

LAKE COUNTY, CALIFORNIA - CODE OF ORDINANCES

~~AN ORDINANCE AMENDING SECTION 56.3 OF CHAPTER 14 (PERSONNEL) OF THE LAKE COUNTY CODE TO ESTABLISH A DEPUTY COUNTY COUNSEL ATTORNEYS UNIT, ADD POSITIONS TO THE DISTRICT ATTORNEY UNIT, AND UPDATE AND CHANGE THE TITLE OF THE DISTRICT ATTORNEY UNIT TO ATTORNEYS UNIT TO REFLECT CHANGES IN MEMBERSHIP.~~

Chapter 14 - PERSONNEL

DIVISION 2. - REPRESENTATION PROCEEDINGS

Sec. 14-51. - Filing of Recognition Petition by Employee Organization.

51.1 An employee organization that seeks to be formally acknowledged as the recognized employee organization representing the employees in an appropriate unit 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 County.
- (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 organization's constitution and bylaws.
- (g) A designation of those persons, not exceeding two (2) 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 classification or titles of employees in the unit for which the petition is filed 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 petitioned

unit have designated the employee organization to represent them in their employment relations with the County. Such written proof shall be submitted for confirmation to the Employee Relations Officer, the State Mediation and Conciliation Service (SMCS) or to a mutually agreed upon neutral third party for verification.

(k) A request that the Board of Supervisors formally acknowledge the petitioner as the recognized employee organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

(l) An acknowledgement of this policy declaration and any amendments thereto, and an agreement to abide by the same.

(Ord. No. 1063, Art. II, § 1, 1-2-79)

51.2 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.

(Ord. No. 1063, Art. II, § 1, 1-2-79)

Sec. 14-52. - County Response to Recognition Petition.

52.1 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 one of the appropriate units set forth in [Section 14-56](#) of this division.

(Ord. No. 1063, Art. II, § 2, 1-2-79; Ord. No. 1995, § 4, 3-12-91)

53.2 If an affirmative determination is made by the Employee Relations Officer on the foregoing two (2) 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 [Section 14-58](#) of this division.

(Ord. No. 1063, Art. II, § 2, 1-2-79)

Sec. 14-53. - Open Period for Filing Challenging Petition.

53.1 Within thirty (30) days of the date written notice was given to affected employees by means of posting on County bulletin boards 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 unit, by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) per cent and otherwise in the same form and manner as set forth in [Section 14-51](#) of this division.

(Ord. No. 1063, Art. II, § 3, 1-2-79)

Sec. 14-54. - Election procedure.

54.1 The Employee Relations Officer shall arrange for a secret ballot election to be conducted by the County Clerk and verified by the Employee Relations Officer, the County Clerk and one (1) representative of each of the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this article. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this division shall 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 County 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 (3) 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 (2) choices receiving the largest number of valid votes cast, the rules governing an initial election being applicable to a runoff election.

(Ord. No. 1063, Art. II, § 4, 1-2-79)

54.2 There shall be no more than one (1) valid election under this article pursuant to any petition in a twelve-month period affecting the same unit.

(Ord. No. 1063, Art. II, § 4, 1-2-79)

54.3 Cost of conducting elections, if any, shall be borne in equal share(s) by each employee organization appearing on the ballot.

(Ord. No. 1063, Art. II, § 4, 1-2-79)

54.4 If agreed by all parties to an election, the County Clerk's Office role in the above procedure may be substituted for by the California State Mediation and Conciliation Service or another mutually acceptable substitute.

(Ord. No. 1063, Art. II, § 4, 1-2-79)

Sec. 14-55. - Procedure for Decertification of Recognized Employee Organization.

55.1 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 month of January of any year following the first full year of recognition or during the thirty-day period commencing one hundred eighty (180) days prior to the termination date of a memorandum of understanding then having been in effect less than three (3) years. A decertification petition may be filed by two (2) or more employees or their representative, or an employee organization, 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) Proof of employee support that at least thirty (30) per cent 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 first paragraph of this section.

(Ord. No. 1063, Art. II, § 5, 1-2-79)

55.2 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) per cent and otherwise conforms to the requirements of [Section 14-53](#) of this division.

(Ord. No. 1063, Art. II, § 5, 1-2-79)

55.3 The Employee Relations Officer shall initially determine whether the petition has been filed in compliance with the applicable provisions of this division. 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. The petitioning employees or employee organization may appeal such determination in accordance with [Section 14-58](#) of this division. If the determination of the Employee Relations Officers 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.

(Ord. No. 1063, Art. II, § 5, 1-22-79)

55.4 The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) working 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 14-54](#) of this division.

(Ord. No. 1063, Art. II, § 5, 1-2-79)

Sec. 14-56. - Policy and Standards for Determination of Appropriate Units.

56.1 The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the County and its compatibility with the primary responsibility of the County and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered in assigning classifications to units shall be:

- (a) Title notwithstanding, similarity of the general kinds or work performed, types of qualifications required, and the general working conditions.
- (b) History of representation in the County and similar employment; except however, no unit shall be deemed to be an appropriate unit for the classification solely on the basis of the employee organization to which employees the subject classifications belong.
- (c) Consistency with the general description of the units in this section.
- (d) Consistency with the organization patterns of the County.
- (e) Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classification among two (2) or more units.

56.2 Notwithstanding the foregoing provisions of this section, management and confidential employees shall only be included in units consisting solely of management or confidential employees; and such management or confidential employees shall not represent a recognized employee organization which represents other employees of the County; supervisory employees shall only be included in a unit consisting solely of supervisory employees, and such supervisory employees may represent a recognized employee organization that represents nonsupervisory employees of the County only to the extent allowed by State law, and professional employees shall not be denied the right to be represented in a separate unit from non-professional employees.

56.3 The following units are hereby established:

- (a) *Administrative, Professional and Office Technical Non-supervisory*: Includes classes of positions normally referred to as "white collar," such as clerical support positions, professional and related technical support positions.
- (b) *Trades, Crafts and Field Worker Nonsupervisory*: Includes those classes whose work requiring specific skills involving technical ability that may be derived from academic or

vocational preparation or experience providing competence in one (1) or more techniques, trades or crafts; may include classifications associated with the inspection of facilities or conditions as to compliance with rules and regulations; may also include those classifications associated with the maintenance of roads, parks, buildings, bridges, equipment and other functions requiring practical knowledge gained through experience on the job.

(c) *General Supervisory*: Includes all non-law-enforcement supervisors in the County who are below the managerial ranks as defined below.

(d) *Law Enforcement Basic*: Positions in the Sheriff's Department which are not designated as confidential, managerial or peace officers as defined in subsection (i) below, and are not in a classification which is common to other departments of the County.

(e) *Law Enforcement/Management*: Those employees who are sworn peace officers and occupy managerial positions within the Sheriff's department.

(f) *Confidential Unit*: Comprised of all employees who, in the course of their duties, have access to information relating to the County's administration of employer-employee relations, excluding members of the Deputy County Counsel Attorneys Unit.

(g) *General Management*: Comprised of only department heads and assistant department heads whose hours, wages and other terms and conditions of employment shall be as mutually agreed between the Board and those department heads and assistants.

(h) *Deputy District Attorneys*: Those attorneys-at-law who occupy positions in the District Attorney's -Public Defenders, and Child Support Services Department Office, excluding members of the General Management Unit and members of the Deputy County Counsel Attorneys Unit.

(i) *Peace Officers*: Includes all classes of positions defined as peace officers in Penal Code Sections 830.1, except those which are designated as confidential and managerial.

(j) *Other Safety Positions*: Includes all classifications of peace officers and safety positions not covered by the preceding unit definitions. For purposes of this division, safety positions is defined as those positions eligible for safety retirement benefits.

(k) *Deputy County Counsel Attorneys*: Those attorneys-at law who occupy positions in the County Counsel Office, excluding members of the General Management Unit and members of the Attorneys Unit.

56.4 The Employee Relations Officer shall allocate new classifications or positions; delete eliminated classifications or positions; and retain, reallocate or delete classifications or positions from units in accordance with the provisions of this section after consulting with personnel employee organizations.

(Ord. No. 1063, Art. II, § 6, 12-1-79; Ord. No. 1236, § 1, 3-30-82; Ord. No. 1308, § 1, 4-5-83; Ord. No. 1726, § 1, 3-15-88; Ord. No. 1812, § 1, 3-7-89; Ord. No. 2427, §§ 1, 2, 2-24-98)

(Ord. No. 2972, § 1, 4-24-2012; [Ord. No. 3022, § 1, 1-6-2015](#))

Sec. 14-57. - Procedure for Modification of Established Appropriate Units.

57.1 Requests by employee organizations for modifications or redefinition of established units may be considered by the Employee Relations Officer only during the period specified in [Section 14-55](#) of this division. Such requests shall be submitted in the form of a formal proposal or recognition petition, which, in addition to the requirements set forth in [Section 14-51](#) of this division, 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 14-56](#) hereof. The Employee Relations Officer shall process such petitions or formal proposals as other recognition petitions under this division.

57.2 The Employee Relations Officer may, on his own motion, propose that an established unit be modified or redefined. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization during the period specified in [Section 14-55](#) of this division and shall hold a consultation concerning the proposed modifications(s), at which time all affected employee organizations shall be heard if they so desire. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with [Section 14-56](#) of this division, subject to approval of the Board of Supervisors, and shall give written notice of such modification or redefinition to the affected employee organization prior to approval by the Board. If a unit is modified or redefined pursuant to the motion of the Employee Relations Officer hereunder and if such modification or redefinition results in a substantial change in a preexisting unit, employee organizations may thereafter file recognition petitions seeking to become the recognized employee organization for such new or redefined appropriate unit(s) pursuant to [Section 14-51](#) hereof.

(Ord. No. 1063, Art. II, § 7, 1-2-79; Ord. No. 1995, § 5, 3-12-91)

Sec. 14-58. - Appeals.

58.1 An employee organization aggrieved by an allocation of classes to a unit by the Employee Relations Officer under this division may, within ten (10) days of notice thereof, appeal such determination to the County Board of Supervisors for final decisions.

(Ord. No. 1063, Art. II, § 8, 1-2-79; Ord. No. 1995, § 6, 3-12-91)

58.2 An employee organization aggrieved by a determination of the Employee Relations Officer that a recognition petition ([Section 14-51](#)), challenging petition ([Section 14-53](#)),

or decertification or recognition petition ([Section 14-55](#)) - or employees aggrieved by a determination of the Employee Relations Officer that a decertification petition ([Section 14-55](#)) - has not been filed in compliance with the applicable provisions of this division, may, within fifteen (15) days of notice of such determination, appeal the determination to the County Board of Supervisors for final decision.

(Ord. No. 1063, Art. II, § 8, 1-2-79)

58.3 Appeals to the Board of Supervisors shall be filed in writing with the Clerk of the Board and a copy thereof served on the Employee Relations Officer. Decisions of the Board determining the substance of the dispute shall be final and binding.

(Ord. No. 1063, Art. II, § 8, 1-2-79)

DIVISION 2B. - REPRESENTATION OF COURT EMPLOYEES

Sec. 14-59. - Statement of Purpose.

59.1 This Division implements Section 2201 et seq. of the California Rules of Court, captioned "Court Employee Labor Relations", by establishing appropriate units for court employees and by providing orderly procedures for the administration of employer/employee relations between the Lake County Superior Court and employee organizations.

(Ord. No. 2481, § 1, 8-17-99)

59.2 Delegation.

The Board of Supervisors hereby delegates its authority to establish hours, wages and other terms and conditions of employment to the Lake County Superior Court with respect to employees who work for the Court, except those employees whose job classification confers safety retirement status.

(Ord. No. 2481, § 1, 8-17-99)

59.3 Units for Court Employees.

Notwithstanding any other provisions of this Article, the following units are hereby established for Court employees.

(a)

Court Employees, Non-Management: Includes all classes of positions employed by the Lake County Superior Court that are not designated as management.

(b)

Court Employees, Management: Includes those employees that occupy managerial positions within the Lake County Superior Court and whose hours, wages, and other

terms and conditions of employment shall be mutually agreed upon between the Court Executive Committee and the management employee.

(c)

Court Employees, Confidential: Comprised of all employees who, in the course of their duties, have access to information relating to the Court's administration of employer-employee relations.

(Ord. No. 2481, § 1, 8-17-99)

Secs. 14-60—14-63. - Reserved.

DIVISION 3. - ADMINISTRATION

Sec. 14-64. - Maintenance of Recognized Status and Submission of Current Information.

64.1 A recognized employee organization shall furnish to the Employee Relations Officer all changes in the information filed with the County by a recognized employee organization under items (a) through (h) of its recognition petition under [Section 14-51](#), Division 2 of this Article within fourteen (14) days of such change.

(Ord. No. 1063, Art. II, § 1, 1-2-79; Ord. No. 1995, § 7, 3-12-91)

Sec. 14-65. - Revocation or Suspension of Recognition.

65.1 An employee organization shall cease to be recognized, upon order of the Board made after reasonable notice and opportunity to be heard, for:

- (a) Repeated or continued failure or refusal to comply with any provisions of this Article.
- (b) Intentional furnishing of false information to the County in any report required by this Article, or intentionally misrepresenting membership of any employee or that he has authorized representation by the organization.
- (c) Participating in encouraging or condoning any strike, slowdown, work stoppage or other concerted activity against the County by the recognized employee organization.
- (d) Ceasing to represent employees of the County, which may be presumed by failure to respond to inquiries concerning representation after ninety (90) days.
- (e) Unlawful discrimination in practice or as contained in the organization's bylaws or constitution.

(Ord. No. 1063, Art. III, § 2, 1-7-79)

65.2 Recognition of an organization may be suspended by the County after reasonable notice of default and failure to cure the same. Such suspension will continue until the default is cured or recognition is terminated by the County.

(Ord. No. 1063, Art. III, § 2, 1-2-79)

Sec. 14-66. - Payroll Deductions on Behalf of Employee Organizations.

66.1 Upon formal certification by the County of a recognized employee organization under this Article, only such recognized employee organization may be provided payroll deductions of membership dues and insurance premiums for plans sponsored by such organization upon the written authorization of employees in the unit represented by the recognized employee organization, on form acceptable to the County. The providing of such service to the recognized employee organization by the County shall be contingent upon and in accordance with the provisions of memoranda of understanding and/or applicable administrative procedures.

(Ord. No. 1063, Art. III, § 3, 1-2-79)

Sec. 14-67. - Employee Organization Activities; Use of County Resources.

67.1 Access to County work locations and the use of County 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. Participation in negotiations shall be limited to a reasonable number of employees engaged directly in meet and confer sessions.

(Ord. No. 1063, Art. III, § 4, 1-2-79)

Sec. 14-68. - Administrative Rules and Procedures.

68.1 The Employee Relations Officer is hereby authorized to establish such administrative rules and procedures as appropriate to implement and administer the provisions of this Article, after consultation with affected employee organizations.

(Ord. No. 1063, Art. III, § 5, 1-2-79)

Secs. 14-69—14-73. - Reserved.

DIVISION 4. - IMPASSE PROCEDURE

Sec. 14-74. - Initiation of Impasse Procedure.

74.1 If the meet and confer process has reached impasse as defined in this Article, either party may initiate the impasse procedure by filing with the other party a written request for an impasse meeting together with a statement of its position on all disputed

issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such impasse meeting shall be:

- (a) To identify and specify in writing the issue or issues that remain in dispute;
- (b) To review the position of the parties in a final effort to resolve such disputed issue or issues; and
- (c) If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedure provided herein.

(Ord. No. 1063, Art. IV, § 1, 1-2-79)

Sec. 14-75. - Impasse Procedure.

75.1 If the dispute is not resolved following the meeting provided by [Section 14-74](#), the County and the recognized employee organization together may agree upon the appointment of a mediator mutually agreeable to the parties. If the parties agree as to the use and selection of a mediator, all mediation proceedings shall be private. The mediator shall make no public recommendation nor take any public position at any time concerning the issues.

(Ord. No. 1063, Art. IV, § 2, 1-2-79)

75.2 If the parties agree to submit the impasse directly to the Board of Supervisors, or if the parties do not agree on the use or selection of a mediator, or having so agreed, the issue(s) at impasse has not been resolved through such mediation, the impasse shall be submitted to the Board of Supervisors, which, after holding a public hearing, shall take such action regarding the impasse as it, in its discretion, deems appropriate in the public interest. Any legislative action by the Board of Supervisors on the impasse shall be final and binding.

(Ord. No. 1063, Art. IV, § 2, 1-2-79)

Sec. 14-76. - Court Impasse Procedure.

76.1 The impasse procedure set forth in [Division 4](#) of this Article is hereby adopted and incorporated by reference for the Court Employees, Non-Management Unit, except that all references to the Employee Relations Officer shall mean the Court Executive Officer and all references to the Board of Supervisors shall mean the Court Executive Committee.

(Ord. No. 2481, § 2, 8-17-99)

Secs. 14-77—14-80. - Reserved.

DIVISION 5. - MISCELLANEOUS PROVISIONS

Sec. 14-81. - Construction.

81.1 This Article shall be administered and construed as follows:

(a) Nothing in this Article shall be construed to deny to any person, employee, organization, the County, or any authorized officer, body or other representative of the County, the rights, powers and authority granted by Federal or State law or County resolutions and ordinances.

(b) This article shall be interpreted so as to carry out its purposes as set forth in Division

(c) Nothing in this Article shall be construed as making the provisions of California Labor Code Section 923 applicable to County 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 against the County, sickout or other total or partial stoppage, interference with or slowdown of work. In the event employees engage in such actions, they should be deemed to have abandoned their employment and subject themselves to discipline, including immediate termination; and employee organizations may thereby forfeit all right accorded them under this Article.

(Ord. No. 1063, Art. V, § 1, 1-2-79)

Secs. 14-82—14-86. - Reserved.

DIVISION 6. - GRIEVANCE PROCEDURE

Sec. 14-87. - For Non-represented Employees.

87.1 The grievance procedure for non-represented employees shall be as follows:

(a) An aggrieved employee shall first discuss his grievance informally with his immediate supervisor. Initial discussion shall be sought by an employee not later than ten (10) days after the cause for grievance occurred.

(b) If the grievance is not satisfactorily adjusted within three (3) working days, the employee may, within ten (10) days thereafter, appeal in writing his grievance to the department head, who shall, after a formal hearing and review of all pertinent information, render a decision in writing within five (5) working days.

(c) If, after the determination by the department head, an employee continues to believe that the grievance has not been redressed, he may, within ten (10) days thereafter, appeal in writing the decision of the department head to the Personnel Director, who shall render a decision in writing within five (5) working days after meeting with the parties concerned. Should the Personnel Director's decision not be acceptable to the employee involved, he may, within ten (10) days thereafter, appeal in writing to the Board of Supervisors.

The aggrieved employee may request the Board of Supervisors to hear the grievance, during a public hearing or in closed session, at his option. The final decision as to the manner in which the hearing will be conducted, however, shall be consistent with the provisions of State Law.

(d) If the immediate supervisor, the department head or Personnel Director fails to respond to the grievant within the time constraints contained herein, the grievance shall be considered denied at that level; and the employee may continue his appeal at the next appropriate level.

(e) Should the employee fail to exercise his right of appeal at any level, within the time permitted, such failure shall constitute a waiver of his right to appeal; and the last determination made shall be conclusive and binding on all parties concerned.

(f) At any hearing before the department head, the Personnel Director or the Board of Supervisors, an employee shall not be denied the right to be represented if he so desires.

(Ord. No. 1063, Art. VI, § 1, 1-2-79; Ord. No. 1085, § 1, 7-31-79; Ord. No. 1995, §§ 8—10, 3-12-91)

[Sec. 13-67. - Authority of the Board of Supervisors to Promulgate Regulations.](#)