

ARTICLE 4 Administration of Employer-Employee Relations

Sec. 4.1 **Purpose.** The purpose of these rules is to implement the Meyers-Milias-Brown Act (Chapter 10, Division 4, Title 1 of the Government Code of the State of California, commencing with Section 3500), by providing orderly procedures for the administration of employer-employee relations between the District and employee organizations.

Sec. 4.2 **Right of Employees to Join Employee Organizations.** Employees shall have 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.

Sec. 4.3 **Right of Employees to Refuse to Join Employee Organizations.** Employees shall have the right to refuse to join or participate in the activities of employee organizations.

Sec. 4.4 **Right of Employees to Represent Themselves.** Employees shall have the right to represent themselves individually in their employment relations with the District. A member of an employee organization who at any time wishes to represent himself/herself individually in his/her employment relations with the District may do so upon filing a written statement to that effect with the General Manager. The employee shall not be considered as being represented by an employee organization while such an unrevoked written statement is on file.

Sec. 4.5 **Discrimination Prohibited.** Employees shall not be discriminated against, interfered with, intimidated, restrained or coerced (by either the District or employee organizations) because: they form, join and participate in the activities of employee organizations; they refuse to join or participate in the activities of employee organizations; they represent themselves individually in their employment relations with the District.

Sec. 4.6 **Management and Confidential Employees.**

- (a) Management and confidential employees, as defined herein, shall not be in the same bargaining unit as other employees of the District and shall not be represented by the same employee organization which represents other employees of the District.
- (b) A "management" employee is defined as follows: an employee who has responsibility for formulating, administering or managing the implementation of policies and programs.

Article 4Administration of Employer-Employee Relations (Cont'd.)Sec. 4.6Management and Confidential Employees (Cont'd.).

- (c) A "confidential" employee is defined as follows: an employee who, in the course of his/her duties, has access to information or is privy to decisions of District management relating to the administration of employer-employee relations.
- (d) Management and confidential employees shall be identified annually by the General Manager.

Sec. 4.7

Recognition Requirements. An employee organization that seeks formal acknowledgment by the Board of Directors as an exclusively recognized employee organization that represents an appropriate unit of employees of the District must be currently designated in writing as their representative, and shall file with the General Manager a petition, signed under penalty of perjury by a duly authorized officer of the organization, containing the following information and documentation:

- (a) Name and address of the employee organization.
- (b) Names and titles of its officers.
- (c) Names of employee organization representatives who are authorized to represent its members.
- (d) A statement whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with a regional, state, national or international organization, and, if so, the name and address of each such regional, state, national or international organization.
- (e) Copies of the employee organization's constitution and by-laws.
- (f) A designation of those organization officers and representatives, not exceeding six (6) in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice to the employee organization for any purpose.
- (g) A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, marital status, age or protected classes recognized under the law.
- (h) The job classifications or position titles of employees currently represented by the employee organization.

Per Ordinance No. 99-4 Adopted 6/21/99 [Sec. 4.6(d)]

Per Ordinance No. 2008-05 Adopted 6/16/08 [Sec. 4.7]

Article 4Administration of Employer-Employee Relations (Cont'd.)Sec. 4.7Recognition Requirements (Cont'd.)

- (i) A statement that the employee organization has in its possession written proof, dated within three (3) months of the date upon which the petition is filed, to establish that such employees have designated in writing the employee organization to represent them in their employment relations with the District. The District has the right to verify accuracy of proof provided.
- (j) A request that the Board of Directors formally acknowledge the petitioner as an exclusively recognized employee organization that represents employees of the District.

Sec. 4.8

Processing of Recognition Petition. Within thirty (30) days after receipt of a petition, the General Manager shall:

- (a) Determine whether: (1) the petition fully complies with the requirements of these rules; (2) the petitioner is authorized by the employees to represent the employees of the District listed in the petition; (3) the petitioner qualifies as an exclusively recognized employee organization. In so doing, the General Manager may require the employee organization to submit such written proof as the employee organization has that it has been designated by the listed employees to represent them, including all written authorizations signed by employees designating the employee organization to represent them.
- (b) Submit the petition to the Board of Directors with a report as to the General Manager's determinations and his/her recommendations in regard to formal acknowledgment.

Sec. 4.9

Determination by Board of Directors. Within forty-five (45) days after receipt of the report and recommendations of the General Manager, the Board of Directors shall determine if the petitioner qualifies as an exclusively recognized employee organization. The Board may direct the General Manager to make further determinations to assist the Board in making its decision. The Board shall formally acknowledge that the petitioner is an exclusively recognized employee organization if the petitioner qualifies as such under these rules.

Sec. 4.10

Current Information. The information contained in the petition shall be kept current by the exclusively recognized employee organization. The General Manager may, from time to time, require verification by the exclusively recognized employee organization of any information contained in the petition (and current supplements thereto), including submission of such written proof as the exclusively recognized employee organization has that it has been designated by the listed employees to represent them.

Per Ordinance No. 2008-05 Adopted 6/16/08 [Sec. 4.7(j)]

Per Ordinance No. 2008-05 Adopted 6/16/08 [Sec. 4.9]

Per Ordinance No. 2008-05 Adopted 6/16/08 [Sec. 4..10]

Sec. 4.11 **Representation of Members.** Subject to these rules, as they may be from time to time amended, exclusively recognized employee organizations shall have the right to represent District employees who are members of said organizations in such employees' employment relations with the District.

Sec. 4.12 **Scope of Representation.** The scope of representation may 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 established by the District.

Sec. 4.13 **District Representatives.** The General Manager is appointed as the District's Employee Relations Officer to meet and confer with representatives of exclusively recognized employee organizations and with employees who wish to represent themselves individually. The General Manager may designate another person to meet and confer on his behalf. The Board of Directors may appoint one (1) or more other representatives, including one (1) or more other members of the Board, to assist the Employee Relations Officer or to act as the Employee Relations Officer in place of the General Manager on specific matters.

Sec. 4.14 **Conferences.** The Employee Relations Officer, or his designee, shall meet and confer in good faith regarding wages, hours and other terms and conditions of employment with the representative of exclusively recognized employee organizations and shall consider fully such presentations as are made on behalf of employees who are members of exclusively recognized employee organizations. The Employee Relations Officer, or his designee, shall meet and confer in good faith regarding wages, hours and other terms and conditions of employment with employees who wish to represent themselves individually and shall consider fully such presentations as are made by them. Such meetings and conferences shall be held within a reasonable time, but not more than thirty (30) days, unless mutually agreed, after receipt of a written request, which shall set forth the matters desired to be presented.

The Employee Relations Officer, or his/her designee, may utilize consultants, Board members and other staff of the District to assist him/her and to attend conferences with him/her, not to exceed five (5) per meeting, subject to five (5) days' notification of the employee organization unless less time agreed to by both parties.

The employee organization may utilize outside consultants and experts, not to exceed two (2) per meeting unless it is mutually agreed that a greater number is required, subject to five (5) days notification and approval of the Employee Relations Officer, or his/her designee, as to the reasons, nature, and purpose of the designated consultant or expert. Said approval shall not be unreasonably withheld.

Sec. 4.15 Definition of Meet and Confer in Good Faith. "Meet and confer in good faith" means that the employee organization, or individual employees, shall have the mutual obligation personally to meet and confer promptly upon written request by either party and to 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 adoption by the District of its final budget for the ensuing fiscal year.

Sec. 4.16 Closed Sessions. Pursuant to Section 54957.5 of the Government Code, the Board of Directors may hold closed sessions with the Employee Relations Officer and other staff members who are assisting him/her prior to and during consultations and discussions with representatives of employee organizations regarding mandatory subjects within the scope of representation, including the salaries, salary schedules or compensation paid in the form of fringe benefits of employees, in order to review the Board's position and to instruct the Employee Relations Officer.

Sec. 4.17 Reasonable Time Off to Meet and Confer. An exclusively recognized employee organization may select not more than three (3) employee members of the organization to attend scheduled meetings with the Employee Relations Officer on subjects within the scope of representation during regular work hours without loss of compensation. If circumstances warrant, the General Manager may approve the attendance at such meetings of additional employee representatives without loss of compensation. The employee organization shall submit the names of the employee representatives in writing to the General Manager at least five (5) working days in advance of such meetings. Any such meeting is subject to scheduling by the General Manager in a manner consistent with operating needs and work schedules of the District.

Sec. 4.18 Advance Notice. Reasonable written notice shall be given to each exclusively recognized employee organization affected by any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the Board of Directors, and each shall be given the opportunity to meet and confer with the Employee Relations Officer regarding the proposed ordinance, rule, resolution or regulation prior to adoption. In cases of emergency when the Board of Directors determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice of meeting with exclusively recognized employee organizations, the Board of Directors shall provide such notice and opportunity to meet at the earliest possible time following its adoption. Emergency actions taken by the Board without the benefit of meet and confer, which under normal conditions would be subject to meet and confer, shall be temporary in nature and be in force only for the duration of the emergency. In any event, such actions shall not be in force for a period longer than forty-five (45) days unless extended for a specified period of time by the Board of Directors for cause.

Sec. 4.19

Memorandum of Understanding. If agreement is reached by the Employee Relations Officer and an exclusively recognized employee organization, they shall jointly prepare a written memorandum of such understanding, signed by the Employee Relations Officer and the representative of the exclusively recognized employee organization, which shall not be binding, and present it to the Board of Directors for determination. If approved by the Board of Directors, the memorandum of understanding shall constitute a contract between the District and the employee organization.

Sec. 4.20Impasse.

- (a) In the event that the meet and confer process does not produce a memorandum of understanding and the parties agree that they have reached impasse, either party may request mediation by the State Conciliation and Mediation Service. In addition to such mediation, the parties may mutually agree to any other form of impasse resolution procedure but neither party is required to do so. Unless agreed otherwise, the cost of impasse resolution is to be split equally between the parties in dispute.
- (b) If there is no memorandum of understanding reached following completion of mediation, or any other agreed upon impasse resolution procedure, and if the parties are still at impasse, then the Board shall receive written presentations by representatives of the two (2) parties and shall finally determine the issues that remain at impasse. Such a determination by the Board shall conclude the meet and confer process for those issues that were at impasse for the fiscal year.

Sec. 4.21

Use of Bulletin Boards. The District will furnish, for the exclusive use of exclusively recognized employee organizations, adequate bulletin board space at reasonable locations. The board shall be used for the following subjects:

- (a) Information on exclusively recognized employee organization elections, reports and notices.
- (b) Reports of official business of exclusively recognized employee organizations, including reports of committees or the governing boards thereof.
- (c) Scheduled exclusively recognized organization membership benefits, programs and promotions.
- (d) Exclusively recognized employee organization membership benefits, programs and promotions.
- (e) Any other written material pertaining to the official business of the exclusively recognized employee organization.

Sec. 4.22

Activities on District's Premises. Membership meetings, organizing activities, membership campaigns, or dues collecting by exclusively recognized employee organizations or their representatives on District premises or at work locations during business hours shall not be permitted unless approved by the Employee Relations Officer or designee. Representatives of an exclusively recognized employee organization shall be granted reasonable access to employee work locations to investigate matters relating to employer-employee relations only if such investigation cannot be conducted elsewhere, unless such access to given work locations would constitute a safety hazard or would interfere with the operations of the District. Access to work locations may be regulated by the General Manager so as not to constitute a safety hazard or to interfere with operations of the District. Representatives of an exclusively recognized employee organization shall not enter a work location without the consent of the General Manager or his designee in his absence. Board members of the exclusively recognized employee organization(s) shall be allowed one (1) hour per month release at a time approved by the General Manager to hold board meetings. In months where no meeting is held, the Board of the exclusively recognized employee organization waives the right to the time allowed to meet.

Sec. 4.23

Availability of Data. District will make available to exclusively recognized employee organizations such nonconfidential information pertaining to employment relations as is contained in the public records of the District, subject to the limitations of the California Public Records Act (Government Code Sections 6250, et al.). Requests for such information shall be made to the General Manager, and such information shall be made available during regular office hours after payment of reasonable costs of duplication, if duplication is requested. Nothing herein shall be construed as requiring the District to furnish confidential information or to do research, to assemble information or to compile data.

Sec. 4.24

Amendments. The Board of Directors may amend these rules by changes, additions or deletions. Such amendments shall be adopted after consultation in good faith with representatives of all exclusively recognized employee organizations as provided by Section 4.18.

Per Ordinance No. 2008-05 Adopted 6/16/08 [Sec. 4.22]

Per Ordinance No. 2008-05 Adopted 6/16/08 [Sec. 4.23]

Per Ordinance No. 2008-05 Adopted 6/16/08 [Sec. 4.24]

Sec. 4.25

Consultation. Exclusively recognized employee organizations or their representatives, as well as unrepresented employees, may request, in writing, a formal consultation with the General Manager concerning the District interpretation or implementation of the Memorandum of Understanding (Sec. 4.19), or Articles 1 through 9 of the Administrative Code. Such written request shall describe which section(s) of the Memorandum of Understanding or Administrative Code and the general nature of the issue with the District's interpretation or implementation at issue. The General Manager shall respond to such written request for consultation by establishing a date and time for the consultation meeting between the exclusively recognized employee organization, their representatives, or the unrepresented employee, within 30 days after the receipt of the written request for consultation. Within 30 days after the date of the consultation meeting, the General Manager shall notify in writing the requestor of the consultation of the decision concerning the issue of interpretation or implementation. Depending on the outcome of such written decision, the requestor may exercise the rights granted under Article 6, Sec. 6.7, "Grievance Procedure," or other rights as provided by law.