

RESOLUTION NO. 738106 OCT 26 1971

WHEREAS, it is the desire and objective of the Council of The City of San Diego to promote improved personnel management and employer-employee relations within City government; and

WHEREAS, the management team and the City Council have conducted a series of conferences with representatives of employee organizations to develop guidelines to implement the above desire and objective; and

WHEREAS, a set of guidelines to be implemented as an employer-employee relations policy has been developed as a result of that series of conferences; and

WHEREAS, the City Council desires to implement said policy;
NOW, THEREFORE,


BE IT RESOLVED, by the Council of The City of San Diego as follows:

There is hereby established a set of guidelines to be known as the Employer-Employee Relations Policy of The City of San Diego as set forth in the form of Council Policy filed in the office of the City Clerk as Document No. 738106.

BE IT FURTHER RESOLVED, that the City Clerk be and he is hereby instructed to add the aforesaid to the Council Policy Manual as Council Policy No. 300-6.

APPROVED: JOHN W. WITT, City Attorney

By


Jack Katz, Deputy

JK:K
10-1-71

RECEIVED
CITY CLERK'S OFFICE
1971 OCT -4 AM 9:45
SAN DIEGO, CALIF.

CITY OF SAN DIEGO

EMPLOYER-EMPLOYEE RELATIONS POLICY DOCUMENT NO. 738106

FILED 10-26-71
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

I. PURPOSE:

- ✓ A. To implement Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned "Public Employee Organizations," 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.

II. AUTHORITY:

- ✓ A. Chapter 10, Division 4, Title 1 of the Government Code of the State of California, as amended effective January 1, 1969, provides for the promoting of 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.
- ✓ B. Government Code Section 3507 empowers a city to adopt reasonable rules and regulations after consultation in good faith with representatives of its employee organizations for the administration of employer-employee relations.
- ✓ C. Nothing contained herein shall be deemed to supersede the provisions of existing state law and the Charter, ordinances, and rules of the City of San Diego which establish and regulate a merit or civil service system or which provide for other methods of administering employer-employee relations.

III. POLICY:

- ✓ A. It is the policy of the City of San Diego to maintain and enhance its

enlightened administration of employer-employee relations.

IV. DEFINITIONS:

A. As used herein, the following terms shall have the meanings indicated:

- ✓ 1. APPROPRIATE UNIT -- means a unit established pursuant to section XI, below.
- ✓ 2. CITY -- means The City of San Diego, a municipal corporation, and where appropriate herein, "City" refers to the City Council, the governing body of said City, or any duly authorized management team or employee as herein defined.
- ✓ 3. CONSULT OR CONSULTATION IN GOOD FAITH -- means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions.
- ✓ 4. EMPLOYEE -- means any person regularly employed by the City except those persons elected by popular vote.
- ✓ 5. EMPLOYEE, CONFIDENTIAL -- means an employee who is privy to decisions of City management affecting employer-employee relations.
- ✓ 6. EMPLOYEE-MANAGEMENT -- means an employee having significant responsibilities for formulating and administering City policies and programs and includes, but is not limited to, the City Manager assistants, department heads, assistant department heads, and his ~~assistants, department heads, division heads, and their~~ division heads, and assistant division heads.
~~assistants.~~
- ✓ 7. EMPLOYEE, PROFESSIONAL -- means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including but not limited to attorneys, planners, librarians, analysts, engineers, and various types of physical, chemical and biological scientists.
- ✓ 8. EMPLOYEE ORGANIZATION -- means any organization which includes employees of the City and which has as one of its primary purposes

representing such employees in their employment relations with the City.

- ✓ 9. EMPLOYER-EMPLOYEE RELATIONS -- means the relationship between the City, its employees and their employee organization, or when used in a general sense, the relationship between City management and employees or employee organizations.
- ✓ 10. GRIEVANCE -- means any dispute concerning the interpretation or application of rules or regulations governing personnel practices or working conditions, or of the practical consequences of the City Rights' decision on wages, hours, and other terms and conditions of employment.
- ✓ 11. IMPASSE -- means
 - ✓ a. A deadlock in the annual or periodic discussions between a majority representative and the City over any matters concerning which they are required to meet and confer in good faith, or over the scope of such subject matter, or
 - ✓ b. Any unresolved complaint by an affected employee organization, advanced in good faith, concerning a decision of the City made pursuant to sections X, XI, or XII.
- ✓ 12. MAJORITY REPRESENTATIVE -- means an employee organization, or its duly authorized representative, that has been granted formal recognition by the City Council as representing the majority of employees in an appropriate unit.

✓ 13. MANAGEMENT TEAM -- means any persons appointed by the City Council who will represent the City in employer-employee relations pursuant to the provisions of this policy.

✓ 14. MEET AND CONFER IN GOOD FAITH (sometimes referred to herein as "meet and confer" or "meeting and conferring") -- means performance by the City Management Team and duly authorized representatives of an employee organization recognized as the majority representative of their mutual obligation to meet at reasonable times, and to confer in good faith regarding matters within the scope of representation, including wages, hours, and other terms and conditions of employment, in an effort to:

- ✓ a. reach agreement on those matters within the authority of such representatives, and
- ✓ b. reach written agreement on what will be recommended to the City Council and/or the Civil Service Commission on those matters within the decision making authority of those bodies.

This does not require either party to agree to a proposal or to make a concession.

✓ 15. PEACE OFFICER -- as this term is defined in the California Penal Code, Section 830.

✓ 16. RECOGNIZED EMPLOYEE ORGANIZATIONS -- means an employee organization which has been recognized by the City as an employee organization that represents employees of the City. The rights accompanying recognition are either:

- ✓ a. Formal Recognition -- which is the right to meet and confer in good faith as the majority representative in an appropriate unit; or
- ✓ b. Informal Recognition -- which is the right to consultation in

good faith by all recognized employee organizations.

- ✓ 17. SCOPE OF REPRESENTATION means all matters relating to employment conditions and employer-employee relations, including but not limited to wages, hours, and other terms and conditions of employment. City Rights (section VI) are excluded from the scope of representation.

V. EMPLOYEE RIGHTS:

- ✓ A. Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, including but not limited to wages, hours, and other terms and conditions of employment.
- ✓ B. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City.
- ✓ C. No employee shall be interfered with, intimidated, restrained, coerced, or discriminated against by the City or by any employee organization because of his exercise of these rights.
- D. No employee shall be prohibited from exercising his right to resign from City employment at any time and nothing in this policy shall be construed as to abrogate that right.

VI. CITY RIGHTS:

- A. The rights of the City include but are not limited to 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 and promotion; direct its employees,

take disciplinary action for just cause; 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; determine the content of job classifications; 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

The exercise of such rights shall not preclude employees or their representatives from consulting with management representatives about its work. ^{the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment.}

VII. MEET AND CONFER IN GOOD FAITH -- SCOPE:

- ✓ A. The City, through its Management Team, shall meet and confer in good faith with representatives of formally recognized employee organizations with majority representation rights regarding matters within the scope of representation including wages, hours, and other terms and conditions of employment within the appropriate unit.
- ✓ B. The City shall not be required to meet and confer in good faith on any subject preempted by Federal or State law or by the City Charter, nor shall it be required to meet and confer in good faith on Employee or City Rights as defined in V and VI above. Proposed amendments to this policy are excluded from the scope of meeting and conferring.
- ✓ C. The City reserves the right to make null and void any salary or fringe benefit agreement related to the units affected should the Federal Government or the California State Legislature lawfully mandate a salary or fringe benefit item applicable to City employees which increases the cost to the City.

VIII. CONSULTATION IN GOOD FAITH -- SCOPE:

- ✓ A. All matters affecting employer-employee relations, including those that are not subject to meeting and conferring, are subject to consultation.
- ✓ B. The City Council, through its Management Team, shall consult in good

faith with representatives of all recognized employee organizations on employer-employee relations matters which affect them.

- ✓ C. Advance notice on matters subject to consultation, but outside the scope of representation, will be given whenever possible.

IX. ADVANCE NOTICE:

- ✓ A. Reasonable written notice shall be given, to each recognized employee organization affected, of any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council or by the Civil Service Commission or by department heads and assistant department heads and each shall be given the opportunity to meet with such body prior to adoption.
- B. In cases of emergency pursuant to the City Charter when the City determines that an ordinance, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the City Council or the board or commission of the City shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.

X. PETITION FOR RECOGNITION:

- ✓ A. There are two levels of employee organization recognition - formal and informal. The recognition requirements of each are set forth below.
 - ✓ 1. FORMAL RECOGNITION - THE RIGHT TO MEET AND CONFER IN GOOD FAITH AS MAJORITY REPRESENTATIVE: An employee organization seeking formal recognition shall file a petition (signed by the executive officer and secretary) with the Management Team containing the following information: (If an organization has already filed the information below, only d needs to be submitted.)

- ✓ a. Name and address of the employee organization and the names and titles of its officers (to whom notice sent by regular United States mail will be sufficient for any purpose).
 - ✓ b. A copy of the organization's charter and/or constitution and/or bylaws.
 - ✓ c. A statement that the employee organization has no restriction on membership based on race, color, creed, sex, or national origin.
 - ✓ d. A description of the unit claimed to be appropriate for which representation is sought and written proof (dated within six months of the petition filing) that at least 30% of employees in the suggested unit have designated the employee organization to represent them.
- ✓ 2. INFORMAL RECOGNITION - THE RIGHT TO CONSULT IN GOOD FAITH: An employee organization seeking informal recognition shall file a petition containing all of the information in 1 a-c of this section and submit written proof that employees in the suggested unit have designated the employee organization to represent them.
- ✓ 3. The City Council shall grant formal recognition to employee organizations who comply with the provisions listed above and who represent a majority of employees in the manner prescribed in Section XII below. In addition, the City Council shall grant informal recognition to employee organizations which comply with the provisions listed in 2 above, such recognition continuing irrespective of subsequent success in unit elections, unless revoked by the City Council.
- ✓ 4. No employee or job classification may be formally represented by more than one employee organization.

XI. APPROPRIATE UNIT:

A. The City Council shall review the petition filed by an employee organization seeking formal recognition as majority representative and after recommendation of the Management Team, shall determine the most appropriate units. The principal criterion in making this determination is whether there is a community of interest among such employees. The following factors, among others, are to be considered in making such determination:

✓ 1. Which unit will assure employees the fullest freedom in the exercise of rights set forth in this policy statement.

✓ ~~2. -The-history-of-employee-relations:-~~ The history of employee relations among employees of the City of San Diego and in similar public employment.
✓ ~~a. --in-the-unit,--~~
✓ ~~b. --among-other-employees-of-the-City,--~~
✓ ~~c. --in-similar-public-employment.--~~

✓ 3. The effect of the unit on the efficient operation of the City and sound employer-employee relations.

✓ 4. The extent to which employees have common skills, working conditions, job duties, or similar educational requirements.

✓ 5. The effect on the existing classification structure of dividing a single classification among two or more units.

✓ B. No unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.

✓ C. In the establishment of appropriate units

✓ 1. Professional employees shall not be denied the right to be represented separately from nonprofessional employees.

✓ 2. Management and confidential employees who are included in the same unit with nonmanagement or nonconfidential employees may not represent such employees on matters within the scope of representation.

XII. RECOGNITION OF EMPLOYEE ORGANIZATIONS AS MAJORITY REPRESENTATIVE --

FORMAL RECOGNITION:

A. The Management Team shall:

1. Determine the majority representative of City employees in an appropriate unit by arranging for a secret ballot election to be conducted by the State Conciliation Service. Costs, if any, of such elections shall be equally shared by all organizations listed on the ballot and the City. The employee organization found to represent a majority of the employees, provided a majority of employees eligible to vote cast ballots, in an appropriate unit shall be granted formal recognition and is the only employee organization entitled to meet and confer in good faith on matters within the scope of representation for employees in such unit. This shall not preclude other recognized employee organizations, or individual employees, from consulting with management representatives on employer-employee relations matters of concern to them.

✓ 2. Revoke the recognition rights of a majority representative, which has been found by the same election process no longer to be the majority representative.

✓ B. The recognition rights of the majority representative designated in accordance with this paragraph shall not be subject to challenge for a period of twelve months following the date of such recognition.

XIII. RESOLUTION OF IMPASSES:

✓ A. The impasse procedure may be invoked only after the possibility of settlement by direct discussion has been exhausted.

✓ B. Any party may initiate the impasse procedure by filing a written request with the City Council for an impasse meeting together with a statement of its position on all disputed issues.

- ✓ 1. Upon direction of the City Council an impasse meeting shall be scheduled within five days with the Management Team after the filing of the written request for such meeting, with written notice to all parties affected.
 - ✓ 2. The purpose of such impasse meeting is to permit a review of the position of all parties in a final effort to reach agreement on the disputed issues.
- C. If no impasse meeting is held pursuant to B1 above or no agreement is reached at an impasse meeting, impasses shall then be resolved by a determination by the Civil Service Commission or the City Council after a hearing on the merits of the dispute. Determination of which of the above bodies shall resolve a particular impasse shall be dependent upon
1. The subject matter of the impasse, and
 2. The applicable provisions of the Charter and Municipal Code of the City of San Diego as interpreted by the City Attorney.

XIV. GRIEVANCES:

- ✓ A. The City shall maintain a formal written grievance procedure for use by all departments and employees, provided that nothing herein shall preclude the adoption by the City of a universal modified or supplemental grievance procedure pursuant to a memorandum of understanding. The grievance procedure shall be available to every employee without fear of reprisal and regardless of his membership or nonmembership in an

employee organization.

XV. MEMORANDUM OF UNDERSTANDING;

- ✓ A. When the meeting and conferring process is concluded between the City and a formally recognized employee organization representing a majority of the employees in an appropriate unit, all agreed upon matters shall be incorporated in a written memorandum of understanding signed by the Management Team and majority representatives.
- ✓ B. As to those matters within the authority of the Civil Service Commission, the memorandum of understanding shall be submitted to the Civil Service Commission for determination, or preliminary approval if such matters must be then carried, for final approval, to the City Council.
- ✓ C. As to those matters within the authority of the City Council, the memorandum of understanding shall be submitted to the City Council for determination.
- ✓ D. On those matters that fall within the authority of the Civil Service Commission and/or City Council, no memorandum of understanding signed by the Management Team shall be binding upon the Commission or Council.

XVI. CONSTRUCTION:

- ✓ A. Nothing in this policy statement shall be construed to deny any person or employee the rights granted by Federal and State laws and City Charter provisions.
- ✓ B. The rights, powers, and authority of the City Council and Civil Service Commission in all matters, including the right to maintain any legal action, shall not be modified or restricted by this resolution.
- ✓ C. The provisions of this policy are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Section 3500 et seq.) as amended in 1969.

XVII. SEPARABILITY:

✓ A. 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.

Passed and adopted by the Council of The City of San Diego on OCT 26 1971,
by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Helen Cobb	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam T. Loftin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Schaefer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Frank Curran	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

FRANK CURRAN
Mayor of The City of San Diego, California.

EDWARD NIELSEN

City Clerk of The City of San Diego, California.

By *Judith A. Nielsen* Deputy.

Office of the City Clerk, San Diego, California

Resolution Number 204097 Adopted OCT 26 1971
eh