shall clearly set forth the intent of
11 the employee with respect to representation by the employee organization and support
12 for the proposed unit modification.

13 (B) Response and Notice of Filing of Petition.

14 (I) Upon receipt of the petition, the Director of Human
15 Resources shall expeditiously determine whether or not there has been compliance with
16 the requirements of Section 13.0206(a)(2)(A).

17 (II) If after the initial determination the proof of support is
18 insufficient, the Director of Human Resources may allow up to ten (10) days to perfect
19 the proof of support. Upon completion of the review of the proof of support, the Director
20 of Human Resources shall inform the parties in writing of the final determination as to
21 sufficiency or lack thereof regarding the proof of support.

22 (III) If an affirmative determination is made by the Director
23 of Human Resources, it shall (1) advise all employees in the proposed new authorized
24 employee representation unit of such proposed unit modification by posting notice at
25 appropriate work locations for thirty (30) days; and shall (2) serve notice of the filing to
26 the Employee Relations Division, the petitioner(s) and all exclusive recognized
27 employee organizations.

28 (C) Contest to the Determination that the Petition is not i

1 Compliance.

2 If the Director of Human Resources determines that the
3 petition is not in compliance with the requirements of Section 13.0206(a)(2)(A), the
4 Director of Human Resources shall so notify the petitioning employee organization. If
5 the petitioning employee organization disputes the finding that the petition was not in
6 compliance, it may file a contest, in writing, with the Director of Human Resources within
7 thirty (30) days after service of notice that the petition was not in compliance. If the
8 contest is not granted by the Director of Human Resources, a hearing officer shall be
9 selected by the County from the hearing officer panel established pursuant to Section
10 13.0206(e) to conduct a hearing to determine compliance with the process provided for
11 in this section. Following the hearing, the hearing officer shall grant or deny the contest.
12 If the hearing officer finds the petition was not in compliance with the requirements of
13 Section 13.0206(a)(2)(A), the petition shall be dismissed. If the hearing officer finds that
14 the petition was in compliance, the petition shall be processed in accordance with this
15 section.

16 (D) Amendment of Petition

17 (I) A petition may be amended to correct technical errors
18 or to add or delete job classifications from the proposed unit at any time prior to the
19 issuance of a notice of hearing pursuant to Section 13.0206(a)(2)(G). The amendment
20 shall be filed with the Director of Human Resources and provide the information
21 required in Section 13.0206(a)(2)(A).

22 (II) In addition, amendments to add new job
23 classifications to a proposed unit shall be subject to the following: additional proof of
24 support, if needed to maintain standing as a petitioner, shall be filed with the Director of
25 Human Resources concurrently with the amendment. The Director of Human
26 Resources shall expeditiously determine the adequacy of the proof submitted.

27 (III) Amendments to correct technical errors or to add or
28 delete job classifications from the petitioner's proposed unit which are requested after

1 the issuance of a notice of hearing pursuant to Section 13.0206(a)(2)(G) are subject to
2 approval by the hearing officer. The hearing officer may grant the requested
3 amendment, so long as it will not serve to unduly impede the hearing and provided that
4 sufficient proof of support is evidenced to support any request for addition of job
5 classifications.

6 (E) No Challenges to Appropriateness of Proposed Unit.

7 If no challenge is filed within thirty (30) days after service of
8 the notice of the filing of the petition, the Director of Human Resources shall submit the
9 proposed bargaining unit modifications to the Board of Supervisors.

10 (F) Challenges to the Appropriateness of Proposed Unit.

11 Within thirty (30) days after service of the notice of the filing
12 of the petition, a challenge may be filed, in writing, with the Director of Human
13 Resources by an employee organization or the Employee Relations Division. A
14 challenge by an employee organization or the Employee Relations Division shall state
15 the grounds for the challenge clearly indicating the reasons why the proposed unit
16 modification is not appropriate. Any challenge filed by an employee organization must
17 also be accompanied by proof of support of ten percent (10%) or more of the
18 employees proposed to be removed from an existing authorized employee
19 representation unit, provided, however, that the incumbent exclusive representative
20 shall not be required to provide proof of support in order to file a challenge. "Proof of
21 support," for purposes of this section, shall mean individually signed employee
22 authorization cards dated within the thirty (30) day challenge period setting forth the
23 intent of employees with respect to representation by the employee organization.

24 (G) Hearing on Challenges.

25 Upon receipt of a challenge to the appropriateness of the
26 unit, a hearing officer shall be selected by the County from the hearing officer panel
27 established pursuant to Section 13.0206(e) to conduct a hearing and notice of the
28 hearing shall be provided to all parties by the Employee Relations Division. Following

1 the hearing, the hearing officer shall (1) grant or deny the challenge; or (2) recommend
2 modification of the authorized employee representation unit proposed by the employee
3 organization. If the hearing officer recommends modification, consolidation and/or the
4 creation of new authorized employee representation unit, as applicable, the Director of
5 Human Resources shall submit such recommendation to the Board of Supervisors.

6 (H) Creation of New Employee Representation Unit.

7 The recommendation of the hearing officer regarding
8 modification, consolidation and/or the creation of new representation units are subject to
9 and effective upon approval of the Board of Supervisors.

10 (b) Clarification of Existing Authorized Employee Representation Units.

11 The unit clarification process is used to determine whether a particular
12 classification is included or excluded (i.e. should be added to or deleted) from an
13 existing authorized employee representation unit based upon the existing unit
14 description and the duties of the classification in question. Unit clarification is only
15 appropriate if the number of positions to be added or removed is substantially smaller
16 than the number of employees in an existing unit so as to not create a question as to
17 the majority status of the incumbent exclusive representative. In the absence of a
18 question of majority representation, a petition for clarification of an existing unit may be
19 filed by the Employee Relations Division or by an exclusive representative.

20 (1) Content and Timing of Petition.

21 An exclusive recognized employee organization or the Employee
22 Relations Division, at any time, may file a petition, with the Director of Human
23 Resources, to clarify whether a particular classification is placed in the appropriate
24 bargaining unit based on the existing unit description specified in Section 13.0205(a).

25 (A) A petition for clarification filed by an exclusive representative
26 must contain:

27 (I) The name and street address of the exclusive
28 representative.

1 (II) The name, title, mailing address and business
2 telephone number of the exclusive representative's principal representative.

3 (III) A listing of the classifications and the number of
4 employees to be added to and/or removed from an existing authorized representation
5 unit.

6 (IV) A statement that the petitioning employee
7 organization is an exclusive recognized employee organization.

8 (V) The reasons why the petitioning exclusive
9 representative seeks clarification.

10 (B) A petition for clarification filed by the Employee Relations
11 Division must contain:

12 (I) A listing of the classifications and the number of
13 employees to be added to and/or removed from an existing authorized employee
14 representation unit.

15 (II) The reasons why the Employee Relations Division
16 seeks clarification.

17 (2) Response and Notice of Filing of Petition.

18 Upon receipt of a petition for clarification, the Director of Human
19 Resources shall determine (1) whether or not the proposed clarification is appropriate
20 and (2) whether there has been compliance with the requirements of Section
21 13.0206(b)(1). If both criteria are met, the Director of Human Resources shall then (1)
22 advise all employees in the classifications proposed to be assigned to a different
23 representation unit by posting notice at appropriate work locations for thirty (30) days;
24 and (2) serve notice of the filing to all exclusive representatives of petitioned-for
25 employees if different from the petitioning exclusive representative and the Employee
26 Relations Division unless the petition was filed by the Employee Relations Division. The
27 provisions regarding amending petitions in Section 13.0206(a) are applicable to
28 petitions filed under Section 13.0206(b).

1 (3) No Contest to Petition or Challenges to the Proposed Unit
2 Clarification.

3 If the Director of Human Resources determines that the proposed
4 clarification is appropriate and the petition is in compliance and there has been no
5 challenge filed by any exclusive representative of the petitioned-for employees or the
6 Employee Relations Division within thirty (30) days after service of the notice of the filing
7 of the petition, the Director of Human Resources shall submit the proposed unit
8 clarification to the Board of Supervisors.

9 (4) Contest to Director of Human Resources Determination and
10 Challenges to the Proposed Unit Clarification.

11 Within thirty (30) days after service of the notice of filing of the
12 petition, a challenge or contest may be filed, in writing, with the Director of Human
13 Resources by any exclusive representative of the petitioned-for employees or the
14 Employee Relations Division. A challenge or contest shall clearly indicate the reasons
15 or basis for the challenge or contest.

16 (5) Hearing on Challenges.

17 Upon receipt of a challenge to the appropriateness of the
18 clarification or contest to the determination of the Director of Human Resources, a
19 hearing officer shall be selected by the County from the hearing officer panel
20 established pursuant to Section 13.0206(e) to conduct a hearing. Following the
21 hearing, the hearing officer shall grant or deny the challenge and/or contest. If the
22 hearing officer recommends that a classification be added to an existing authorized
23 employee representation unit or be removed from one authorized employee
24 representation unit and placed in another, the Director of Human Resources shall
25 submit such recommendation to the Board of Supervisors.

26 (c) Establishment of New Units.

27 A newly authorized employee representation unit, comprised of
28 unrepresented classifications not assigned to an authorized employee representation

1 unit, may be created upon petition of an employee organization in instances where
2 accretion of the unrepresented classifications into an existing unit is not appropriate
3 pursuant to the unit clarification process. A newly created unit established under this
4 section shall be subject to and consistent with the requirements of Section 13.0205.

5 (1) Content and Timing of Petition.

6 An employee organization may, at any time, propose that a newly
7 authorized employee representation unit, comprised of unrepresented classifications, be
8 created by filing a petition with the Director of Human Resources.

9 A petition for unit creation shall contain:

10 (A) The name and street address of the employee organization.

11 (B) The name, title, mailing address and business telephone
12 numbers of the employee organization's principal representative.

13 (C) A statement of the reasons why a new unit is appropriate.

14 (D) A statement that the organization has no restriction on
15 membership based on race, color, creed, national origin, sex, age, physical handicap,
16 marital status, sexual orientation or political affiliation.

17 (E) A statement that the primary purpose of the employee
18 organization is to represent employees on matters concerning wages, hours, and other
19 terms and conditions of employment.

20 (F) A statement as to whether the employee organization is a
21 chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state,
22 national or international organization, and, if so, the name and address of each such
23 organization.

24 (G) Certified copies of the employee organization's constitution
25 and by-laws.

26 (H) A description of the unit proposed by the employee
27 organization specifying the classifications to be included.

28 (I) Individually signed employee authorization cards date

1 within thirty (30) days prior to the filing of the petition, which show proof of support of
2 forty percent (40%), or more of the employees within the proposed new authorized
3 employee representation unit. Such signed employee authorization cards shall clearly
4 set forth the intent of the employee with respect to representation by the employee
5 organization and the proposed unit composition.

6 (2) Response and Notice of Filing of Petition.

7 Upon receipt of the petition, the Director of Human Resources shall
8 expeditiously determine whether or not there has been compliance with the
9 requirements of Section 13.0206(c)(1). If an affirmative determination is made by the
10 Director of Human Resources, it shall (1) advise all employees in the proposed new
11 authorized employee representation unit by posting notice at appropriate work locations
12 for thirty (30) days; and (2) shall serve notice of the filing on the Employee Relations
13 Division and all exclusive recognized employee organizations. The provisions regarding
14 perfecting proof of support and amending petitions in Section 13.0206(a) are applicable
15 to petitions filed under Section 13.0206(c).

16 (3) Contest to the Determination that the Petition is not in Compliance.

17 If the Director of Human Resources determines that the petition is
18 not in compliance with the requirements of Section 13.0206(c), the Director of Human
19 Resources shall so notify the petitioning employee organization. If the petitioning
20 employee organization contests the finding that the petition was not in compliance, it
21 may file a contest, in writing, with the Director of Human Resources within thirty (30)
22 days after service of notice that the petition was not in compliance. If the contest is not
23 granted by the Director of Human Resources, a hearing officer shall be selected by the
24 County from the hearing officer panel established pursuant to Section 13.0206(e) to
25 conduct a hearing to determine compliance with the process provided for in this section.
26 Following the hearing, the hearing officer shall grant or deny the contest. If the hearing
27 officer finds that the petition was not in compliance with the requirements of Section
28 13.0206(c), the petition shall be dismissed. If the hearing officer finds that the petition

1 was in compliance, the petition shall be processed in accordance with this section.

2 (4) No Challenges to Appropriateness of Proposed Unit.

3 If no challenge is filed by any employee organization or the
4 Employee Relations Division within thirty (30) days after service of the notice of the filing
5 of the petition, the Director of Human Resources shall submit the proposed new
6 authorized employee representation unit to the Board of Supervisors.

7 (5) Challenges to the Appropriateness of Proposed Unit.

8 Within thirty (30) days after mailing notice of the filing of the
9 petition, a challenge may be filed, in writing, with the Director of Human Resources by
10 an employee organization or the Employee Relations Division. A challenge by an
11 employee organization or the Employee Relations Division shall state the grounds for
12 the challenge, clearly indicating the reasons why the proposed new unit is not
13 appropriate. Any challenge filed by an employee organization shall be accompanied by
14 proof of support of ten percent (10%) or more of the employees in the newly proposed
15 authorized employee representation unit unless the challenging employee organization
16 is the incumbent representative of employees in the proposed unit. "Proof of support"
17 for purposes of this section shall mean individually signed employee authorization cards
18 dated within the thirty (30) day challenge period setting forth the intent of employees
19 with respect to representation by the employee organization.

20 (6) Hearing on Challenges.

21 Upon receipt of a challenge to the appropriateness of the unit, a
22 hearing officer shall be selected by the County from the hearing officer panel
23 established pursuant to Section 13.0206(e) to conduct a hearing. Following the
24 hearing, the hearing officer shall (1) grant or deny the challenge; or (2) recommend
25 modification of the proposed new authorized employee representation unit. If the
26 hearing officer recommends the creation of new authorized employee representation
27 unit, the Director of Human Resources shall submit such recommendation to the Board
28 of Supervisors.

1 (7) Creation of New Authorized Employee Representation Unit.

2 The recommendation of the hearing officer regarding modification,
3 consolidation and/or the creation of new representation units is subject to and effective
4 upon approval of the Board of Supervisors.

5 (d) Assignment of New Classifications to Representation Units.

6 The unit assignment process is used to determine the placement of a
7 newly created classification in an authorized employee representation unit based upon
8 the existing unit descriptions and duties of the new classification.

9 (1) Placement of New Classification in Appropriate Representation
10 Unit.

11 Human Resources shall review the duties of any proposed new job
12 classifications in relation to the existing unit descriptions contained in Section
13 13.0205(a) and shall recommend placement of all new job classifications in an
14 appropriate authorized employee representation unit. A newly created job classification
15 shall be assigned to an authorized employee representation unit upon approval by the
16 Board of Supervisors.

17 (e) Hearing Officer Panel.

18 The County will establish and maintain a Hearing Officer Panel that will
19 contain the names of five hearing officers. Employee organizations may make
20 recommendations for hearing officers. In order to be on the panel, the Hearing Officer
21 must be a third party neutral who is not employed by either a public entity or an
22 employee organization; must have experience as a hearing officer or arbitrator in
23 disputes regarding the composition and determination of bargaining units; and must
24 agree to be on the panel. The hearing officer shall preside at the hearing, rule on the
25 admission and exclusion of evidence and on procedural matters, and shall exercise all
26 other powers relating to the administration of the hearing, unless expressly provided
27 otherwise in this chapter. The costs of the hearing officer shall be shared equally by the
28 County and any participating employee organizations. Such costs do not include the

1 costs incurred in the use of any employees, agents, or attorneys.

2 **13.0207 Representation Proceedings.**

3 Representation proceedings are administered by the Director of Human
4 Resources to resolve questions concerning representation and determine the exclusive
5 recognized employee organization for authorized employee representation units.

6 (a) Recognition Requests and Petitions.

7 An employee organization may seek to become the exclusive recognized
8 employee organization of an authorized employee representation unit by filing a
9 voluntary recognition request or petition for certification or decertification, as applicable.
10 A voluntary recognition request is appropriate where an employee organization desires
11 to become the exclusive recognized employee organization of an unrepresented
12 authorized employee representation unit, without an election, based on a showing that a
13 majority of the employees in the unit desire representation by such employee
14 organization. Voluntary recognition is not appropriate where another employee
15 organization has previously been recognized as the exclusive representative of all or
16 part of the same unit. A petition for certification and/or decertification is appropriate
17 where an election is required to determine the exclusive representative, if any, of an
18 authorized employee representation unit comprised of currently represented employees.

19 (1) Voluntary Recognition Requests.

20 (A) Content and Timing of Voluntary Recognition Requests.

21 An employee organization may file a petition at any time
22 seeking voluntary recognition to become the exclusive representative of an existing
23 unrepresented unit. An employee organization that has not filed a petition for unit
24 creation may, within thirty (30) days after the creation of the new authorized employee
25 representation unit by the Board of Supervisors, file a voluntary recognition request with
26 the Director of Human Resources which shall contain the following information:

27 (I) The name and street address of the employee
28 organization.

1 (II) The name, title, mailing address and business
2 telephone numbers of the employee organization's principal representative.

3 (III) A statement that the organization has no restriction on
4 membership based on race, color, creed, national origin, sex, age, physical handicap,
5 marital status, sexual orientation or political affiliation.

6 (IV) A statement that the primary purpose of the employee
7 organization is to represent employees on matters concerning wages, hours, and other
8 terms and conditions of employment.

9 (V) A statement as to whether the employee organization
10 is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional,
11 state, national or international organization, and, if so, the name and address of each
12 such organization.

13 (VI) Certified copies of the employee organization's
14 constitution and by-laws.

15 (VII) Individually signed employee authorization cards
16 dated within thirty (30) days prior to the filing of the petition, which show proof of support
17 of more than fifty percent (50%) of the employees within the proposed new authorized
18 employee representation unit. Such signed employee authorization cards shall clearly
19 set forth the intent of the employee with respect to representation by the employee
20 organization.

21 An employee organization that has filed a valid petition for unit creation shall not
22 be required to also submit a voluntary recognition request, if it provided individually
23 signed employee authorization cards dated within thirty (30) days after the creation of
24 the unit which showed proof of support of a majority of employees in the new authorized
25 employee representation unit. An employee organization that has filed a valid petition
26 for unit creation but has not provided authorization cards from a majority of employees
27 in the new authorized employee representation unit shall not be required to file a
28 voluntary recognition request but must provide additional individually signed employee

1 authorization cards, within thirty (30) days of the creation of the new unit, which show
2 proof of majority support.

3 (B) Response to Voluntary Recognition Request.

4 (I) If after the initial determination the proof of support is
5 insufficient, the Director of Human Resources may allow up to ten (10) days to perfect
6 the proof of support.

7 (II) A petition may be amended to correct technical errors
8 or to add or delete job classifications from the proposed unit at any time prior to the
9 certification of the results. The amendment shall be filed with the Director of Human
10 Resources and provide the information required in Section 13.0207(a)(1)(A). In
11 addition, amendments to add new job classifications to a proposed unit shall be subject
12 to the following: additional proof of support, if needed to maintain standing as a
13 petitioner, shall be filed with the Director of Human Resources concurrently with the
14 amendment.

15 (III) Upon receipt of a voluntary recognition request, a
16 neutral third party shall be selected by the Director of Human Resources and the
17 employee organization to review the signed petition and authorization cards to verify
18 whether the employee organization has majority support, defined as more than fifty
19 percent (50%) of the employees of the designated unit. In the event the Director of
20 Human Resources and the employee organization cannot agree on a neutral third party,
21 the State Mediation and Conciliation Service, or its successor, shall be the neutral third
22 party and shall verify the majority status of the employee organization.

23 (C) Certification of Results.

24 In the event that the neutral third party determines, based on
25 the signed petition and authorization cards, that an employee organization has the
26 support of a majority of the employees in the new representation unit, it shall be certified
27 as the exclusive recognized employee organization of that representation unit.

28 (D) Absence of Support of a Majority of Employees.

1 In the event that the neutral third party determines, based on
2 the signed petition and authorization cards, that (1) the petitioning employee
3 organization does not have majority support, but has support of at least forty percent
4 (40%) or (2) a second employee organization has the support of at least thirty percent
5 (30%) of the employees in the unit in which recognition is sought, the neutral third party
6 shall order an election to establish whether an employee organization, if any, has
7 majority status.

8 (2) Petition for Certification or Decertification.

9 (A) Content and Timing of Petition for Certification and/or
10 Decertification.

11 An employee organization may file a petition for certification
12 and/or decertification seeking to decertify an existing employee organization and/or
13 become the exclusive recognized employee organization of an existing or newly created
14 representation unit, as applicable. An employee or group of employees may file a
15 decertification petition seeking to decertify the incumbent exclusive recognized
16 employee organization of an existing representation unit. Such petitions for certification
17 or decertification may only be filed during the thirty (30) day period beginning not earlier
18 than three-hundred and sixty (360) days and ending not later than three-hundred and
19 thirty (330) days before the expiration of any existing memorandum of understanding or
20 at any time when a valid memorandum of understanding is no longer in effect.

21 (l) A petition for certification and/or decertification filed by
22 an employee organization shall contain:

23 (i) The name and street address of the employee
24 organization.

25 (ii) The name, title, mailing address and business
26 telephone numbers of the employee organization's principal representative.

27 (iii) A statement that the organization has no
28 restriction on membership based on race, color, creed, national origin, sex, age,

- 1 physical handicap, marital status, sexual orientation or political affiliation.
- 2 (iv) A statement that the primary purpose of the
3 employee organization is to represent employees on matters concerning wages, hours,
4 and other terms and conditions of employment.
- 5 (v) The date of expiration of any memorandum of
6 understanding or extension of such memorandum.
- 7 (vi) A statement as to whether the employee
8 organization is a chapter of, or affiliated directly or indirectly in any manner, with a local,
9 regional, state, national or international organization, and, if so, the name and address
10 of each such organization.
- 11 (vii) Certified copies of the employee organization's
12 constitution and by-laws.
- 13 (viii) Individually signed employee authorization
14 cards dated within thirty (30) days prior to the filing of the petition which show proof of
15 support of forty percent (40%) or more of the employees within the representation unit.
16 Such signed employee authorization cards shall clearly set forth the intent of the
17 employee with respect to representation by the employee organization.
- 18 (II) A petition for decertification filed by an employee or
19 group of employees shall contain:
- 20 (i) The name, address and telephone number of
21 the individual authorized to act as their agent in filing a petition for decertification.
- 22 (ii) The date of expiration of any memorandum of
23 understanding or extension of such memorandum.
- 24 (iii) Individually signed employee statements dated
25 within thirty (30) days prior to the filing of the petition, which show proof of support of
26 forty percent (40%), or more of the employees within the representation unit. Such
27 signed employee statements shall clearly set forth the intent of the employee to no
28 longer be represented by the exclusive recognized employee organization.

1 (B) Response to Petition.

2 (I) Upon receipt of the petition for certification or
3 decertification, the Director of Human Resources shall determine whether or not there
4 has been compliance with the requirements of Section 13.0207(a)(2)(A).

5 (II) If after the initial determination the proof of support is
6 insufficient, the Director of Human Resources may allow up to ten (10) days to perfect
7 the proof of support. Upon completion of the review of the proof of support, the Director
8 of Human Resources shall inform the parties in writing of the final determination as to
9 sufficiency or lack thereof regarding the proof of support.

10 (III) If an affirmative decision is made by the Director of
11 Human Resources, it shall direct a secret ballot election to be held to resolve the
12 question of representation. A second employee organization can be placed on the
13 ballot if it can provide a showing of interest of not less than thirty percent (30%) of the
14 employees in the bargaining unit. Sufficient showing of interest shall be evidenced by
15 individually signed employee authorization cards dated within thirty (30) days prior to
16 the filing of the petition, which shall clearly set forth the intent of the employee with
17 respect to representation by the employee organization. If the Director of Human
18 Resources determines that the petition for certification or decertification is not in
19 compliance, it shall be dismissed.

20 (C) Amendment of Petition

21 (I) A petition may be amended to correct technical errors
22 or add or delete job classifications from the proposed unit at any time prior to the
23 election. The amendment shall be filed with the Director of Human Resources and
24 provide the information required in Section 13.0207(a)(2)(A).

25 (II) In addition, amendments to add new job
26 classifications to a proposed unit shall be subject to the following: additional proof of
27 support, if needed to maintain standing as a petitioner, shall be filed with the Director of
28 Human Resources concurrently with the amendment. The Director of Human

1 Resources shall expeditiously determine the adequacy of the proof submitted.

2 (b) Election Procedures.

3 Elections shall be conducted to determine which, if any, employee
4 organization shall be chosen by eligible employees as the exclusive recognized
5 employee organization of an authorized employee representation unit. The State
6 Mediation and Conciliation Service shall conduct secret ballot elections in accordance
7 with standard procedures and regulations established by the State Mediation and
8 Conciliation Service consistent with the provisions of this chapter.

9 (1) Consent Election Agreement.

10 Upon directing an election, the Director of Human Resources, any
11 employee organizations that will appear on the ballot, and other involved parties shall,
12 with the assistance of the State Mediation and Conciliation Service, attempt to agree on
13 procedural matters related to the conduct of the election. Such procedural matters may
14 include the method of the election, dates, hours, locations, and the order and wording of
15 ballots.

16 (2) Ballot.

17 Provided that the employee organizations have established proof of
18 support as required in this chapter, there shall be on the ballot (1) the name of the
19 incumbent organization; (2) the name of the petitioning employee organization; (3) the
20 name of any challenging employee organizations; and (4) a provision for "no
21 representation." An incumbent exclusive representative of employees shall not be
22 required to provide proof of support to be placed on the ballot.

23 (3) Eligible Voters.

24 Shall be defined as those employees in the authorized employee
25 representation unit whose names appear on the payroll immediately prior to the date of
26 the election, including those on vacation, short-term layoff, or authorized leave of
27 absence, and who remain employed by the County in the same unit on the date of the
28 election.

1 (4) Voting Results.

2 The State Mediation and Conciliation Service shall declare the
3 results of an election. The State Mediation and Conciliation Service shall (1) certify, as
4 the exclusive recognized employee organization of the authorized employee
5 representation unit, the employee organization receiving a majority of the valid votes
6 cast; or (2) declare that no employee organization is the exclusive recognized employee
7 organization of the unit if the choice "no representation" received a majority of valid
8 votes cast.

9 (5) Runoff Election.

10 If the ballot included three (3) or more choices and no choice
11 received a majority of the valid votes cast, a runoff election shall be held, as soon as
12 practicable, between the two (2) choices receiving the largest number of valid votes.
13 Only employees who were eligible to vote in the first election and who remain eligible on
14 the date of the runoff election shall be eligible to vote in the runoff election.

15 (6) Costs of Election.

16 Any costs incurred in conducting an election shall be borne equally
17 by the County and the employee organizations appearing on the ballot. Such costs do
18 not include the costs incurred in the use of any employees, agents, or attorneys.

19 (7) Certification/Election Bar.

20 For a period of one (1) year after an employee organization is
21 certified as the exclusive recognized employee organization or for a one (1) year period
22 following the date of an election that did not result in the certification of an exclusive
23 representative, an employee organization may not file a modification or representation
24 petition for that unit or any subdivisions thereof.

25 **13.0208 Scope of Representation.**

26 The scope of representation shall include all matters relating to employment
27 conditions and employer-employee relations, including but not limited to, wages, hours,
28 and other terms and conditions of employment; except, however, that the scope of

1 representation shall not include consideration of the merits, necessity, or organization of
2 any service or activity provided by law or executive order.

3 **13.0209 Exclusive Recognized Employee Organization's Rights.**

4 (a) Exclusive Recognized Employee Organization.

5 An employee organization shall be certified as the exclusive recognized
6 employee organization pursuant to the provisions of Section 13.0207. An employee
7 organization so certified must represent all employees within the unit to which it has
8 been certified regardless of membership status in the employee organization.

9 (b) Meet and Confer.

10 An exclusive recognized employee organization shall have the right to
11 meet and confer in good faith with authorized representatives of the County regarding
12 wages, hours, and other terms and conditions of employment within the scope of
13 representation. The County is under no obligation to meet and confer in good faith with
14 any employee organization, unless it has been certified as an exclusive recognized
15 employee organization and continues to maintain majority status; provided, however,
16 that an exclusive recognized employee organization may choose to coordinate
17 bargaining, on an advisory basis, with another employee organization if such
18 coordinated bargaining is acceptable to all parties.

19 (c) Representation.

20 Exclusive recognized employee organizations shall have the right to
21 represent their members in their employment relations with the County. Employee
22 organizations may establish reasonable restrictions regarding who may join and may
23 make reasonable provisions for dismissal of individuals from membership. Nothing in
24 this section shall prohibit any employee from appearing on his/her own behalf in his/her
25 employment relations with the County.

26 (d) Employee's Appearance for Employee Organization.

27 Appointing authorities shall grant reasonable time off without loss of
28 compensation or other benefits to a reasonable number of designated County

1 employees serving as representatives of an exclusive recognized employee
2 organization when formally meeting and conferring with the County on matters within
3 the scope of representation.

4 **13.0210 Collective Bargaining.**

5 The County and the exclusive recognized employee organization for each
6 authorized employee representation unit shall meet and confer in good faith in an
7 attempt to reach agreement on all matters within the scope of representation that are
8 brought forward for consideration. Where agreement is not reached through the meet
9 and confer process, dispute settlement procedures have been established to facilitate
10 resolution of unresolved negotiation items.

11 (a) Negotiation Procedure for Initial and Successor Memoranda of
12 Understanding.

13 The collective bargaining process between the County and an exclusive
14 recognized employee organization shall consist of (1) meeting and conferring in good
15 faith; (2) mediation of unresolved issues by a mediator, upon mutual agreement by both
16 parties, who acts in the role of an impartial third party; and/or (3) fact-finding of issues at
17 impasse. Any costs associated with mediation and/or fact-finding shall be divided
18 equally between the parties.

19 (1) Meet and Confer.

20 In the event the County or an exclusive representative intends to
21 initiate negotiations for a successor memorandum of understanding, it shall serve
22 written notice of that intent upon the other party during the time period specified in the
23 existing memorandum of understanding. Where no time period is established, a party
24 to a memorandum of understanding who intends to initiate negotiations for a successor
25 agreement must serve written notice of that intent upon the other party at least five (5)
26 months prior to the expiration date of any existing or continued memorandum of
27 understanding. Written notice of intent to initiate negotiations shall also include that
28 party's written bargaining proposals.

1 Upon receipt of timely notice of intent to initiate negotiations, the
2 exclusive representative and County shall promptly commence the collective bargaining
3 process and shall continue to meet and confer in good faith for a reasonable period in
4 an attempt to reach agreement on all matters within the scope of representation
5 proposed to be incorporated into the memorandum of understanding.

6 (2) Mediation and Fact-Finding.

7 Mediation, upon mutual agreement by both parties, and fact-finding
8 shall be available to the County and the exclusive recognized employee organization in
9 accordance with the procedures set forth in Government Code sections 3505.2, 3505.4,
10 3505.5, and 3505.7, as amended, and applicable Public Employment Relations Board
11 (PERB) Regulation sections.

12 (3) Implementation of Last, Best, Final Offer.

13 Any implementation by the County of its last, best, and final offer
14 shall comply with the procedures set forth in Government Code section 3505.7, as
15 amended. The County may, after holding a public hearing regarding the impasse,
16 implement its last, best, and final offer, but shall not implement a memorandum of
17 understanding.

18 (4) Adoption of Executed Agreement.

19 Once tentative agreement has been reached on all items of
20 negotiation, the exclusive recognized employee organization and Employee Relations
21 Division shall prepare a written memorandum of understanding incorporating all
22 negotiated agreements. After the Employee Relations Division has been notified by the
23 exclusive representative that it has ratified the proposed written memorandum of
24 understanding, the exclusive recognized employee organization and Employee
25 Relations Division shall execute such written memorandum of understanding which
26 shall be submitted to the Board of Supervisors. If the Board of Supervisors adopts the
27 executed written memorandum of understanding, it shall become binding on the County
28 and exclusive representative.

1 (b) Meet and Confer Obligations During Term of Memorandum of
2 Understanding.

3 (1) Advanced Notice of Proposed Changes.

4 Subject to the provisions of any current memorandum of
5 understanding in full force and effect, and except in cases of emergency, each exclusive
6 recognized employee organization affected shall be given a reasonable advance notice
7 of change(s) to any ordinance, rule, regulation, or proposal relating to matters within the
8 scope of representation proposed to be adopted by the County and shall be given the
9 opportunity to meet with the County regarding such matters. In cases of emergency,
10 when the County determines that an ordinance, rule, resolution, or regulation must be
11 adopted immediately without prior notice or meeting with an exclusive recognized
12 employee organization, the County shall provide such notice and opportunity to meet at
13 the earliest time following adoption of such emergency ordinance, rule, resolution, or
14 regulation.

15 (2) Process.

16 The parties shall meet in good faith regarding the proposed
17 changes. If, after a reasonable period, the Employee Relations Division and the
18 exclusive representative are unable to resolve matters within the scope of
19 representation, then mediation, upon mutual agreement by both parties, and any other
20 dispute resolution procedures required under applicable law, shall be available to the
21 parties.

22 (c) Other Considerations.

23 (1) Salary Considerations.

24 In consideration of setting salary rates, the parties shall include, but
25 not be limited to the following factors: retention, recruitment, internal relationships,
26 prevailing wages, and comparable public and/or private sector.

27 (2) Nothing herein shall preclude any of the parties to the negotiation
28 procedure from making a presentation to the Board of Supervisors at a public meeting,

1 subject to any mutually agreed upon ground rules.

2 (3) Mediation and fact-finding proceedings shall be treated as
3 confidential.

4 (4) Furnishing Information and Documents Pertaining to Employment
5 Relations.

6 The County and employee organizations will provide requested information
7 and/or documents that are necessary and relevant to negotiating or enforcing a
8 collective bargaining agreement except as otherwise provided by applicable law.

9 **13.0211 Unfair Labor Practices.**

10 The Public Employee Relations Board (PERB) has original jurisdiction over
11 charges alleging unfair labor practices, which involve County employees, other than
12 peace officers who are exempted by Government Code section 3511 and management
13 employees, and is solely responsible for the adjudication of such charges.

14 (a) It shall be an unfair labor practice for the County:

15 (1) To impose or threaten to impose reprisals on employees, to
16 discriminate or threaten to discriminate against employees, or otherwise to interfere
17 with, restrain, or coerce employees because of their exercise of rights guaranteed by
18 this chapter.

19 (2) To dominate or interfere with the formation of any employee
20 organization or contribute financial support to it, provided the rights recognized or
21 granted to employee organizations in this chapter shall not be construed as financial
22 support.

23 (3) To refuse, or fail to meet and confer in good faith with
24 representatives of an exclusive recognized employee organization on matters within the
25 scope of representation.

26 (4) To fail to exercise good faith while participating in any impasse
27 procedure authorized under Section 13.0210.

28 (5) To deny exclusive recognized employee organizations rights.

1 guaranteed to them by this chapter.

2 (6) To violate any negotiations ground rule agreed to by the parties.

3 (7) To lock out employees of the County.

4 (8) To cause or attempt to cause any exclusive recognized employee
5 organization to violate Section 13.0211(b).

6 (9) To violate any provision of this chapter.

7 (b) It shall be an unfair labor practice for an employee organization or its
8 representatives or members:

9 (1) To cause or attempt to cause the County to violate Section
10 13.0211(a).

11 (2) To impose or threaten to impose reprisals on employees, to
12 discriminate or threaten to discriminate against employees, or otherwise to interfere
13 with, restrain, or coerce employees because of their exercise of rights guaranteed by
14 this chapter, or failure to represent all employees in the appropriate unit fairly and
15 impartially in good faith.

16 (3) To refuse, or fail to meet and confer in good faith with County
17 officials on matters within the scope of representation, when the employee organization
18 involved is an exclusive recognized employee organization.

19 (4) To fail to exercise good faith while participating in any impasse
20 procedure authorized under Section 13.0210.

21 (5) To violate any negotiations ground rule agreed to by the parties.

22 (6) To call for or conduct a boycott or induce or encourage any person
23 or entity to cease performing services or doing business with the County on account of
24 any jurisdictional work dispute.

25 (7) To violate any provision of this chapter.

26 (c) Charges of an unfair labor practice may be initiated by the County, by a
27 representative of any employee organization, or by an individual employee or
28 unrepresented group of employees.

1 (1) For those employees under the jurisdiction of the PERB, such
2 charges shall be filed with the PERB within six (6) months of the occurrence of the
3 conduct alleged to be an unfair labor practice. Such charge shall contain:

4 (A) The "charging party's" name, address and telephone
5 number;

6 (B) The name, address and telephone number of the party
7 alleged to have committed the unfair labor practice (the "respondent");

8 (C) The section(s) of the Government Code the charging party
9 believes have been violated;

10 (D) The section(s) of this chapter alleged to have been violated.

11 (E) A clear and concise statement (including dates, names,
12 places, etc.) of the conduct, which the charging party asserts, constitutes an unfair
13 practice.

14 (2) For those employees who are peace officers and not subject to the
15 jurisdiction of the PERB pursuant to Government Code Section 3511 and for those
16 charges for which PERB denies jurisdiction, such charges shall be processed consistent
17 with the procedure in the applicable memorandum of understanding. Such charges
18 shall be submitted in writing to the Employee Relations Division within six (6) months of
19 the occurrence of the conduct alleged to be an unfair labor practice and shall contain:

20 (A) The charging party's name, address and telephone number;

21 (B) The name, address and telephone number of the party
22 alleged to have committed the unfair labor practice (the "respondent");

23 (C) The section(s) of the Government Code the charging party
24 believes have been violated;

25 (D) The section(s) of this chapter alleged to have been violated.

26 (E) A clear and concise statement (including dates, names,
27 places, etc.) of the conduct, which the charging party asserts, constitutes an unfair labor
28 practice.

1 (d) For charges filed under Section 13.0211(c)(2), a hearing officer/arbitrator,
2 selected jointly by the County and the affected parties shall conduct a hearing to
3 determine whether a party has engaged in an unfair labor practice and shall advise the
4 parties of his/her decision and, if appropriate, shall recommend corrective action, and/or
5 the imposition of penalties, subject to the approval of the Board of Supervisors. Costs
6 for the arbitrator shall be shared equally by the parties. Such costs do not include the
7 costs incurred in the use of any employees, agents or attorneys.

8 **13.0212 Strikes and Other Concerted Activities.**

9 The County is committed to conducting its employer-employee relations in a
10 manner, which seeks to minimize the potential for interruption of public services to its
11 citizens. A "strike" includes any concerted stoppage, slowdown or abstinence, in whole
12 or in part, by employees from the full performance of their duties, including a refusal by
13 employees to perform their usual duties, or other concerted interruption of operations or
14 services, for purpose of inducing, influencing, or coercing a change in the conditions,
15 compensation, rights, or obligations of public employment; and except in the case of
16 absences authorized by the County, includes such stoppage, slowdown, interruption,
17 refusal, absence or abstinence by any public employee out of sympathy or support for
18 any other person who is on strike or because of the presence of any picket line
19 maintained by any other person; provided that, nothing herein shall limit or impair the
20 right of any public employee to express or communicate a complaint or opinion on any
21 matter related to the conditions of employment or engage in peaceful, informational
22 picketing in non-work locations on non-work time.

23 (a) Legal and Protected Strikes:

24 (1) Strikes Permitted.

25 Public employees, except those prohibited by law, may engage in
26 legal and protected strikes only under the following circumstances:

27 (A) The memorandum of understanding between the exclusive
28 representative and the County has expired and impasse procedures under Section

1 13.0210 (a) have been exhausted and either the exclusive representative or the Board
2 of Supervisors has rejected the recommendations of the mediator/fact-finder pursuant to
3 Section 13.0210; or

4 (B) The Board of Supervisors have failed to approve a written
5 tentative memorandum of understanding that has been ratified by the exclusive
6 representative within thirty (30) days after the parties have finalized such memorandum
7 of understanding.

8 (2) Notice.

9 No employee may participate in a legal and protected strike unless
10 written notification of intent to strike is served on the Employee Relations Division at
11 least fifteen (15) days prior to commencement of the strike. The notice must contain the
12 following:

13 (A) The date and time at which the intended strike will
14 commence;

15 (B) The name and address of the exclusive representative who
16 is involved in the strike;

17 (C) The general description of the unit and classification of
18 employees intending to strike;

19 (D) Proof of service on the County and Employee Relations
20 Division.

21 If the strike does not commence on the date specified in the original
22 notice a new fifteen (15) day written notice is required.

23 (b) Illegal and Unprotected Strikes.

24 Illegal and unprotected strikes are not permitted by public employees and
25 include partial or intermittent strikes, strikes that do not meet the requirements as
26 specified in Section 13.0212 (a)(1) and (2), or strikes that create a substantial and
27 imminent threat to public health and safety. The County would be entitled to any
28 remedies allowed under the law for participation in any illegal and unprotected strikes.

1 **13.0213 Administration.**

2 (a) Submission of Current Information by Exclusive Recognized Employee
3 Organization.

4 An exclusive recognized employee organization must submit to the
5 Employee Relations Division revised information whenever there has been a change in
6 any of the following items:

7 (1) The name and street address of the organization.

8 (2) The names, titles, mailing address, and home and business
9 telephone numbers of its officers.

10 (3) The names of employee organization representatives who are
11 authorized to speak on behalf of the organization.

12 (4) A designation of two (2) persons and their addresses to whom
13 notice sent by regular United States mail shall be deemed full and sufficient notice on
14 the organization for any purpose.

15 (5) A statement whether the exclusive recognized employee
16 organization is a chapter of, or affiliated directly or indirectly in any manner, with a local,
17 regional, state, national or international organization, and, if so, the name and address
18 of each such organization.

19 (6) Certified copies of any changes to the exclusive recognized
20 employee organization's constitution and by-laws.

21 (b) Payroll Deductions.

22 Exclusive recognized employee organizations may be authorized payroll
23 deduction privileges for membership dues and insurance premiums for plans sponsored
24 by such organizations upon the written authorization of employees in an authorized
25 employee representation unit for which said organization has been certified. The
26 providing of such a privilege to an exclusive recognized employee organization by the
27 County shall be contingent upon and in accordance with the provisions of a
28 memorandum of understanding and/or applicable administrative procedures.

1 (c) Agency shop.

2 An agency shop arrangement may be put into effect by negotiation
3 between the County and an exclusive recognized employee organization, or such an
4 arrangement may be placed into effect or rescinded, without negotiation, upon approval
5 of a majority of employees who vote in a secret ballot election in accordance with
6 Section 3502.5 of the Government Code. An agency shop arrangement shall not apply
7 to management employees.

8 (1) Any employee who is a member of a bona fide religion, body, or
9 sect that has historically held conscientious objections to joining or financially supporting
10 employee organizations shall not be required to join or financially support any employee
11 organization as a condition of employment. The employee may be required, in lieu of
12 periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues,
13 initiation fees, or agency shop fees to a nonreligious, non-labor charitable fund exempt
14 from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the
15 employee from a list of at least three of these funds, designated in a memorandum of
16 understanding between the County and the employee organization, or if the
17 memorandum of understanding fails to designate the funds, then to any such fund
18 chosen by the employee.

19 (2) Every exclusive recognized employee organization that has agreed
20 to an agency shop provision or is a party to an agency shop arrangement shall keep an
21 adequate itemized record of its financial transactions and shall make available annually,
22 to the County, and to the employees who are members of the organization, within 60
23 days after the end of its fiscal year, a detailed written financial report thereof in the form
24 of a balance sheet and an operating statement, certified as to accuracy by its president
25 and treasurer or corresponding principal officer, or by a certified public accountant. An
26 employee organization required to file financial reports under the federal Labor-
27 Management Disclosure Act of 1959 (29 U.S.C. Sec. 401 et seq.) covering employees
28 governed by this chapter, or required to file financial reports under Section 3546.5 of the

1 Government Code, may satisfy the financial reporting requirement of this section by
2 providing the County with a copy of the financial reports.

3 (d) Use of County Resources.

4 Access to County work locations and the use of County paid-time,
5 facilities, equipment, hardware or software and other resources by exclusive recognized
6 employee organizations shall be authorized only to the extent provided for in a
7 memorandum of understanding and/or applicable administrative procedures and shall
8 be limited to activities pertaining directly to the employer-employee relationship and
9 shall not interfere with the efficiency, safety and security of County employees or
10 County operations. Access to and use of County paid time, facilities, equipment and
11 other resources shall not be authorized for such activities as: any that violates County
12 Policy, soliciting membership, soliciting business by or for any non-County
13 sponsored/sanctioned company, campaigning for office, selling insurance plans,
14 organizing elections, or other similar activities.

15 (e) Administrative Rules and Procedures.

16 The Employee Relations Division is hereby authorized to establish such
17 rules and procedures as appropriate to implement and administer the provisions of this
18 chapter after consultation with affected employee organizations and County
19 management.

20 **13.0214 Severability.**

21 It is understood and agreed that this chapter is subject to all current and future
22 applicable federal and state laws and regulations and the current provisions of the
23 Charter of the County of San Bernardino. If any part or provision of this chapter is in
24 conflict or inconsistent with such applicable provisions of those federal or state laws and
25 regulations or the County Charter or is otherwise held to be invalid or unenforceable by
26 any court of competent jurisdiction, such part or provisions shall be suspended and
27 superseded by such applicable law or regulations or County Charter provision, and the
28 remainder of this chapter shall not be affected thereby.

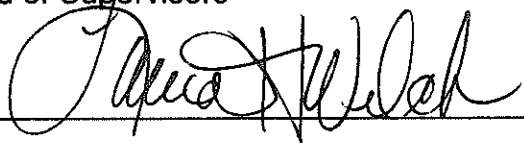
1 SECTION 2. This ordinance shall take effect thirty (30) days from the date of
2 adoption.



JAMES RAMOS, Chairman
Board of Supervisors

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6 SIGNED AND CERTIFIED THAT A COPY
7 OF THIS DOCUMENT HAS BEEN DELIVERED
8 TO THE CHAIRMAN OF THE BOARD

8 LAURA H. WELCH, Clerk of the
9 Board of Supervisors



10
11
12 STATE OF CALIFORNIA)
13) ss.
14 COUNTY OF SAN BERNARDINO)

15 I, LAURA H. WELCH, Clerk of the Board of Supervisors of the County of San
16 Bernardino, State of California, hereby certify that at a regular meeting of the Board of
17 Supervisors of said County and State, held on the 20th day of October, 2015, at which
18 meeting were present Supervisors: Robert A. Lovingood, Janice Rutherford, James
19 Ramos, Curt Hagman, Josie Gonzales, and the Clerk, the foregoing ordinance was
20 passed and adopted by the following vote, to wit:

19 AYES: SUPERVISORS: Lovingood,Rutherford,Ramos,Hagman,Gonzales

20 NOES: SUPERVISORS: None

21 ABSENT: SUPERVISORS: None

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IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Supervisors this 20th day of October, 2015.

LAURA H. WELCH, Clerk of the Board of Supervisors of the County of San Bernardino, State of California


Deputy



Approved as to Form:

JEAN-RENE BASLE
County Counsel

By: 
KENNETH C. HARDY
Deputy County Counsel

Date: 10/5/15