



Human Resources and Development COUNTY OF TULARE AGENDA ITEM

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

EDDIE VALERO
District Four

DENNIS TOWNSEND
District Five

AGENDA DATE: April 30, 2019

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Rhonda Sjostrom PHONE: 636-4900

SUBJECT: Approval for Modification of the District Attorney Criminal Investigator's Association of Tulare County, Bargaining Unit 22.

REQUEST(S):

That the Board of Supervisors:

Approve the Modification of the District Attorney Criminal Investigator's Association of Tulare County, Bargaining Unit 22 to include the classification of Supervising Criminal Investigators.

SUMMARY:

On January 29, 2019 the District Attorney Criminal Investigator's Association of Tulare County, (DACIATC) Bargaining Unit 22 submitted a Petition (attached) to the Human Resources & Development Department entitled, "Petition of Recognition", which was signed by all incumbents in the Supervising Criminal Investigators classification requesting to be represented by the DACIATC.

Bargaining Unit 22 is comprised of the following Job Classifications: Child Support Investigator, District Attorney Investigator, and Welfare Investigator.

The Job Classification of Supervising Criminal Investigator is part of Bargaining Unit 19, Unrepresented.

Modification of a Bargaining Unit is governed by the County's Employment Relations Policy (ERP), Section 10 Modification of a Representation Unit (attached). Specifically, Section 10 (a) states, "A petition for modification of a representation unit may be submitted to the Director by a certified employee organization, or a registered employee organization, or an employee in the representation unit. Such

SUBJECT: Approval for Modification of the District Attorney Criminal Investigator's Association of Tulare County, Bargaining Unit 22.

DATE: April 30, 2019

petition must be filed with the Employee Relations Officer only during the thirty (30) day period commencing one-hundred-eighty (180) days prior to the termination date of the Memorandum of Understanding covering the bargaining unit(s) in question. Such petition shall explain fully the modification sought and the reasons therefore and contain the signatures (showing of interest) of a minimum of 30% of the employees who would be added to or deleted from the unit by the proposed modification."

The Petition submitted by DACIATC to HRD on January 29, 2019 called "Petition for Recognition" was filed within the one-hundred-eighty (180) day filing period cited in Section 10 (a) in accordance with Section 3500 (a) which states in part, "It is the purpose of this chapter to promote full communication between public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations."

Section 10 (b) of the ERP states in part, "The Employee Relations Officer shall meet with the petitioner or representatives of the certified employee organization and other registered employee organizations which so request and which submit evidence (showing of interest) that not less than 15% of the employees who would be added to or deleted from a representation unit by the proposed modification have authorized such registered employee organization to represent them in an attempt to mutually agree on an acceptable modification of the representation unit." All the incumbents (100%), representing the Supervising Criminal Investigator Classification indicated their desire to join.

Section 10 (b) of the ERP states in part, "Provided agreement can be reached, the Employee Relations Officer shall recommend the proposed modification or modifications to the Board of Supervisors for its approval as an appropriate representation unit or units and to modify existing units."

The DACIATC membership voted in support of the modification to add the Supervising Criminal Investigator Job Classification. Please see DACIATC letter dated January 29, 2019. As 100% of the Supervising Criminal Investigators signed the Petition it exceeds the necessary 30% showing of interest required in Section 10(a) of the ERP. Therefore, the Human Resources Director contacted the Representative for Bargaining Unit 22 and they are in favor of the modification.

As the Job Classifications in the DACIATC and the Supervising Criminal Investigators have commonality in their duties and the great majority of the Job Classifications are allocated to the District Attorney's Office, the District Attorney supports the Unit Modification. The Supervising Criminal Investigator position allocations would be moved to Bargaining Unit 22 effective July 1, 2019.

Based upon the Petition submitted by DACIATC, the commonality of the Job Classifications in Bargaining Unit 22 and the Job Classification of Supervising

SUBJECT: Approval for Modification of the District Attorney Criminal Investigator's Association of Tulare County, Bargaining Unit 22.

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Criminal Investigator, agreement by Bargaining Unit 22 for the Unit Modification, and all incumbents in the Supervising Criminal Investigator Classification support for the Unit Modification; the Human Resources & Development Department supports the Unit Modification. In accordance with Section 10 (f) of the ERP, if the Unit Modification is approved, employees will be covered under the currently effective Memorandum of Understanding until its termination date which is June 30, 2019. HR&D will begin negotiations with Bargaining Unit 22 on a successor MOU that will include the Supervising Criminal Investigators.

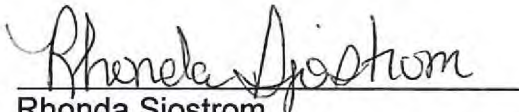
FISCAL IMPACT/FINANCING:

Adoption of this modification may result in increased cost to the County, depending on the combination of hours worked or scheduled, the paycode type of earnings, and rates. There may be minimal costs for software programming for rate changes by our payroll administrator, ADP.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Organizational Performance: Continuously improve organizational effectiveness and fiscal stability. Provide for the stability of county operations through periods of economic fluctuations, changing priorities and service demands

ADMINISTRATIVE SIGN-OFF:



Rhonda Sjostrom
Human Resources Director

cc: Auditor -Controller
County Counsel
County Administrative Office (2)
County District Attorney
DACIATC

Attachment(s)

Modification Petition from DACIATC
DACIATC Letter Dated January 29, 2019
Posting Notice of Notification of Receipt of Petition for Modification of DACIATC
Employee Relations Policy

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF APPROVAL FOR)
MODIFICATION OF THE DISCTRICT) Resolution No. _____
ATTORNEY CRIMINAL INVESTIGATORS) Agreement No. _____
ASSOCIATION OF TULARE COUNTY)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD APRIL 30, 2019 BY
THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk



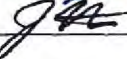
* * * * *

That the Board of Supervisors:
Authorized the Modification of the District Attorney Criminal Investigator's Association
of Tulare County, Bargaining Unit 22 to include the Supervising Criminal Investigators.

PETITION OF RECOGNITION

We the undersigned employees of Tulare County, in the classification of Supervising Criminal Investigators, wish to be represented by the District Attorney Criminal Investigators' Association of Tulare County (DACIATC), Unit 22.

It is our assertion that we have the right to be represented by a recognized bargaining unit and we share the same community of interest as those employees represented by Unit 22.

Signature	Printed Name	Date
	KURT MCPHETRIDGE	10-11-18
	GREGORY WHITE	10-12-18
	JOSH ROWLETT	10/15/18

Paul Q. Goyette
Gary G. Goyette
Daniel P. Thompson
Rafael Ruano
Brett F. Sherman
David J. Garcia
Nicole Valentine
Heather N. Phillips
Richard P. Fisher
Charles D. Caraway
Scott Nelson
Sarah Tobias
Helen Fong
Virginia Martucci



Labor Representatives:
Steve Allen
Paul Konsdorf
Kim Gillingham
Paul Heckman
Tim Cantillon
David Swim, D.P.A.
Dorothea A. Contreras
Matt Rokes
Tony Silva
Ryan Friesen

Sacramento Office
2366 Gold Meadow Way, Suite 200
Gold River, CA 95670
(916) 851-1900
Toll Free (888) 993-1600
Facsimile (916) 851-1995
info@goyette-assoc.com

January 29, 2019

Sent electronically to: RSjostro@co.tulare.ca.us

Rhonda Sjostrom
Human Resources Director
County of Tulare
2500 W Burrel Avenue
Visalia, CA 93291

Re: Unit Modification for District Attorney Criminal Investigators' Association of Tulare County

Dear Rhonda,

This serves as a timely request to modify the District Attorney Criminal Investigators' Association of Tulare County (DACIATC), Unit 22 to include the Supervising Criminal Investigators.

The petition signed by all incumbents in the Supervising Criminal Investigator classification indicating their desire to be included in the unit is attached. In addition, the membership of DACIATC has voted in support of the modification.

Your prompt attention and direction is greatly appreciated.

Very truly yours,
Goyette & Associates, Inc.
A Professional Corporation

Kim Gillingham
Labor Representative

cc: John Lee, DACIATC President
Tony Stevens



HUMAN RESOURCES
& DEVELOPMENT
TULARE COUNTY

Equal Opportunity Employer

2500 W. BURREL AVE.
VISALIA, CA 93291
559-636-4900

www.co.tulare.ca.us/HRD

WHERE LIFE AND OPPORTUNITY MEET

To: All Employee Organizations: DACIATC, G-LAW, PATCOP, PLEMA, SEIU, TCCA, TCDSA, TCPFA

From: Rhonda Sjostrom, Human Resources Director

Subject: Posting Notice of Notification of Receipt of Petition for Modification of a Representation Unit, BU 22 – District Attorney Criminal Investigator's Association of Tulare County ("DACIATC")

Date: February 4, 2019

A petition requesting the modification of Bargaining Unit 22, DACIATC, was received by the Human Resources & Development Department. Bargaining Unit 22 consists of the following classifications: Child Support Investigator, District Attorney Investigator, and Welfare Investigator. The petition requests that the classification of Supervising Criminal Investigators be placed into the DACIATC Bargaining Unit 22.

In accordance with the County's Employment Relations Policy (ERP), Section 10 (b) Modification of a Representation Unit, "The Employee Relations Officer shall notify the certified employee organization, registered employee organizations, and post notice in the work areas of employees in the affected representation unit. The Employee Relations Officer shall meet with the petitioner or representatives of the certified employee organization and other registered employee organizations which so request and which submit evidence (showing of interest) that not less than 15% of the employees who would be added to or deleted from a representation unit by the proposed modification have authorized such registered employee organization to represent them in an attempt to mutually agree on an acceptable modification of the representation unit. The Employee Relations Officer also will meet and consider suggestions submitted by individual employees. Provided agreement can be reached, the Employee Relations Officer shall recommend the proposed modification or modifications to the Board of Supervisors for its approval as an appropriate representation unit or units and to modify existing units."

Employee organizations must submit their evidence (showing of interest in accordance with Section 10 (b) above) to the Human Resources & Development Department within twenty (20) calendar days from the date of this notification in order to be included in an attempt to mutually agree on an acceptable modification of the representation unit.

After the twenty (20) calendar day notification period has expired, the Human Resources Director shall meet with the Petitioner, Officers of DACIATC, and any other registered employee organization that submits a showing of interest in accordance with Section 10 (b) above, in an attempt to mutually agree on an acceptable modification of the representation unit.

Please consider this Notice to meet the posting requirement cited in the ERP.

cc: Jason Britt, County Administrative Officer
Tim Ward, District Attorney
Tony Stevens, Employee/Employer Relations Specialist

COUNTY OF TULARE
EMPLOYMENT RELATIONS POLICY

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EMPLOYMENT RELATIONS POLICY

COUNTY OF TULARE

EMPLOYMENT RELATIONS POLICY

Section 1 PURPOSE

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

Section 2 DEFINITIONS

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

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

Section 3

RIGHTS OF EMPLOYEES

- (a) Employees of the County shall have the following rights:
 - (1) To form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation in matters of employment relations.
 - (2) To refuse to join or participate in the activities of employee organizations.
 - (3) To represent themselves individually in their employment relations with the County, except that they may not enter into agreement which in any way is contrary to any memorandum of understanding reached between the County and the employee organization certified as the exclusive representative for the unit in which such employee is included.
 - (4) A reasonable number of County employees, to be determined by the Employee Relations

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Officer, shall be permitted reasonable time off from their County employment duties without loss of compensation or other benefits when formally meeting and conferring with the County as representatives of a certified employee organization on matters within the scope of meeting and conferring.

Section 4 **RIGHTS OF THE COUNTY**

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

Section 5 **RIGHTS OF CERTIFIED EMPLOYEE ORGANIZATIONS**

- (a) Certified employee organizations shall have the following rights to:
- (1) Represent their members in their employment relations with the County, in accordance with their certification as the exclusive representative of employees in an appropriate representation unit.

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

Section 6 **RIGHTS OF REGISTERED EMPLOYEE ORGANIZATIONS**

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

Section 7 **REGISTRATION OF EMPLOYEE ORGANIZATIONS**

- (a) Employee organizations desiring to register to represent County employees in their employment relations with the County shall, first, submit to the Employee Relations Officer the following information:
 - (1) Name and address of the employee organization and the organization's local, district, and international if applicable.
 - (2) A copy of current constitution and bylaws, local and international if applicable.
 - (3) Current list of names and titles of its officers and the officers of its local, district, and international if applicable.
 - (4) Two representatives or their designees authorized to speak for the organization and the name and address of one representative to whom the Board's Agenda notice will be made available, and to whom such notices may be sent by regular United States mail, and to whom telephone notices may be made.
 - (5) Evidence that the organization does now have County employees in their membership or that County employees have authorized said organization to represent them in their employment relations with the County.
 - (6) A list of classes containing employees who have authorized said organization to represent them in their employment relations with the County.

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- (7) A statement of the organization's objectives, including a statement that the organization has no restriction on membership based on race, creed, color, disability, age or sex.
- (8) A written statement acknowledging review of this Policy, the Personnel Ordinance, and Personnel Administration Rules, and a statement agreeing to abide by the provisions of all laws pertaining to employment relations, including this Employment Relations Policy.
- (b) The Board of Supervisors shall hear a request for registration during a regular Board meeting. Registration shall be granted provided the Employee Relations Officer certifies that the required information in subsection (a) above has been filed with his/her office. A registered employee organization must submit a statement certifying the number of its County employee members not participating in payroll dues deduction to the Employee Relations Officer each year during the month of January.
- (c) Information required by this section must be current; changes or corrections shall be filed with the Employee Relations Officer promptly.
- (d) The submission of false statements or withholding of information required by this section shall constitute grounds for the withholding or withdrawal of registration and/or certification.

Section 8 **PETITIONS FOR CERTIFICATION**

- (a) A registered employee organization may request certification as the exclusive representative in an appropriate representation unit or in a unit which is proposed as an appropriate representation unit by: (1) filing with the Employee Relations Officer a petition (showing of interest) containing the signatures of 30% of the employees of the unit or proposed unit which clearly states that the employee authorizes said organization to represent him in his employment relations with the County; or (2) submitting authorization cards (showing of interest) signed by 30% of the employees of the unit or proposed unit which clearly states that the employee authorizes said organization to represent him in his employment relations with the County.
- (b) When a petition is filed as in subsection (a), the Employee Relations Officer shall notify all registered employee organizations and shall post notices on bulletin boards in the areas comprising the proposed unit. Registered employee organizations must indicate their interest as in subsection (c) within 20 calendar days from the date of notification. Employees may submit suggestions to the Employee Relations Officer during the 20-calendar-day period following posting in their area. If the Employee Relations Officer, the petitioning employee organizations, and the interested employee organizations agree on a proposed unit, the Employee Relations Officer will recommend the proposed unit to the Board of Supervisors for their approval as an appropriate representation unit; if the Board approves, a representation election shall be scheduled in accordance with Section 11 of this Policy.
- (c) For the purpose of representation unit determination, an interested employee organization means any registered employee organization which claims that the unit proposed by an employee organization that has complied with subsection (a) above is inappropriate. Such organization may, on a 15% showing of interest in the proposed unit or in another unit including the proposed unit, challenge the composition of the proposed unit.
- (d) A proposed unit shall be described by listing the classes proposed to be included by the official payroll titles as they appear in the official salary schedules of the County. The number of positions in a proposed unit shall be determined by the official County Allocation List, showing authorized positions (excluding extra help), the number of employees by authorized positions less vacancies.

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- (e) The following criteria shall be considered as guidelines for determination of appropriate representation units for the County service.
- (1) The largest reasonable group of employees having an identifiable community of interest; the minimum number of units consistent with good employee relations.
 - (2) The effect the proposed representation unit would have on employment relations in the County.
 - (3) The effect the proposed representation unit would have on the efficient operation of the County and the responsibility of the County and its employees to serve the public.
 - (4) a single classification shall not be divided among two or more representation units, except where classes include management and confidential employees with other employees.
 - (5) Full freedom for County employees to exercise their rights granted under this Policy.
 - (6) History of employee relations, in the County and in similar public jurisdictions.
 - (7) Professional employees shall have the right to a separate vote in order to determine if they wish to be included in a unit with non-professional employees.
 - (8) Management and confidential employees shall not be placed in a unit with other employees.
 - (9) No unit shall be determined solely on the basis of the extent to which employees have been organized.

Section 9 **DISPUTED REPRESENTATION UNIT**

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

Section 10 **MODIFICATION OF A REPRESENTATION UNIT**

- (a) A petition for modification of a representation unit may be submitted to the Director by a certified

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

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

Section 11 CERTIFICATION ELECTION PROCEDURE

- (a) After an appropriate unit has been determined in accordance with Sections 8 and 9, the employees' choice among employee organizations for representation in their employment

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relations with the County shall be ascertained by a secret ballot election. The Employee Relations Officer shall arrange for the State Department of Conciliation to conduct a secret ballot election in accordance with this Policy. In the event the State Department of Conciliation declines to conduct an election, the County Clerk shall conduct the election; he/she may determine, if deemed appropriate, to use a mail ballot; he/she shall establish safeguards to insure accurate and reliable results.

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

Section 12 DECERTIFICATION ELECTION PROCEDURE

- (a) A petition for decertification of a certified employee organization may be submitted to the Employee Relations Officer by a registered employee organization or any employee in a representation unit. Such petition must be filed with the Employee Relations Officer only during the thirty (30) day period commencing one-hundred-eighty (180) days prior to the termination date of the Memorandum of Understanding covering the bargaining unit(s) in question. Such petition must contain the signatures, obtained within the preceding 90 days, of a minimum of 30% of the employees in the unit.
- (b) The Employee Relations Officer, within 20 days after notifying registered employee

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organization(s), and employees in the unit, shall arrange an election in accordance with the regular election procedures in Section 11. A certification election may be combined with a decertification election procedure; a registered employee organization may be placed on the ballot, provided it submits 15% showing of interest. The Employee Relations Officer shall decertify, certify, or announce no certification in accordance with the election results.

Section 13 IMPASSE PROCEDURE

- (a) If after a reasonable period of time, representative(s) of the County and the certified employee organization fail to reach agreement on wages, hours, and other terms and conditions of employment, the County and the certified employee organization may agree upon the appointment of a mediator mutually acceptable to both parties. The costs of mediation shall be divided equally between the County and the certified employee organization.
- (b) If mediation does not result in settlement of the impasse, the County's representative(s) and the certified employee organization representative shall each submit to the Board of Supervisors in writing their final proposal and recommendation, along with the reasons therefor, and such other data which would serve to clarify their position. The Board may approve either the County representative's or the employee organization representative's recommendation, or they may call for testimony, or they may ask for submission of further data, or they may seek the recommendations of an objective neutral party knowledgeable in matters of public employment relations. The Board's decision shall be final.

Section 14 UNFAIR LABOR PRACTICES

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

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- (3) Refuse to meet and confer in good faith with certified employee organizations.
- (4) Take reprisals against any individual for use of the grievance or appeal procedure or other rights granted by this Employment Relations Policy.

Section 15 **MEETINGS AND CONFERENCES**

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

Section 16 **AGREEMENTS**

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

Section 17 **GRIEVANCES**

- (a) County employees may seek adjustment of their grievances through the Grievance Procedure Plan, Personnel Administration Rule 15. Appeals for relief from disciplinary action may be made in accordance with Tulare County Ordinance Code Section 1305.

Section 18 **SEVERABILITY**

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

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APPENDIX A

EMPLOYMENT RELATIONS POLICY

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

1. One clerical position in the operating departments, as they are deemed to handle material confidential to the labor relations function.
2. All positions in the County Executive-Clerk of the Board's office.
3. All positions in the Personnel Department.
4. All positions in the County Counsel's Office.
5. Employee Benefits Workers, Employee Benefits Supervisor and Risk Manager positions in the General Services Department.

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