

SONOMA COUNTY IN-HOME SUPPORTIVE SERVICES
PUBLIC AUTHORITY

EMPLOYER-EMPLOYEE RELATIONS POLICY

Section 1 Title of Resolution

This resolution shall be known as the Employee Relations Policy of the Sonoma County IHSS Public Authority.

Section 2 Purpose

The purpose of this resolution to promote positive personnel management and employer-employee relations by providing a uniform basis for recognizing the right of employees and providers to join organizations of their own choice and to be represented by such organizations in their employment relationships with the Public Authority. This resolution provides reasonable standards and procedures to determine appropriate bargaining units and recognition of representative organizations for those bargaining units. It is also the purpose of this resolution to promote full communications between the Public Authority and its employees, and between the Public Authority and providers, by providing a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between the Public Authority and employees/providers and their employee organizations (subject to the regulations of the Welfare and Institutions Code Section 12301.6.)

Section 3 Definitions

- (a) Confidential Employees – employees who assist and/or act in a confidential capacity to persons who formulate, determine and/or effectuate management policies in the field of labor relations for the Public Authority. Such employees shall be those specified by the Employee Relations Officer.
- (b) Consult – verbal or written communications for the purpose of presenting and obtaining views or advising of intended actions on matters within the scope of representation.
- (c) Days – calendar days. If the particular day a notice is due, or action under this resolution is required, occurs on a day when the Public Authority is not open for business, then the next succeeding day the Public Authority is open for business shall be the day originally required.

- (d) Employee – any person employed by the Public Authority in an authorized position. The term “employee” shall not include providers.
- (e) Employee Relations Officer – the individual(s) designated by the Public Authority to handle labor relations for the Public Authority and represent the Public Authority in employer-employee/provider relations.
- (f) Employee Organization – any lawful organization, which includes as members employees of the Public Authority or providers and which has as one of its purposes representation of such employees/Providers in their relations with the Public Authority.
- (g) Employee Relations – the relationship between the Public Authority and its employees/providers and their representative organizations, or when used in a general sense the relationship between management and employees/providers or employee/provider organizations.
- (h) Governing Body – the Public Authority.
- (i) Grievance – for represented employees and providers covered by memoranda of understanding containing a grievance procedure, any dispute involving the application or interpretation of the provisions of that Memorandum of Understanding between the employee organization and the Public Authority. For all other employees/ Providers, any dispute involving the interpretation or application of rules, regulations and resolutions adopted by the Public Authority to govern human resources practices and conditions of employment, including such rules, regulations and resolutions as may be adopted by the Public Authority. Grievances filed by Providers are limited in that they shall not infringe on, diminish or replace recipients’ rights to hire, direct, and dismiss in-home workers.
- (j) Impasse – means that the representatives of the Public Authority and a Recognized Employee Organization have reached a point in their 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.
- (k) Provider – a person hired by recipients of In-Home Supportive Services to provide services to recipients. The term “provider” shall not include employee.
- (l) Management Employee – any employee having significant responsibility for formulating, administering or managing the implementation of IHSS policies

or programs or having responsibility for directing the work of subordinates through lower level supervision as designated by the Public Authority Manager.

- (m) Mediation – the efforts of an impartial third person or persons, functioning as an intermediary, to assist the parties in reaching a voluntary resolution of an impasse through interpretation, suggestion, and advice.
- (n) Negotiate – meet and confer in good faith.
- (o) Proof of Employee/Provider Approval – when used herein means that the employee organization submitting a petition to the Employee Relations Officer has demonstrated proof of approval by the employees/providers who it purports to represent by means of any one or any combination of the following:
 - (1) Signed and dated signatures on a petition.
 - (2) Signed and dated authorization cards or forms.
 - (3) Documented evidence of current dues paying employee/provider organization membership or payroll dues deductions using the payroll period immediately prior to the date the petition is filed.

For purposes of (1) and (2) above, only signatures of employees currently employed in regular positions within the proposed representation unit on the date the petition is filed and whose signatures have been executed within 300 days prior to the date the petition is filed, or signatures of providers within the proposed representation unit on the date the petition or authorization cards or forms are filed and whose signatures have been executed within 300 days prior to the date the petition, authorization cards or forms are filed, shall be accepted as proof of provider approval.

- (p) Public Authority – an entity established by Sonoma County Ordinance No. _____ to serve as the employer of record for purposes of collective bargaining over wages, hours and other conditions of employment for IHSS providers and to carry out the mandated functions of Section 12301.6(a)(2) of the Welfare and Institutions Code.
- (q) Recipient – individuals who are served by IHSS providers. Recipients have the right to hire, terminate, and supervise the work of providers who provide these services.
- (r) Recognized Employee Organization – shall mean an employee organization, which has been certified in accordance with section 10 of this Policy.

- (s) Representation Unit – a unit composed of Public Authority employees or providers for the purpose of representation, and which has been established in accordance with section 9 of this policy.
- (t) Scope of Representation – for employees, all matters relating to employment conditions and employer-employee relations, including but not limited to wages, hours and other terms and conditions of employment. For providers, wages and hours and other terms and conditions of employment subject to the limitations set forth in the Welfare and Institutions Code and in this Policy.
- (u) Supervisory Employee – any employee having authority, in the interest of the Public Authority to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other employees, or having the responsibility 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 merely of a routine or clerical nature, but requires the use of independent judgement as designated by the Public Authority Manager.

Section 4 Employee and Provider Rights

Employees of the Public Authority and Providers shall have the right to form, join, and participate in the activities of organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees of the Public Authority and providers also shall have the right to refuse to join or participate in the activities of such organizations, provided, however, that during meet and confer sessions with the Public Authority, an employee/ provider in a representation unit with a recognized employee/provider organization may be represented only by that recognized employee/provider organization certified to represent that specific unit.

Section 5 Public Authority and Recipient Rights

- (a) The Public Authority retains the exclusive right to determine the methods, means and personnel by which the Public Authority's mandated functions are to be carried out, to determine its mission, and to set standards of provider service to be offered to the recipient. It also retains the right to classify positions, add or delete positions or classes; and to establish standards for employment, promotion, and transfer of employees.

The Public Authority reserves the right to take whatever action may be necessary in an emergency situation, however, a recognized employee/ provider organization affected by the action shall be promptly notified.

- (b) Recipients retain the right to hire, terminate and supervise the work of any Provider who performs services for them.

Any question regarding the interpretation of this section or section 4 which cannot be resolved between an recognized employee organization and management representatives or the Employee Relations Officer shall, upon request of either party involved, be referred by the Employee Relations Officer to the Public Authority Manager for a final determination.

Section 6 Scope of Consultation and Negotiation

- (a) All matters affecting employee relations, including those that are not subject to negotiations, are subject to consultation between management representatives and representatives of recognized employee/provider organizations.
- (b) The scope of negotiation between the Public Authority and the representatives of recognized employee and provider organizations is limited to wages, hours and other terms and conditions of employment subject to the limitations set forth in the Welfare and Institutions Code.

Section 7 Modification of Representation Units

- (a) An employee or provider organization may request the modification of an established representation unit by submitting to the Employee Relations Officer a petition accompanied by proof of employee or provider approval of the proposed modification signed by not less than 30% of those employees or 15% of those providers, who, if the proposed modifications should be granted, would be moved from one representation unit to another. A unit modification request may not be submitted until at least 36 months have elapsed from the most recent date of certification of the unit from which positions would be removed. Such requests shall be processed only if filed during a 30 day period commencing 270 days prior to the expiration of the then current memorandum of understanding covering one or more positions, which would be removed. All petitions for modified units shall be accompanied by a list of all classifications to be included in the modified unit, the number of employees/providers in each classification, and the divisions and departments to which they belong.
- (b) Notwithstanding any other provisions of this policy, the Employee Relations Officer may petition for modification of a representation unit at any time that it appears that such action is warranted because of substantial changes in job functions, organizational structure or classifications.

- (c) The Employee Relations Officer shall, after notice to and, if subsequently requested by them, consultation with affected employee/provider 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. A routine title change of an existing classification is not subject to this provision.
- (d) The Employee Relations Officer shall give dated, written notice of the request for modification of an established representation unit to the employee/providers who would be affected by the proposed modification and to the recognized employee/provider organization which is then certified as the representative of the unit from which one or more positions would be transferred. The Employee Relations Officer shall give such notice within ten (10) days following receipt of the request.
- (e) The Employee Relations Officer or designee shall determine the composition of the appropriate unit or units in accordance with section 9, and shall give dated, written notice of such determination to the affected employee/provider organizations.
- (f) If, in the opinion of the Employee Relations Officer the result of moving from one representation unit to another a sufficient number of employees/providers to possibly affect the representative status of the recognized employee/provider organization representing the unit from which or to which such employees/providers were transferred, a secret ballot election shall be held to determine the wishes of the employees/providers remaining in the affected unit(s). The ballot shall include a non-representative organization choice.
- (g) Should the decision of the Employee Relations Officer have the result of moving some employees/providers from one representation unit to another, such employees/providers will continue to work at the rate of pay, and under the same terms and conditions of employment which they had in the unit from which they were transferred until the memorandum of understanding for the unit from which they were transferred shall expire.
- (h) All determinations of the Employee Relations Officer shall be final.

Section 9 Criteria for Establishing and Modifying Units

In determining the appropriate employee representation units the following factors, among others, shall be considered:

- (a) Minimizing fragmentation of units by achieving the largest feasible group of employees having a community of interest, that is, sharing common: skills, working conditions, job duties, lines of supervision, integration with work functions of other employees, interactions with other employees, education requirements, and similar criteria.
- (b) The effect of the proposed unit on the efficient operation of Public Authority services, including the impact on the level of services provided to recipients and the effect of the proposed unit on employee relations.
- (c) The history of employee relations in the unit, among other employees in similar public employment.
- (d) Whether management officials at the level of the unit have the power to agree or to make effective recommendations to the Public Authority with respect to wages, hours, and other terms and conditions of employment subject to negotiations.
- (e) The effect on the existing classification structure of dividing a single classification among two or more units.
- (f) Professional employees shall not be denied the right to be represented separately from non-professional employees by a professional employee organization consisting of such employees.
- (g) Managerial, supervisory and confidential responsibilities are determining factors in establishing appropriate units, therefore Management, supervisory, and confidential employees may not be included in the same unit with non-management, non-supervisory, or non-confidential employees.
- (h) Notwithstanding the above, providers as defined in section 3(k) shall be placed in a separate representation unit from any employee representation unit or units.

Section 10 Certification and Decertification of a Recognized Employee/Provider Organization

- (a) An employee/provider organization, which seeks recognition as the recognized employee or provider organization for a representation unit, which has been requested or already established, shall file a petition with the Employee Relations Officer. The petition shall be accompanied by proof, as defined in section 3(o), that the organization represents at least 30% of the employees in the employee representation unit or 15% of the providers in a provider representation unit. The Employee Relations Officer shall give dated, written

notice of any request for certification or decertification to the employees/providers in the unit, to any employee organization currently certified as the representative of the unit, and to any other employee organization that has filed a written request for such notice. The Employee Relations Officer shall give such notice within ten (10) days following receipt of the request. Upon determining that the petitioning employee/provider organization represents at least 30% of the employees in the employee representation unit or 15% of the providers in a provider representation unit, the Employee Relations Officer shall arrange for a secret ballot election to ascertain the free choice of a majority of such employees. Any other employee organization shall be shown as one choice on the ballot upon filing of a petition and presentation of proof, as defined in section 3(o), that the organization represents at least 20% of the employees in the employee representation unit or 15% of the providers in a provider representation unit. Such petition for a place on the ballot must be filed within seven (7) days after notice of the petition for election has been mailed by the Employee Relations Officer to the employees. In all certification or decertification elections the choices on the ballot shall be: (1) the currently recognized employee organization for the unit (if any), unless such organization requests that the Employee Relations Officer not place it on the ballot; (2) challenging employee organizations; and (3) no representative organization.

- (b) In an election where there are more than two choices on the ballot and none of the choices receives a majority of the votes cast, a run-off election shall be conducted between the two choices receiving the largest and second largest number of votes.
- (c) Individuals entitled to vote in a representation election shall be those regular or probationary employees in regular positions, as defined in section 3(d), within the representation unit who have been employees for at least fifteen (15) days prior to the date of the election and those providers within the representation unit who have been paid in the month immediately prior to the date of the election. Employees/providers who did not work during the above described time period because of illness, vacation, or authorized leave of absence, and who are otherwise eligible, shall be permitted to vote.
- (d) The recognized employee/provider organization shall be the representative of all the employees or providers in such unit for purposes of meeting and conferring in good faith on matters within the scope of representation. This shall not preclude individual employees from consulting with management representatives on employer-employee relations matters of concern to them.
- (e) Provided that at least thirty-six (36) months have elapsed from the most recent date of certification of said organization, requests for decertification

of that employee/provider organization may be initiated by a petition from employees/providers or by another organization. Such request shall be processed only if filed during a 30 day period commencing 270 days prior to the expiration of the then current memorandum of understanding covering the unit for which decertification is requested. A petition for decertification shall be submitted to the Employee Relations Officer and must be accompanied by proof of employee/provider approval as defined in section 3(o) of at least 30% of the employees in the employee representation unit or 15% of the providers in a provider representation unit. The Employee Relations Officer shall give notice and arrange for a secret ballot election in the manner set forth in section 12(a).

- (f) Notwithstanding any other provisions of this Policy, the Employee Relations Officer may seek decertification of an employee/provider organization at any time that it appears that such action is warranted because of substantial changes in the Public Authority functions, organizational structure or classifications or upon good cause showing that the recognized employee/provider organization has abandoned the employee or provider representation unit.

In such a case the Employee Relations Officer shall arrange for a secret ballot election in the manner provided for in section 10(a); provided, however, that no such election shall be held until the employee/provider organization then recognized as the representative of the unit or units involved has been given at least 60 days notice of the date on which the election will be held. The ballot shall contain a no representative organization choice.

- (g) The Employee Relations Officer shall certify the choice of representation as indicated on the ballot which receives a majority of the valid ballots cast by the employees/providers in the representation unit. Notification of certification shall be made to the Public Authority Manager, concerned employees/providers in the union or units being represented, challenging employee/provider organizations, and such other persons or organizations as the Employee Relations Officer deems appropriate. The Employee Relations Officer may refuse to certify the winner of an election as the recognized employee organization for that unit or units if the Employee Relations Officer concludes that the winner of an such election has coerced, intimidated, or grossly misled employees in securing or attempting to secure their votes.

Section 11 Closed Sessions

Nothing in this policy shall be interpreted as preventing, or limiting, the right of the Governing Body of the Public Authority to hold closed sessions with the Advisory Committee, Employee Relations Officer, Public Authority Manager, or other duly

designated management representatives prior to and during consultations and discussions with representatives of employee organizations regarding the salaries, salary schedules compensation paid in the form of employee/provider benefits in order to review its position and instruct its designated representatives.

Section 12 Negotiation

- (a) Only recognized employee/provider organizations in established representation units shall be entitled to negotiate with duly designated management representatives on wages, hours, and other terms and conditions of employment in such units as defined in section 3.
- (b) Negotiations shall not be required on any subject pre-empted by Federal or State law, nor shall negotiations be required on Employee or Public Authority Rights defined in sections 4 and 5. Proposed amendments to this Policy are excluded from the scope of negotiations, but shall be subject to consultation in good faith after reasonable notice.
- (c) Agreements reached as a result of negotiations shall be included in a memorandum of understanding signed by the Employee Relations Officer, as well as the duly designated representatives of the recognized employee organizations. Such memoranda of understanding shall not be binding until approved by the recognized employee/provider organization and then the appropriate governing body of the Public Authority.

Section 13 Impasse Procedures

Impasse procedures may be invoked after all other attempts made by both parties to reach agreement through good faith negotiations have been unsuccessful.

- (a) Any party involved in the negotiation of specific issues may invoke the impasse procedure by filing with the other party (or parties) affected a written request for an impasse meeting together with a statement of its position on the disputed issues. The parties involved shall then promptly schedule an impasse meeting. The purpose of such impasse meeting is to permit review of the position of all parties in a final good faith effort to reach agreement on the disputed issues.
- (b) If agreement is not concluded at the impasse meeting, the parties may mutually agree upon a method of resolving the dispute including, but not limited to, mediation as defined in section 3.

- (c) Unless the parties in writing mutually request them to do so, mediators shall make no public recommendations nor take any public position. All mediation sessions shall be conducted in private.
- (d) The cost for the services of a mediator, if any, and other mutually incurred costs of mediation shall be borne equally by the Public Authority and the recognized employee/provider organization.

Section 14 Grievances

- (a) All employees of the Public Authority and Providers are free to present grievances as provided in section 3.
- (b) The grievances of any employees/providers in representation units covered by a memorandum of understanding, which includes a grievance procedure, shall be processed according to those procedures.
- (c) Supervisory employees shall not represent non-supervisory employees in a grievance procedure where such activity might result in a conflict of interest.

Section 15 Meetings

No meetings, including those for organizing efforts and other internal employee organization affairs, shall take place in the residence of an IHSS recipient. Should a provider reside in the same residence as a recipient, any meeting to be held at that residence shall require the prior approval of the recipient and shall be conducted during hours in which the provider is not working.

Section 16 Use of Public Authority Resources

Access to Public Authority business locations and the use of Public Authority paid time, facilities, equipment and other resources by employee/provider organizations and those representing them shall be authorized only to the extent provided for in memoranda of understanding and/or Public Authority administration procedures, shall be limited to lawful activities pertaining directly to the employer-employee relationship and not for 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 Public Authority operations.

The provisions of this policy are not intended to conflict with, nor shall they be construed in a manner inconsistent with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 *et seq.*) as amended.

Section 17 Administration

The Employee Relations Officer is authorized to establish rules and procedures to carry out the intent of this policy and has authority for the administrative interpretation of this policy. The Employee Relations Officer may also consult with the Advisory Committee as appropriate. The State Mediation and Conciliation Service shall conduct all elections and mediation services authorized by this policy unless some other party is agreed on by the Public Authority and concerned employee/provider organizations to resolve such matters.

Section 18 Severability

If any provision of this policy, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this policy 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.