

RESOLUTION NO. 2017-018

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CORONA, CALIFORNIA, APPROVING THE CITY OF
CORONA EMPLOYER-EMPLOYEE RELATIONS POLICY
(AP 01400.804) AND REPEALING RESOLUTION NOS. 78-
59 AND 93-04**

WHEREAS, the Meyers-Milius-Brown Act (California Government Code Section 3500 et seq.) has been enacted for the purpose of promoting improved employer-employee relations between public employers and their employees by establishing uniform and orderly methods of communication between employees and the public agencies by which they are employed; and

WHEREAS, Government Code Section 3507 empowers a public agency to adopt reasonable rules and regulations after consultation in good faith with representatives of its employee organizations for the administration of employee relations; and

WHEREAS, on May 3, 1978, the City Council adopted Resolution No. 78-59 to implement rules and regulations pertaining to the administration of employer-employee relations as authorized by law; and

WHEREAS, on January 6, 1993, the City Council adopted Resolution No. 93-04, which amended Resolution No. 78-59 to permit supervisory and nonsupervisory employees to be in the same unit; and

WHEREAS, the City Council now desires to adopt a policy that sets forth the rules and regulations pertaining to the administration of employer-employee relations and repeal Resolution Nos. 78-59 and 93-04.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CORONA AS FOLLOWS:

SECTION 1. Adoption of Policy. The City Council hereby adopts Administrative Policy No. 01400.804 (Employer-Employee Relations) attached hereto as Exhibit "A" and incorporated herein by reference.

SECTION 2. Repeal of Conflicting Resolutions. Resolution Nos. 78-59 and 93-04 are hereby repealed. However, all incumbent Recognized Employee Organizations now operating in the City pursuant to the terms of Resolution No. 3672 shall continue as such until either modified or decertified pursuant to Administrative Policy No. 01400.804 (Employer-Employee Relations).

SECTION 3. 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

CERTIFICATION

I, Lisa Mobley, City Clerk of the City of Corona, California, do hereby certify that the foregoing Resolution was regularly passed and adopted by the City Council of the City of Corona, California, at a regular meeting thereof held on the 5th day of April, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Corona, California, this 5th day of April, 2017.

City Clerk of the City of Corona



Administrative Policy

Title: Employer – Employee Relations					
Administered By: Administrative Services (Human Resources)					
Policy No.	Issue Date	Revision Date	Dept. Head Approved	City Manager Approved	Mayor Approved
01400.804	05-03-78	04-5-17			

ARTICLE I - PURPOSE

Section 1.1 General Purpose

The purpose of this Policy is to implement the Meyers-Millas-Brown Act by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations, and for resolving disputes regarding wages, hours, and other terms and conditions of employment.

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.

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. The term “management employee” shall mean an employee having responsibility for formulating, administering or managing the implementation of Agency policies or programs.
- I. Proof of Employee Support. The term “proof of employee support” shall mean: (1) an authorization card recently signed and personally dated by an employee; or (2) a verified authorization petition or petitions recently signed and personally dated by an employee; or (3) employee dues deduction authorization, using the payroll register for the 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. 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 twenty days prior to the filing of a petition.
- J. Recognized Employee Organization. The term “recognized employee organization” shall mean an employee organization which has been formally acknowledged by the City as the exclusive organization representing the employees in an appropriate unit.
- K. Supervisory Employee. The term “supervisory employee” shall mean 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 to 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.

Section 2.2 General Scope

Unless otherwise stipulated herein, this policy applies to all City employees. All such employees shall comply with the provisions outlined in this policy. It is the responsibility of all supervision to ensure that the provisions outlined in this policy are enforced for those City employees under their authority.

- K A request that the Employee Relations Officer 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.

This Recognition Petition, including 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.

Section 3.2 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 this Policy, and
- B The proposed representation unit is an appropriate unit in accordance with Section 3.6.

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 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 3.8.

Section 3.3 Open Period for Filing Challenging Petition

Within thirty 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 percent and otherwise in the same form and manner as set forth in Section 3.1. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call a meeting on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards of Section 3.6. The petitioning employee organizations shall have fifteen days from the date notice of

Organization. A Decertification Petition may be filed by two 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 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.

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 percent and otherwise conforms to the requirements of Section 3.1.

The Employee Relations Officer shall first determine whether the petition has been filed in compliance with the applicable provisions of this Article II. If not, the Employee Relations Officer shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization. If such determination thereafter remains unchanged, he 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 3.8. 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 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 3.4.

standards set forth in Section 3.6 hereof. The Employee Relations Officer shall handle such Petition in the same manner as other Recognition Petitions.

The Employee Relations Officer may on his own motion propose during the period specified in Section 3.5 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 Section 3.6, 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 3.8. 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 Section 3.1.

Section 3.8 Appeals

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer may, within ten days of notice thereof, request the intervention of the California State Conciliation Service pursuant to Government Code Sections 3507.1 and 3507.3, or may, in lieu thereof, appeal such determination to the City Council for final decision within fifteen days of notice of the Employee Relations Officer's determination.

An employee organization aggrieved by a Petition determination of the Employee Relations Officer, or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition has not been filed in compliance with the applicable provisions of this Article, may within fifteen days of notice of such determination appeal the determination to the City Council for final decision.

Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof served on the Employee Relations Officer. The City Council shall commence consideration of the matter within thirty days of the filing of the appeal. The City Council may, in its discretion, refer the dispute to a third party hearing process. Any decision of the City Council on the use of such procedure, or any decision of the City Council determining the substance of the dispute, shall be final and binding.

ARTICLE IV – ADMINISTRATION

Section 4.1 Submission of Current Information by Recognized Employee Organizations

- B. To review the position of the parties;
- C. To make a final effort to resolve such disputed issue or issues; and
- D. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

Section 5.2 Impasse Procedures

Impasse procedures are as follows:

- A. If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation nor take any public position at any time concerning the issues.
- B. If the parties have failed to agree to submit the dispute to mediation, or have failed to agree on the selection of a mediator, or have failed to resolve the dispute through mediation within fifteen days after the mediator commenced meeting with the parties, the parties may agree to submit the impasse to fact-finding.
- C. If the parties agree on fact-finding, they may agree on the appointment of one or more fact-finders. If they fail to so agree on one or more fact-finders, a fact-finding panel of three shall be appointed in the following manner: One member of the panel shall be appointed by Employee Relations Officer, one member shall be appointed by the Recognized Employee Organization, and those two shall name a third, who shall be the chairman. If they are unable to agree upon a third, they shall select by agreement the third member from one or more lists of names to be provided by the American Arbitration Association.

Section 5.3 Jurisdictional and Procedural Requirements for Fact Finding

The following are the jurisdictional and procedural requirements for fact-finding:

- A. The fact-finder(s) shall consider and be guided by applicable law.
- B. Subject to the stipulations of the parties, the fact-finder(s) shall determine and apply the following measures and criteria in arriving at findings and recommendations:
 - 1. As relevant to the issues in dispute, the fact-finder(s) shall compare the total compensation, hours and conditions of employment of the employees involved in the fact-finding proceeding with the total compensation, hours and conditions of employment of other employees performing similar

through such mediation or fact-finding, the City Council shall take such action regarding the impasse as it in its discretion deems to be in the public interest. Any legislative action by the City Council on the impasse shall be final and binding.

Section 5.4 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 VI -- MISCELLANEOUS PROVISIONS

Section 6.1 Grievance Procedures

The purpose of this Section is to provide a uniform and consistent guide for the fair, expeditious and orderly adjustment of grievances.

A. Procedures shall include the following:

1. An employee who has a justifiable request or complaint shall discuss the complaint with the immediate supervisor in an attempt to resolve the matter.
2. "Grievance" is defined as "a written allegation by an employee covered by a Memorandum of Understanding that there has been a misinterpretation or violation by management of that Memorandum of Understanding," which has not been settled as a result of the discussions required in (1) above.
3. Rights which are inherent in the City Council and the City Manager by virtue of statute and federal or state administrative regulations cannot be subject to any grievance or arbitration proceedings.
4. The filing or pendency of a grievance, under the provisions of this procedure shall in no way operate to impede, delay or interfere with the right of the City to take the action complained of, subject however, to the final decision on the grievance.
5. No employee shall be subject to coercion or disciplinary action for discussing a request or complaint with this immediate supervisor, or for good faith filing of a grievance petition.

1. First Stage (Immediate Supervisor)

- a. An employee who feels himself aggrieved, under this policy must present the matter to his immediate supervisor, orally.
- b. The claim of violation must be presented to the supervisor within five assigned duty shifts, of the date that the employee became reasonably aware of the violation; employees may present grievances without union representative.
- c. The supervisor will investigate the employee's allegation and attempt to resolve the complaint and will respond to the employee within three assigned duty shifts.

2. Second Stage (Department)

- a. The employee or his representative will reduce the grievance to written form and present it to the Employee Relations Division.
- b. The grievance will be filed on the form provided citing the specific violation of the Memorandum of Understanding and must be filed within five assigned duty shifts.
- c. Within seven days of the submission of the petition, the Department Head, or his designee, shall meet with the grievant and the grievant's representative, if any. No later than seven days thereafter, following consultation with the Employee Relations Division, the Department Head shall render a written disposition to the grievant.

3. Third Stage (Employee Relations)

- a. Failing to resolve the grievance at the Second Stage, the grievant will submit a written request for review within five assigned duty shifts following the date of disposition by the Department Head. The Employee Relations Officer will schedule a meeting with the grievant or his representative at a time and place mutually agreeable to the parties. The meeting will be held consistent with the following procedure:
 - (i) The representatives of the City and the grievant and grievant's representative will meet and confer on matters of interest upon written request of either party. This written request will state the nature of the

participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout, other total or partial stoppage or slowdown of work, or any unlawful concerted action whatsoever. 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 Policy and other City law for a period up to one year from commencement of such activity.

PRIOR VERSIONS

ISSUED: 05-03-78

REVISED: 01-06-93

REVISED: 04-15-17