ORDINANCE NO. 4210

AN ORDINANCE OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AMENDING CHAPTER 2 OF DIVISION 3 OF TITLE 1 OF THE SAN BERNARDINO COUNTY CODE RELATING TO EMPLOYEE RELATIONS.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. Chapter 2 of Division 3 of Title 1 of the San Bernardino County Code is amended, to read:

Chapter 2: Employee Relations.

Sections:

13.0201 Purpose.
13.0202 Definitions.
13.0203 County Management Rights.
13.0204 Employee's Rights.
13.0205 Authorized Employee Representation Units.
13.0206 Bargaining Unit Composition.
13.0207 Representation Proceedings.
13.0208 Scope of Representation.
13.0209 Exclusive Recognized Employee Organizations' Rights.
13.0210 Collective Bargaining.
13.0211 Unfair Labor Practices.
13.0212 Strikes and Other Concerted Activities.
13.0213 Administration.
13.0214 Separability.

13.0201 Purpose.

It is the purpose of this chapter:

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

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

(c) To clarify in writing the rights and obligations of employees, employee

organizations, and County management in the conduct of employer-employee relations activities.

13.0202 Definitions.

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

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

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

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

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

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

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

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

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

(i) "Employee" means any person employed by the County, excepting those

persons elected by popular vote or appointed to office by the Governor of the State of California.

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

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

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

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

(n) "Meet and confer in good faith" means that a public agency, or such representatives as it may designate, and representatives of exclusive recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the public agency of its budget for the ensuing year. The process should include adequate time for the resolution of impasses where specific procedures for such resolution are contained in local rule, regulation, or ordinance, or when such procedures are utilized by

mutual consent.

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

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

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

13.0203 County Management Rights.

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

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

(b) The right of full and exclusive control of the management of the County; supervision of all operations; determination of the methods and means of performing any and all work; and composition, assignment, direction, location, and determination of the size and mission of the work force.

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

(d) The right to change or introduce new or improved operations, methods,

means or facilities; or, to contract for work to be done.

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

13.0204 Employee's Rights.

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

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

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

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

(b) Employees who are full-time peace officers as that term is defined in Chapter 4.5 of Title 3, Part 2 of the Penal Code shall have the right to join or participate in employee organizations which are composed solely of such peace officers and which concern themselves solely and exclusively with the wages, hours, working conditions, welfare programs, and advancement of the academic and vocational training and furtherance of the police profession, and which are not subordinate to any other organization.

13.0205 Authorized Employee Representation Units.

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

(1) Management Unit.

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

(2) Safety Management and Supervisory Unit.

Definition: Shall include classifications of employees qualifying as a "county peace officer" as defined in Section 31469.1 of the County Employees' Retirement Law of the California Government Code or are full-time "peace officers" as that term is defined in Sections 830.1 and 830.3(b) of the California Penal Code and are so assigned to the unit by the Board of Supervisors; and, having responsibility for implementing program requirements; formulating, administering, and managing County policies and programs; or, having authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, evaluate, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or to effectively recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(3) Supervisory Unit.

Definition: Shall include classifications or positions having authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, evaluate, or discipline other employees; or responsibility to direct them; or, to adjust their

grievances; or, to effectively recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(4) Professional Unit.

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

(5) Safety Unit.

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

(6) Technical and Inspection Unit.

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

entailing a particular subject or subjects.

(7) Craft, Labor and Trades Unit.

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

(8) Clerical Unit.

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

(9) Administrative Services Unit.

Definition: Shall include classifications characterized by work consisting of that which inherently includes the regular exercise of independent discretion and judgment, in support of the management and operation of an organization, requiring general academic degree work, rather than a specific, job related professional degree.

(10) Exempt Unit.

Definition: Shall include classifications that have been determined to formulate and administer significant executive responsibilities under the direction of an Assistant Executive Officer, an elected official, a department head or on behalf of the

Chief Executive Officer, as well as positions that have significant involvement in the County's employer-employee relations program or, those with access to highly confidential information and involvement with matters of significant impact to County operations.

(11) Specialized Peace Officer Unit.

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

(12) Specialized Peace Officer Supervisory Unit.

Definition: Shall include classifications of employees qualifying as "peace officers" as that term is defined in the California Penal Code who are entitled to a separate "peace officer" only unit pursuant to Government Code Section 3508, excepting there from those "peace officers" as defined in Section 830.1 and 830.3(b) of the California Penal Code who qualify as "county peace officer" as defined in Section 31469.1 of the County's Employees' Retirement Law of the California Government Code; and, having responsibility for implementing program requirements; formulating, administering, and managing County policies and programs; or, having authority, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, evaluate, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or to effectively recommend such action, if in connection with the foregoing the exercise

of such authority is not of a merely routine or clerical in nature, but requires the use of independent judgment.

(13) Attorney Unit.

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

(14) Nurses Unit.

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

(15) Supervisory Nurses Unit.

Definition: Shall include all classifications of employees, excluding classifications in the Nurses Unit and Exempt Group, requiring licensure by the Board of Registered Nursing as a registered nurse and: having responsibility for implementing program requirements, formulating, administering, and managing County policies and programs; or, having authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, evaluate, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or to effectively recommend such action if, in

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

(16) Per Diem Nurses Unit.

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

(17) Probation Unit.

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

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

(c) The foregoing units are determined to be authorized employee representation units based upon relationships within the classification structure and treatment unique to these units as to similar type of grievances, common application of benefits and working conditions, factors used in rating performance; impact of achieving an effective level of employee representation, historical employer-employee relationships; the numerical size of the unit, desires of employees, the relationship of the unit to organizational structure of the County, and the effect on the existing classification structure of dividing a single class among two (2) or more units; the effect of the proposed unit on the efficient operations of the County and the compatibility of the unit with the responsibilities of the County and its employees to serve the public; and,

the effect that the unit will have on employer-employee relations emphasizing the availability and authority of County representatives to bargain effectively with the exclusive recognized employee organization. The relevant and overriding consideration in establishing the units is to establish units composed of the largest number of employees that have a community of interest regardless of precise preparatory qualifications, common supervision or interchangeability of skills, and any other relevant factors; provided, however, that sworn peace officers have the right to be included in a unit of representation comprised exclusively of sworn peace officers as provided by state law.

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

13.0206 Bargaining Unit Composition.

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

(a) Modification of Existing Units.

The unit modification process is used to consolidate existing bargaining units or to sever classifications from an existing unit to create a new separate unit or to expand the existing unit by adding new classifications. An existing authorized employee representation unit may be modified upon petition of the Employee Relations Division of the Human Resources Department or an employee organization. Unit modification is used when all or a substantial number of the total positions are removed from an existing authorized employee representation unit and placed in a new or existing authorized employee representation unit. The existing unit proposed to be modified and/or the proposed new unit must be appropriate standing alone.

(1) Unit Modification Proposed by Employee Relations Division.

(A) Content and Timing of Statement.

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

(B) Notice of Proposed Unit Modification.

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

(C) No Challenges to Appropriateness of Proposed Unit.

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

(D) Challenges to the Appropriateness of Proposed Unit.

Within thirty (30) days after service of the notice of the filing of the petition, a challenge may be filed, in writing, with the Director of Human Resources by an employee organization. A challenge by an employee organization shall state the grounds upon which such employee organization has an interest. In addition, the challenge shall clearly indicate the reasons why the proposed unit modification is not appropriate. Any challenge shall be accompanied by proof of support of ten percent (10%) or more of the employees proposed to be removed from

an existing authorized employee representation unit, provided, however, that the incumbent exclusive representative shall not be required to provide proof of support in order to file a challenge. "Proof of support", for purposes of this section, shall mean individually signed employee authorization cards dated within the thirty (30) day challenge period setting forth the intent of the employees with respect to representation by the employee organization.

(E) Hearing on Challenges.

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

(F) Creation of New Employee Representation Unit.

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

(2) Unit Modification Proposed by Employee Organization.

(A) Content and Timing of Petition.

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

understanding.

A petition for modification shall contain:

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

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

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

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

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

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

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

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

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

(X) Individually signed employee authorization cards dated within thirty (30) days prior to the filing of the petition which show proof of

support of forty percent (40%) or more of the employees within the proposed new authorized employee representation unit, including forty percent (40%) of the employees proposed to be removed from an existing unit and placed in the proposed new unit. Such signed employee authorization cards shall clearly set forth the intent of the employee with respect to representation by the employee organization and support for the proposed unit modification.

(B) Response and Notice of Filing of Petition.

Upon receipt of the petition, the Director of Human Resources shall expeditiously determine whether or not there has been compliance with the requirements of 13.0206(a)(2)(A). If an affirmative determination is made by the Director of Human Resources, it shall (1) advise all employees in the proposed new authorized employee representation unit of such proposed unit modification by posting notice at appropriate work locations for thirty (30) days; and shall (2) serve notice of the filing to the Employee Relations Division and all exclusive recognized employee organizations.

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

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

13.0206(a)(2)(A), the petition shall be dismissed. If the hearing officer finds that the petition was in compliance, the petition shall be processed in accordance with this section.

(D) No Challenges to Appropriateness of Proposed Unit.

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

(E) Challenges to the Appropriateness of Proposed Unit.

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

(F) Hearing on Challenges.

Upon receipt of a challenge to the appropriateness of the unit, a hearing officer shall be selected by the County from the hearing officer panel established pursuant to 13.0206(e) to conduct a hearing. Following the hearing, the hearing officer shall (1) grant or deny the challenge; or (2) recommend modification of the authorized employee representation unit proposed by the employee organization. If the hearing officer recommends modification, consolidation and/or the creation of new

authorized employee representation unit, as applicable, the Director of Human Resources shall submit such recommendation to the Board of Supervisors.

(G) Creation of New Employee Representation Unit.

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

(b) Clarification of Existing Authorized Employee Representation Units.

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

(1) Content and Timing of Petition.

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

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

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

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

(III) A listing of the classifications and the number of

employees to be added to and/or removed from an existing authorized representation unit.

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

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

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

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

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

(2) Response and Notice of Filing of Petition.

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

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

If the Director of Human Resources determines that the proposed clarification is appropriate and the petition is in compliance and there has been no challenge filed by any exclusive representative of the petitioned-for employees or the

Employee Relations Division within thirty (30) days after service of the notice of the filing of the petition, the Director of Human Resources shall submit the proposed unit clarification to the Board of Supervisors.

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

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

(5) Hearing on Challenges.

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

(c) Establishment of New Units.

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

(1) Content and Timing of Petition.

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

A petition for unit creation shall contain:

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

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

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

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

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

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

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

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

(I) Individually signed employee authorization cards dated within thirty (30) days prior to the filing of the petition, which show proof of support of forty percent (40%), or more of the employees within the proposed new authorized employee representation unit. Such signed employee authorization cards shall clearly

set forth the intent of the employee with respect to representation by the employee organization and the proposed unit composition.

(2) Response and Notice of Filing of Petition.

Upon receipt of the petition, the Director of Human Resources shall expeditiously determine whether or not there has been compliance with the requirements of 13.0206(c)(1). If an affirmative determination is made by the Director of Human Resources, it shall (1) advise all employees in the proposed new authorized employee representation unit by posting notice at appropriate work locations for thirty (30) days; and (2) shall serve notice of the filing on the Employee Relations Division and all exclusive recognized employee organizations.

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

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

(4) No Challenges to Appropriateness of Proposed Unit.

If no challenge is filed by any employee organization or the Employee Relations Division within thirty (30) days after service of the notice of the filing of the petition, the Director of Human Resources shall submit the proposed new

authorized employee representation unit to the Board of Supervisors.

(5) Challenges to the Appropriateness of Proposed Unit.

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

(6) Hearing on Challenges.

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

(7) Creation of New Authorized Employee Representation Unit.

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

(d) Assignment of New Classifications to Representation Units.

The unit assignment process is used to determine the placement of a

newly created classification in an authorized employee representation unit based upon the existing unit descriptions and duties of the new classification.

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

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

(e) Hearing Officer Panel.

The County will establish and maintain a Hearing Officer Panel that will contain the names of five hearing officers. Employee organizations may make recommendations for hearing officers. In order to be on the panel, the Hearing Officer must be a third party neutral who is not employed by either a public entity or an employee organization; must have experience as a hearing officer or arbitrator in disputes regarding the composition and determination of bargaining units; and must agree to be on the panel. The costs of the hearing officer shall be shared equally by the County and any participating employee organizations. Such costs do not include the costs incurred in the use of any employees, agents, or attorneys.

13.0207 Representation Proceedings.

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

(a) Recognition Requests and Petitions.

An employee organization may seek to become the exclusive recognized employee organization of an authorized employee representation unit by filing a voluntary recognition request or petition for certification or decertification, as applicable. A voluntary recognition request is appropriate where an employee organization desires

to become the exclusive recognized employee organization of an unrepresented authorized employee representation unit, without an election, based on a showing that a majority of the employees in the unit desire representation by such employee organization. Voluntary recognition is not appropriate where another employee organization has previously been recognized as the exclusive representative of all or part of the same unit. A petition for certification and/or decertification is appropriate where an election is required to determine the exclusive representative, if any, of an authorized employee representation unit comprised of currently represented employees.

(1) Voluntary Recognition Requests.

(A) Content and Timing of Voluntary Recognition Requests.

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

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

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

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

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

(V) A statement as to whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional,

state, national or international organization, and, if so, the name and address of each such organization.

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

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

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

(B) Response to Voluntary Recognition Request.

Upon receipt of a voluntary recognition request, a neutral third party shall be selected by the Director of Human Resources and the employee organization to review the signed petition and authorization cards to verify whether the employee organization has majority support, defined as more than 50% of the employees of the designated unit. In the event the Director of Human Resources and the employee organization cannot agree on a neutral third party, the State Mediation and Conciliation Service, or its successor, shall be the neutral third party and shall verify

the majority status of the employee organization.

(C) Certification of Results.

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

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

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

(2) Petition for Certification or Decertification.

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

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

(I) A petition for certification and/or decertification filed by

an employee organization shall contain:

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

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

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

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

(v) The date of expiration of any memorandum of understanding or extension of such memorandum.

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

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

(viii) Individually signed employee authorization cards dated within thirty (30) days prior to the filing of the petition which show proof of support of forty percent (40%) or more of the employees within the representation unit. Such signed employee authorization cards shall clearly set forth the intent of the employee with respect to representation by the employee organization.

(II) A petition for decertification filed by an employee or group of employees shall contain:

(i) The name, address and telephone number of the individual authorized to act as their agent in filing a petition for decertification.

(ii) The date of expiration of any memorandum of understanding or extension of such memorandum.

(iii) Individually signed employee statements dated within thirty (30) days prior to the filing of the petition, which show proof of support of forty percent (40%), or more of the employees within the representation unit. Such signed employee statements shall clearly set forth the intent of the employee to no longer be represented by the exclusive recognized employee organization.

(B) Response to Petition.

Upon receipt of the petition for certification or decertification, the Director of Human Resources shall determine whether or not there has been compliance with the requirements of 13.0207(a)(2)(A). If an affirmative decision is made by the Director of Human Resources, it shall direct a secret ballot election to be held to resolve the question of representation. A second employee organization can be placed on the ballot if it can provide a showing of interest of not less than thirty percent (30%) of the employees in the bargaining unit. Sufficient showing of interest shall be evidenced by individually signed employee authorization cards dated within thirty (30) days prior to the filing of the petition, which shall clearly set forth the intent of the employee with respect to representation by the employee organization. If the Director of Human Resources determines that the petition for certification or decertification is not in compliance, it shall be dismissed.

(b) Election Procedures.

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

(1) Consent Election Agreement.

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

(2) Ballot.

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

(3) Eligible Voters.

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

(4) Voting Results.

The State Mediation and Conciliation Service shall declare the results of an election only when a majority of eligible employees in the unit voted in the election. If less than a majority of eligible employees cast valid votes in an election, the election shall be declared a nullity and the results will be voided. If a majority of eligible employees cast valid votes in an election, the State Mediation and Conciliation Service shall then (1) certify, as the exclusive recognized employee organization of the authorized employee representation unit, the employee organization receiving a majority of the valid votes cast; or (2) declare that no employee organization is the

exclusive recognized employee organization of the unit if the choice "no representation" received a majority of valid votes cast.

(5) Runoff Election.

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

(6) Costs of Election.

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

(7) Certification/Election Bar.

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

13.0208 Scope of Representation.

The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including but not limited to, wages, hours, and other terms and conditions of employment; except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

13.0209 Exclusive Recognized Employee Organization's Rights.

(a) Exclusive Recognized Employee Organization.

An employee organization shall be certified as the exclusive recognized employee organization pursuant to the provisions of Section 13.0207. An employee

organization so certified must represent all employees within the unit to which it has been certified regardless of membership status in the employee organization.

(b) Meet and Confer.

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

(c) Representation.

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

(d) Employee's Appearance for Employee Organization.

Appointing authorities shall grant reasonable time off without loss of compensation or other benefits to a reasonable number of designated County employees serving as representatives of an exclusive recognized employee organization when formally meeting and conferring with the County on matters within the scope of representation.

13.0210 Collective Bargaining.

The County and the exclusive recognized employee organization for each authorized employee representation unit shall meet and confer in good faith in an

attempt to reach agreement on all matters within the scope of representation that are brought forward for consideration. Where agreement is not reached through the meet and confer process, dispute settlement procedures have been established to facilitate resolution of unresolved negotiation items.

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

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

(1) Meet and Confer.

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

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

(2) Mediation and Fact-Finding.

Mediation and fact-finding shall be available to the County and the

exclusive recognized employee organization in accordance with the procedures set forth in Government Code Sections 3505.2, 3505.4, 3505.5, and 3505.7, as amended, and Public Employment Relations Board (PERB) Regulation Sections 32802 and 32804, as amended.

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

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

(4) Adoption of Executed Agreement.

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

(b) Meet and Confer Obligations During Term of memorandum of understanding.

(1) Advanced Notice of Proposed Changes.

Subject to the provisions of any current memorandum of understanding in full force and effect, and except in cases of emergency, each exclusive recognized employee organization affected shall be given a reasonable advance notice of change(s) to any ordinance, rule, regulation, or proposal relating to matters within the

scope of representation proposed to be adopted by the County and shall be given the opportunity to meet with the County regarding such matters. In cases of emergency, when the County determines that an ordinance, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with an exclusive recognized employee organization, the County shall provide such notice and opportunity to meet at the earliest time following adoption of such emergency ordinance, rule, resolution, or regulation.

(2) Process.

The parties shall meet in good faith regarding the proposed changes. If, after a reasonable period, the Employee Relations Division and the exclusive representative are unable to resolve matters within the scope of representation, then mediation and fact-finding shall be available to the parties as set forth in Section 13.0210(a)(2), and any implementation by the County shall comply with Section 13.0210(a)(3).

(c) Other Considerations.

(1) Salary Considerations.

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

(2) Nothing herein shall preclude any of the parties to the negotiation procedure from making a presentation to the Board of Supervisors at a public meeting, subject to any mutually agreed upon ground rules.

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

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

The County and employee organizations will provide requested information and/or documents that are necessary and relevant to negotiating or enforcing a

collective bargaining agreement except as otherwise provided by applicable law.

13.0211 Unfair Labor Practices.

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

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

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

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

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

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

(5) To deny exclusive recognized employee organizations rights guaranteed to them by this chapter.

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

(7) To lock out employees of the County.

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

(9) To violate any provision of this chapter.

(b) It shall be an unfair labor practice for an employee organization or its

representatives or members:

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

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

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

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

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

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

(7) To violate any provision of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13.0212 Strikes and other concerted activities.

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

(a) Legal and Protected Strikes:

(1) Strikes Permitted.

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

(A) The memorandum of understanding between the exclusive representative and the County has expired and impasse procedures under Section 13.0210 (a) have been exhausted and either the exclusive representative or the Board of Supervisors has rejected the recommendations of the mediator/fact-finder pursuant to Section 13.0210; or

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

(2) Notice.

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

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

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

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

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

If the strike does not commence on the date specified in the original notice a new ten (10) day written notice is required.

(b) Illegal and Unprotected Strikes.

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

13.0213 Administration.

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

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

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

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

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

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

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

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

(b) Payroll Deductions.

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

(c) Agency shop.

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

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

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

(d) Use of County Resources.

Access to County work locations and the use of County paid-time, facilities, equipment, hardware or software and other resources by exclusive recognized employee organizations shall be authorized only to the extent provided for in a memorandum of understanding and/or applicable administrative procedures and shall

be limited to activities pertaining directly to the employer-employee relationship and shall not interfere with the efficiency, safety and security of County employees or County operations. Access to and use of County paid time, facilities, equipment and other resources shall not be authorized for such activities as: any that violates County Policy, soliciting membership, soliciting business by or for any non-County sponsored/sanctioned company, campaigning for office, selling insurance plans, organizing elections, or other similar activities.

(e) Administrative Rules and Procedures.

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

13.0214 Separability.

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

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

Janice Rutherford

JANICE RUTHERFORD, Chair
Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIR OF THE BOARD

LAURA H. WELCH, Clerk of the
Board of Supervisors

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, LAURA H. WELCH, Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify that at a regular meeting of the Board of Supervisors of said County and State, held on the 8th day of October, 2013, at which meeting were present Supervisors: Lovingood, Rutherford, Ramos, Ovitt, Gonzales, and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to wit:

AYES: SUPERVISORS: Lovingood, Rutherford, Ramos, Ovitt, Gonzales

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Supervisors this 8th day of October, 2013.

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: 9/20/13