

RESOLUTION NO. 3013

A RESOLUTION ADOPTING AN EMPLOYER-EMPLOYEE
RELATIONS PROCEDURE.

WHEREAS, the Reedley City Council did in 1969 adopt the League of California Cities "Suggested Employer-Employee Relations Procedure, dated March, 1969" as a policy guideline; and

WHEREAS, implementing state legislation referred to as the Meyers-Miliias-Brown Act, has undergone several amendments and changes; and

WHEREAS, a revised procedure has been developed to update local regulations consistent with state law; and

WHEREAS, the City has met and conferred with employees and recognized employee groups and offered opportunity for and received input and comment on said procedures, and said procedure reflects the comments of and recommendations received from employees and employee groups; and

WHEREAS, the City Council has considered the proposed procedure at a public meeting held on September 6, 1977, and February 7, 1978.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Reedley City Council does hereby adopt the attached Employer-Employee Relations Procedure, which is included herein and made a part hereof, effective this date. All conflicting resolutions or parts thereof are hereby repealed.

Passed and adopted this 7th day of February, 1978, at a regular meeting by the following vote:

AYES: Councilmen Wilder, Lovegreen, Ball, Wade, and
Mayor Camacho.
NOES: None.
ABSENT: None.


John Camacho, Mayor

ATTEST:



Raymond L. Medcalf, City Clerk

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BE IT RESOLVED BY THE COUNCIL OF THE CITY OF REEDLEY:

ARTICLE I - GENERAL PROVISIONS

Sec. 1. Statement of Purpose.

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned "Local Public Employee Organizations," by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of State law, City (Charter) ordinances, resolutions and rules which establish and regulate the merit and civil service system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the City.

It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with exclusively recognized Employee Organizations regarding matters that directly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by Federal or State law (or the City Charter). However, nothing herein shall be construed to

restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Sec. 2. Definitions.

The following terms whenever used in this Resolution, shall have the meanings indicated:

- a. "Appropriate Unit" means a unit of employee classes or positions, established pursuant to Article II hereof.
- b. "City" means the City of Reedley, and, where appropriate herein, refers to the City Council or any duly authorized City representative as herein defined.
- c. "Confidential Employee" means an employee, who, in the course of his or her duties, has access to information relating to the City's administration of employer-employee relations.
- d. "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; and, as distinguished from "meeting and conferring in good faith" regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposals in an endeavor to reach agreement, nor is it subject to Article IV hereof.

- e. "Day" means calendar day unless expressly stated otherwise.
- f. "Employee Relations Officer" means the City Administrator or his duly authorized representative.
- g. "Impasse" means that the representatives of the City and an exclusively recognized Employee Organization have reached a point in the process of meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- h. "Management Employee" means an employee having responsibility for formulating, administering, or managing the implementation of City policies or programs.
- i. "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee while employed by the City, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee while employed

by the City, or (3) employee dues deduction authorization signed by the employee while employed by the City, using the payroll register for the payroll period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. A dues deduction authorization, whenever used to provide "proof of employee support," must be for a specified amount of time not to exceed one year, and must be only continuable upon a voluntary written authorization of the employee for a period of time not to exceed one year. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within one hundred eighty (180) days prior to the filing of a petition.

- j. The term "Recognized Employee Organization" and/or "Exclusive Recognized Employee

Organization" means an employee organization which has been formally acknowledged by the City as the exclusive employee organization that represents the employees in an appropriate representation unit pursuant to Article II hereof.

- k. "Supervisory Employee" means any employee having authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly direct them, or to adjust their grievances, or effectively to 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.
1. The term "professional employee" means --
- (a) any employee engaged in (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the

result accomplished cannot be standardized in relation to a given period of time;

(iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a long course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine, mental, manual, or physical processes; or

- (b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

ARTICLE II - REPRESENTATION PROCEEDINGS

Sec. 3. Filing of Recognition Petition By
Employee Organization.

In order to be formally acknowledged as the Recognized Employee Organization representing the employees in an appropriate unit, an employee organization shall file a petition with the Employee Relations Officer 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 speak on behalf of the organization.
- d. A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City.
- e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
- f. Certified copies of the employee organizations' constitution and by-laws.

- g. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- h. A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin.
- i. The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- j. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.
- k. A request that the Employee Relations Officer formally acknowledge the petitioner as the

exclusive recognized Employee Organization
representing the employees in the unit claimed
to be appropriate for the purpose of meeting
and conferring in good faith.

The Petition, including the proof of employee support and
all accompanying documentation, shall be declared to be true,
correct and complete, under penalty of perjury, by the duly
authorized officer(s) of the employee organization executing it.

Sec. 4. City Response to Recognition Petition.

Upon receipt of the Petition, the Employee Relations Officer shall determine whether:

- a. There has been compliance with the requirements of the Recognition Petition; and
- b. The proposed representation unit is an appropriate unit in accordance with Sec. 8 of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization, and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefor in writing. The petitioning employee organization may appeal such determination in accordance with Sec. 10 of this Resolution.

Sec. 5. Open Period For Filing
Challenging Petition.

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Sec. 3 of this Article II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time all the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Sec. 8 of this Article II. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Sec. 10 of this Article II.

Sec. 6. Election Procedure.

The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this Resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article II shall be included on the ballot. The choice of "no organization" shall also always be included on the ballot. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the City in the same unit on the date of the election. An employee organization shall be formally acknowledged as the recognized Employee Organization for the designated appropriate unit following an election or runoff election if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a runoff election shall be conducted between the

two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a runoff election.

There shall be no more than one valid election under this Resolution pursuant to any petition in a 12 month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the American Arbitration Association.

Costs of conducting elections shall be borne in equal shares by the City and by each employee organization appearing on the ballot.

Sec. 7. Petition for Decertification by
Employees or Employer.

A Decertification Petition alleging that the incumbent Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the thirty (30) day period commencing ninety (90) days prior to the termination date of a Memorandum of Understanding, and at any time after the first full year of recognition in those cases where no Memorandum of Understanding has been entered into.

A Decertification Petition may be filed by one or more employees or their representative, or an employee organization or by the City Administrator in behalf of the City and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

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

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

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

(d) When the petition was filed by an employee or labor organization: Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

(d)(2) When the petition was filed by the City Administrator. A written statement setting out his reasonable, objective, and good faith doubt whether a majority of the unit supports the incumbent Recognized Employee Organization.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition

under this section in the form of a Recognition Petition that evidences proof of employee support of at least thirty (30) percent and otherwise conforms to the requirements of Section 3 of this Article.

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

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

Sec. 8. Petition for Unit Clarification.

A petition to clarify may only be filed by the labor organization currently recognized as representative of the unit sought to be clarified or by the City Administrator on behalf of the City of Reedley during only that period specified in Section 7 of this Article II.

A petition to clarify the unit must contain the same information as required in a petition for recognition by an employee organization. In addition, it must contain a description of the proposed clarification, the number of employees in the unit before and after the clarification, the job classifications affected and the number of employees in each, and a statement of reasons for clarification must be included.

The purpose of clarification of a bargaining unit is to resolve the unit placement of disputed classifications of employees. Therefore, a petition for clarification must not raise a question of representation, i.e. it cannot be used to add a classification of employees that had been deliberately omitted from the unit.

Sec. 9. Policy and Standards for Determination of
Appropriate Units

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on those community of interest considerations which are recognized by National Labor Relations Board precedent.

Notwithstanding the foregoing provisions of this Section:

(1) Management and confidential employees shall not be included in any unit;

(2) Supervisory employees may be included within a unit consisting of those employees whom they supervise, provided, however, that said supervisor employees may (pursuant to a secret ballot election conducted among themselves according to Section 8) be subsequently removed from such a unit so as to instead form their own unit which may or may not, according to the results of that election, be represented by an Employee Organization that represents non-supervisory employees of the City; and

(3) Professional employees shall not be denied the right to be represented in a separate unit from non-professional employees.

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

Section 10. Procedure for Modification of Established
Appropriate Units

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Section 7 of this Article II. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the requirements set forth in Sec. 3 of this Article, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 9 hereof. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article II.

The Employee Relations Officer may on his own motion ~~propose during the period specified in Sec. 7 of this Article,~~ that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Sec. 9 of this Article II, and shall give written notice of such ~~determination to the affected employee organizations.~~ The Employee Relations Officer's determination may be appealed

as provided in Section 11 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Recognized Employee Organization for such new appropriate unit or units pursuant to Sec. 3 hereof.

Sec. 11. Appeals

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer under this Article II may, appeal such determination to the City Council for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination. In the event of a dispute on the appropriateness of a unit of representation for professional employees, any party after appeal to the City Council may submit the matter to the Division of Conciliation of the Department of Industrial Relations for mediation or for recommendation for resolving the dispute pursuant to Government Code §3507.3.

ARTICLE III - ADMINISTRATION

Sec. 12. Submission of Current Information by
Recognized Employee Organizations

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

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Sec. 13. Payroll Deductions on Behalf of Employee Organizations

Upon formal acknowledgement by the City of an exclusive Recognized Employee Organization under this Resolution, only such exclusive Recognized Employee Organization may be provided payroll deductions of membership dues and insurance premiums for plans sponsored by such organization only upon the written authorization of employees in the unit represented by Recognized Employee Organization on forms provided therefor by the City. Such written authorization by the employee must be for a specified period of time not to exceed one year, and must be only continuable upon a voluntary written authorization of the employee for a period of time not to exceed one year. The providing of such service to the exclusive Recognized Employee Organization by the City shall be contingent upon and in accordance with the provisions of Memoranda of Understanding and/or applicable administrative procedures.

Sec. 14. Employee Organization Activities -
Use of City Resources

Access to City work locations and the use of City paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures, shall be limited to activities pertaining directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of City operations.

Sec. 15. Administrative Rules and Procedures

The Administrative Officer is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Resolution after consultation with affected employee organizations.

ARTICLE IV - IMPASSE PROCEDURE

Sec. 16. Any failure to agree as defined in this Resolution shall be settled in accordance with this Article.

Sec. 17. The Impasse Procedure:

Either party, not earlier than sixty (60) days following the commencement of the meet and confer process, may submit to the other party a written request for mediation of any failure to agree on a subject matter within the scope of representation, provided that mediation may be invoked at an earlier time by the parties' mutual agreement. The written request shall specifically list each matter upon which mediation is sought.

Within three (3) calendar days of the receipt of a request for mediation, the parties shall meet at a mutually agreeable time and place in another effort to reach agreement on the disputed issues listed in the request which are within the scope of representation.

If mutual agreement is not reached on the disputed issues at the meeting provided for immediately above, the parties shall, prior to the conclusion of such meeting, attempt to mutually agree upon a person to serve as a mediator. If agreement cannot be reached either party may immediately request a list of seven (7) names from the California State Mediation and Conciliation Service, from which list each party will alternately strike three names, and the person remaining shall be and serve as the mediator.

The mediator shall promptly arrange to meet with the parties in private to aid in a voluntary adjustment of the matters in dispute. The parties shall meet at the call of the mediator. He shall make no findings of fact nor shall he make any recommendations public or take any public positions. The fees of the mediator, if any, shall be shared equally by the parties.

Mediation efforts shall be completed within a reasonable period of time after the selection of the mediator.

In the event that the mediation process does not resolve the issues over which there is a failure to agree, the unresolved issues shall be subject to determination by the City Council. Any action by the City Council on the impasse shall be final and binding.

Sec. 18. Costs of Impasse Procedures

The costs for the services of a mediator and fact finder or chairman of a fact finding panel utilized by the parties, and other mutually incurred costs of mediation and fact finding, shall be borne equally by the City and the Recognized Employee Organization. The cost for a fact finding panel member selected by each party, and other separately incurred costs shall be borne by such party.

ARTICLE V - MISCELLANEOUS PROVISIONS

Sec. 19. Construction

This Resolution shall be administered and construed as follows:

a. Nothing in this Resolution shall be construed to deny to any person, employee, organization, the City, or any authorized officer, body or other representative of the City, the rights, powers and authority granted by federal or state law (or City Charter provisions).

b. This Resolution shall be interpreted so as to carry out its purposes as set forth in Article I.

c. Nothing in this Resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to City employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination and may be deemed to have abandoned their employment; and employee organizations may thereby

forfeit all rights accorded them under this Resolution
and other City law for a period up to one (1) year
from commencement of such activity.

Sec. 20. Severability

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