

**GOVERNING BOARD OF THE EL DORADO COUNTY
IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY
AGENDA TRANSMITTAL
MEETING OF DECEMBER 3, 2002**

#1 PA
10:13am

AGENDA TITLE: Employer-Employee Relations Resolution

DEPARTMENT: Human Resources

DATE: 11/21/02

CAO USE ONLY

CONTACT: Kathryn Libicki, Director

PHONE: 5572

D *Shunt*

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION: The Human Resources Department, with the concurrence of the Community Services Department and the In-Home Supportive Services Committee, requests that the Governing Board of the Public Authority as established under Ordinance 4612 approve the attached Employer-Employee Relations Resolution for the El Dorado County In-Home Supportive Services Public Authority to establish orderly procedures for labor relations.

CAO RECOMMENDATION:

Financial Impact? () Yes (X) No

Funding Source: () Gen Fund () Other

BUDGET SUMMARY:

Total Est. Cost: \$ _____
Funding:
 Budgeted \$ _____
 New Funding \$ _____
 Savings** \$ _____
 Other \$ _____
Total Funding Available \$ _____
Change in Net County Cost \$ _____

CAO Use Only:

4/5's Vote Req'd. () Yes () No
Change in Policy () Yes () No
New Personnel () Yes () No

CONCURRENCES:

Risk Management _____
County Counsel _____
Other _____

**Explain

BOARD ACTIONS: DEC - 3 2002 - RESOLUTION NO. IHSS1-02 ADOPTED.

Vote: Unanimous _____ or

I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Governing Board of the Public Authority

Ayes: HUMPHREYS, BORELLI, DUPRAY, BAUMANN, SOLARO

Noes: NONE

Date: _____

Abstentions: NONE

Attest: DIXIE L. FOOTE, Board of Supervisors Clerk

Absent: NONE

By: _____

NOV 26 8 41 AM '02
 EL DORADO COUNTY
 CLERK

1/28/02

12/3

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CAO [unclear]

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NOV 26 8 31 AM '02
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 BOARD OF SUPERVISORS

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Ayes: HUMPHREYS, BORELLI, DUPRAY, BAUMANN, SOLARO

Noes: NONE

Date: _____

Abstentions: NONE

Attest: DIXIE L. FOOTE, Board of Supervisors Clerk

Absent: NONE

By: _____

480

13/3

COUNTY OF EL DORADO

HUMAN RESOURCES DEPARTMENT



330 Fair Lane - Placerville, CA 95667
Phone (530) 621-5565 Fax (530) 642-9815
Jobline (530) 621-5579 TDD (530) 621-4693
www.ca.el-dorado.ca.us
Kathryn Libicki, Director

December 3, 2002

Members of the Governing Board Of The Public Authority
330 Fair Lane
Placerville, CA 95667

Subject: Employer Employee Relations Resolution

Dear Governing Board of the Public Authority:

Recommendation: The Human Resources Department, with the concurrence of the Community Services Department and the In-Home-Support-Services Committee, requests the Board approve the attached Employer Employee Relations Resolution setting out the local rules and procedures for governance of labor relations within the Public Authority.

Reason for Recommendation: AB 1682 requires each county act as, or establish, an employer of record for purposes of collective bargaining for In-Home-Supportive-Services (IHSS) providers. On September 24, 2002, The El Dorado County Board of Supervisors adopted Ordinance No. 4612 adding Chapter 8.76 to the El Dorado County Ordinance Code and establishing the In-Home Supportive Services Public Authority of El Dorado County (Public Authority). Under Ordinance No. 4612, Section 8.76.070, subsection B, the Authority shall establish the rules and regulations governing the labor relations responsibilities of the Authority. Before you is the recommended Employer Employee Relations Resolution which will establish the labor relations rules for the Public Authority.

This Resolution is enacted pursuant to the Meyers-Milias-Brown Act (MMBA) to establish orderly procedures to promote full communication between the Public Authority, employees of the Public Authority, and Independent Providers (means any person selected by a consumer to provide In-Home Supportive Services as authorized by the County of El Dorado) by establishing a reasonable method of resolving disputes between the Public Authority, Independent Providers, employees, and employees' organizations that represent Independent Providers or employees of the Public Authority in their employment relationship with the Public Authority. This resolution is intended to strengthen the methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, Independent Providers, employee organizations and the Public Authority.

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The Resolution sets out the authority and overall responsibilities of the Public Authority as it relates to employer-employee relations matters including but not limited to:

- procedures for formal recognition of employee organizations representing employees in a bargaining unit;
- procedures for decertification of an employee organization;
- standards for establishment and modification of bargaining units;
- procedures for appeal of unit determination matters to the Governing Board of the Public Authority or a hearing officer designated by the Public Authority;
- impasse procedures in the event the parties cannot reach agreement in the negotiation process;
- prohibition of job actions, sick-outs, or other concerted activities consistent with law;
- general administrative procedures.

As part of the Public Authority Interagency Agreement adopted and approved by the Public Authority on or about November 5, 2002, Human Resources staff has attended meetings and sought the recommendation of the IHSS Advisory Committee in regard to the Employer Employee Relations Resolution. All parties received copies of the draft Resolution. The IHSS Advisory Committee made a determination they would make a limited recommendation because of a concern about becoming too involved in the details. The IHSS Advisory Committee narrowed the focus to the key points identified by staff. Two different union representatives have also attended the meetings and were provided draft copies of the Resolution. The following points were identified as the expressed concern raised by the union representatives in the order of importance and staff's action has also been identified as follows:

- *What time line should be used to determine the pool of persons who can show interest in a union, i.e. indicate the person's desire to be represented by a union?*

Article II, subsection (y) "Showing of Provider Interest" or "Proof of Provider Support" defines the term of "recently signed" to mean Independent Providers who demonstrate a written interest within the "ninety (90) days prior to the date of filing of a petition or authorization cards" are those who are within the pool of qualified persons. The language was changed from sixty (60) to ninety (90) days following a request by one union to allow a reasonable amount of time to collect the required signatures. The IHSS Advisory Committee recommends using the ninety (90)

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day time line of the latest available list of Independent Providers as identified by State records. Staff has incorporated the IHSS Advisory Committee's recommendation.

Who can fill out a signature card, sign a petition, or have dues deductions to show interest in a particular union?

Under Article II, subsection (y) the showing of interest by Independent Providers would be the signatures of only those Independent Providers who were "eligible to be paid" in the last ninety (90) days prior to the date the submission of the certification petition will be counted as designated by the State payroll system of CMIPS. The union representative objects to this definition and prefers to limit the signatures to those who have been paid in the two pay periods immediately prior to filing the petition or only to those who have been paid. The IHSS Advisory Committee recommends using the term "eligible to be paid" to allow for those workers who may not have worked during those ninety days for numerous reasons but were eligible to provide services. Staff has incorporated the IHSS Committee recommendation.

Who can vote in an election for a union?

Article V, Section 4, subsection d. states that those persons who are allowed to vote in an election "shall be those persons who were eligible to be paid in the month that is two months immediately prior, or who were dues paying members in the month that is two months immediately prior, to the date the election commences." The IHSS Advisory Committee did not vote on this but did engage in limited discussion of the issue. Staff recommends keeping the language "eligible to be paid" for consistency reasons with the showing of interest section mentioned above.

What is required by a union to request recognition by the Public Authority?

The recognition petition filed by the employees' organization shall have proof by way of a signature or dues deduction of at least 30% of the employees, or of the Independent Providers, in the proposed unit claimed by the union to be an appropriate unit. The union representative objected to the showing of 30% and proposed 15% to 20% of the proposed bargaining unit to sign cards showing support for the union as their exclusive bargaining agent and using 15% to 20% of dues deductions. The IHSS Advisory Committee voted to use the standard 30% showing of interest. This is the industry standard and a 30% showing of interest is what is in the El Dorado County Employer Employee Resolution governing county labor relations which has been in effect since 1983. However, some other

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jurisdictions have agreed to a lower percentage because there is no central work location for the Independent Providers. Staff has incorporated the IHSS Advisory Committee's recommendation in staying with the industry standard of 30% for consistency with the 30% showing to decertify the previously recognized union and staff included the dues deduction choice requested by a union representative.

- ***What time line should be used for the Employee Relations Officer to respond to a union petition to represent people?***

Article V, Section 2, was changed by union request from a sixty (60) day response period by the Public Authority to a thirty (30) day period. This was not voted on by the IHSS Advisory Committee. Staff made the change to the resolution.

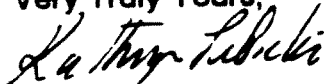
- ***What time line should be used for a union to file a petition to decertify (unseat) another union?***

Article VI, Section 1, subsection b. covers the time period for filing a decertification petition and was changed from a time period from 90 to 60 days to a period commencing 120 days to 90 days immediately prior to the expiration of an existing MOU. This change in the draft resolution was to maximize the likelihood that the process to finalize representation will occur prior to any subsequent negotiations with the newly recognized union. This was not voted on by the IHSS Advisory Committee.

Fiscal Impact: There is no fiscal impact.

Action to be Taken Following Approval: After the Governing Board of the Public Authority approves the Employer Employee Relations Resolution, and the Chair of the Public Authority signs the Resolution, the Human Resources Department will notify the appropriate parties.

Very Truly Yours,



Kathryn Libicki
Director of Human Resources

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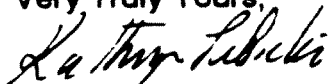
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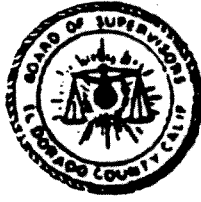
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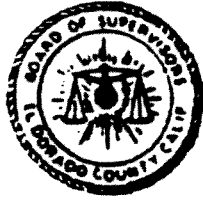
RESOLUTION NO. 1HSS 1-02

**RESOLUTION
OF THE IN-HOME SUPPORTIVE SERVICES PUBLIC
AUTHORITY**

WHEREAS, Ordinance No. 4612, Chapter 8.76 established the In-Home Supportive Services Public Authority of El Dorado County, and

WHEREAS, under Ordinance 4612, Section 8.76.070, subsection B, the Public Authority shall establish the rules and regulations governing the labor relations responsibilities of the Public Authority,

NOW THEREFORE BE IT RESOLVED, that the Governing Board of the El Dorado County In-Home Supportive Services Public Authority hereby adopts the Employer-Employee Relations Resolution which establishes the procedures governing the labor relations responsibilities of the Public Authority.



RESOLUTION NO. IHSS 1-02

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WHEREAS, Ordinance No. 4612, Chapter 8.76 established the In-Home Supportive Services Public Authority of El Dorado County, and

WHEREAS, under Ordinance 4612, Section 8.76.070, subsection B, the Public Authority shall establish the rules and regulations governing the labor relations responsibilities of the Public Authority,

NOW THEREFORE BE IT RESOLVED, that the Governing Board of the El Dorado County In-Home Supportive Services Public Authority hereby adopts the Employer-Employee Relations Resolution which establishes the procedures governing the labor relations responsibilities of the Public Authority.

**EMPLOYER-EMPLOYEE RELATIONS RESOLUTION
EL DORADO COUNTY IN-HOME SUPPORTIVE SERVICES
PUBLIC AUTHORITY
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<u>Article I.</u>	Statement of Purpose
<u>Article II.</u>	Definitions
<u>Article III.</u>	Guiding Principles
<u>Article IV.</u>	Employee Organization Activities
<u>Article V.</u>	Recognition of an Employee Organization
<u>Article VI.</u>	Decertification
<u>Article VII.</u>	Appropriate Units
<u>Article VIII.</u>	Appeals
<u>Article IX.</u>	Impasse
<u>Article X.</u>	Submission of Current Information
<u>Article XI.</u>	Interpretation and Administration
<u>Article XII.</u>	Miscellaneous Provisions
<u>Article XIII.</u>	Severability
<u>Article XIV.</u>	Status of Other Policies

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ARTICLE I. STATEMENT OF PURPOSE

Under Section 12301.6(a)(2) of the California Welfare and Institutions Code a county board of supervisors may establish a Public Authority for the delivery of In-Home Supportive Services. Under Section 12301.6(c)(1) any Public Authority created is deemed the employer of In-Home Supportive Services personnel ("Independent Providers") within the meaning of Sections 3500 et seq. of Chapter 10, Division 4, Title 1 of the California Government Code, also known as the Meyers-Milias-Brown Act (hereafter "MMBA").

On September 24, 2002, the El Dorado County Board of Supervisors adopted Ordinance No. 4612 adding Chapter 8.76 to the El Dorado County Ordinance Code and establishing the El Dorado County In-Home Supportive Services Public Authority (hereafter "Public Authority"). Under Section 8.76.070 of Ordinance No. 4612, the El Dorado County Board of Supervisors adopted El Dorado County's "Employer-Employee Relations Resolution" dated December , 2002 governing labor relations responsibilities of the Public Authority.

This Resolution is enacted pursuant to the MMBA to establish orderly procedures to promote full communication between the Public Authority, employees of the Public Authority, and Independent Providers by establishing a reasonable method of resolving disputes between the Public Authority, Independent Providers, and employee organizations that represent Independent Providers and employees of the Public Authority in their employment relationship with the Public Authority. Nothing contained in this Resolution shall be deemed to supersede the provisions of existing state law. This Resolution is intended, instead, to strengthen methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, Independent Providers, employee organizations and the Public Authority.

ARTICLE II. DEFINITIONS

For the purpose of this Resolution, the following definitions shall apply:

- a. "Appropriate Unit" means a unit of employee or Provider classes or positions established pursuant to Article V hereof.
- b. "Certification" means the process by which an employee organization is recognized by the Public Authority to represent an appropriate representation unit.
- c. "Confidential Employee" means an employee who, in the course of his or her duties, has access to information relating to the Public Authority's administration of employer-employee relations.
- d. "Consult" or "Consultation" means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions; as distinguished from meeting and conferring in good faith regarding matters within the scope of representation; does not involve an exchange of proposals and counter proposals with a recognized employee organization to reach agreement in the form of Memorandum of Understanding.

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- e. **"Consumer"** or **"Recipient"** means any individual who is served by Independent Providers. Recipients/Consumers have the right to hire, terminate, and direct the work of Independent Providers who provide these services. "Recipient" and "consumer" are used interchangeably in this Policy.
- f. **"County"** means the County of El Dorado and, wherein appropriate herein, refers to the County Board of Supervisors or any duly authorized county representative as herein defined.
- g. **"Day"** means calendar day unless expressly stated otherwise.
- h. **"Decertification"** means the procedure for terminating an employee organization as the recognized bargaining representative of employees or Independent Providers in a unit.
- i. **"Employee"** means any person employed by the Public Authority in an authorized position. The term "employee" shall not include Independent Providers.
- j. **"Employee Relations Officer"** means the individual(s) designated by the Public Authority to handle labor relations for the Public Authority. The Employee Relations Officer may also serve in other administrative capacities.
- k. **"In-Home Supportive Services"** provides assistance to those eligible aged, blind, and disabled individuals who are unable to remain safely in their own homes without assistance. It is an alternative to out-of-home care.
- l. **"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 those matters on which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- m. **"Management Employee"** means any employee having significant responsibility for formulating, administering, or managing the implementation of In-Home Supportive Services policies or programs or having responsibility for directing the work of subordinates through lower level supervision as designated by the Employee Relations Officer.
- n. **"Mediation"** means an effort by an impartial third party to assist through interpretation, suggestion, and advice in reconciling a dispute regarding terms and conditions of employment subject to meeting and conferring.
- o. **"Meet and Confer in Good Faith"** means the mutual obligation of the Public Authority, or such representatives as it may designate, and representatives of recognized employee organizations personally to meet and confer in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within their authority, or upon a joint recommendation to the Governing Body of the Public Authority on matters within the scope of representation. Meet and confer does not obligate either party to accept a proposal, make a compromise or conclude an agreement.

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- k. **"In-Home Supportive Services"** provides assistance to those eligible aged, blind, and disabled individuals who are unable to remain safely in their own homes without assistance. It is an alternative to out-of-home care.
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- m. **"Management Employee"** means any employee having significant responsibility for formulating, administering, or managing the implementation of In-Home Supportive Services policies or programs or having responsibility for directing the work of subordinates through lower level supervision as designated by the Employee Relations Officer.
- n. **"Mediation"** means an effort by an impartial third party to assist through interpretation, suggestion, and advice in reconciling a dispute regarding terms and conditions of employment subject to meeting and conferring.
- o. **"Meet and Confer in Good Faith"** means the mutual obligation of the Public Authority, or such representatives as it may designate, and representatives of recognized employee organizations personally to meet and confer in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within their authority, or upon a joint recommendation to the Governing Body of the Public Authority on matters within the scope of representation. Meet and confer does not obligate either party to accept a proposal, make a compromise or conclude an agreement.

- p. **"Memorandum of Understanding"** means a written memorandum incorporating matters on which agreement is reached through the process of meeting and conferring between representatives of the Public Authority and representatives of recognized employee organizations. The memorandum shall be presented to the Governing Body of the Public Authority for determination.
- q. **"Modification"** means the procedure for modifying or redefining representation unit or units into alternative representation unit or units.
- r. **"Professional Employee"** means an employee engaged in work which is predominantly intellectual and varied in character, requiring the exercise of discretion and judgment and knowledge of an advanced nature customarily acquired at an institution of higher learning and of such character that the output or results accomplished cannot be standardized in relationship to a given period of time, and conforming with the definition in Section 3507.3 of the Government Code.
- s. **"Provider" or "Independent Provider"** means any person selected by a consumer to provide In-Home Supportive Services as authorized by the County of El Dorado. The term "Provider" shall not include employees of the Public Authority and shall not include persons employed by the County of El Dorado in those classifications designated as Homemaker or Homemaker Supervisor or other classifications employed by the County of El Dorado.
- t. **"Public Authority"** means the El Dorado County In-Home Supportive Services Public Authority and where appropriate herein refers to the Public Authority or any duly authorized Public Authority representative as herein defined.
- u. **"Recognized Employee Organization"** means any lawful employee organization which has been formally acknowledged by the Public Authority as the sole employee organization representing the employees or Providers in an appropriate representation unit pursuant to Article V hereof, having the exclusive rights to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees or Providers, and thereby assuming the corresponding obligation of fairly representing such employees or Providers in their relations with the Public Authority.
- v. **"Representation Unit"** means a unit composed of Public Authority employees or Independent Providers for the purpose of representation, and which has been established in accordance with Article VIII of this Policy.
- w. **"Scope of Representation"** means, for employees, matters relating to employment conditions and employer-employee relations, including but not limited to wages, benefits and other terms and conditions of employment. For Independent Providers, "scope of representation" means wages, benefits and other terms and conditions of employment subject to the limitations set forth in this Resolution and in state laws and regulations, including but not limited to the California Welfare and Institutions Code §12301.6.

- p. **"Memorandum of Understanding"** means a written memorandum incorporating matters on which agreement is reached through the process of meeting and conferring between representatives of the Public Authority and representatives of recognized employee organizations. The memorandum shall be presented to the Governing Body of the Public Authority for determination.
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x. "Showing of Employee Interest" or "Proof of Employee Support" means the demonstration of affiliation of employees of the Public Authority within an employee organization and evidencing the employee's acknowledgment that such organization is authorized to represent said employee in his/her dealings with the Public Authority. A showing of interest demonstration or proof of employee support may be evidenced either, (1) by an authorization card personally and recently signed and dated by the employee or (2) by an authorization petition, (a) which clearly sets forth the purpose of such document and (b) which has been personally and recently signed and dated by the employee of the Public Authority, 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 a "showing of interest" or proof of employee support hereunder shall be that authorization recently signed by that employee. The term "recently signed" shall mean within forty-five (45) days prior to the date of filing of a petition or authorization cards.

y. "Showing of Provider Interest" or "Proof of Provider Support" means the demonstration of affiliation of providers of the Public Authority within an organization and evidencing the Provider's acknowledgment that such organization is authorized to represent said Provider in his/her dealings with the Public Authority. A showing of interest demonstration or proof of Provider support may be evidenced either, (1) by an authorization card personally and recently signed and dated by the Provider or (2) by a verified authorization petition or petition recently signed and dated by a Provider which clearly sets forth the purpose of such document, or (3) a Provider's membership dues deduction authorization voluntarily given and maintained, using the payroll register for the State of California for the two most recently available months 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 Provider shall not be considered as a showing of interest or proof of Provider support for any employee organization. The term "recently signed" shall mean the time period within ninety (90) days prior to the date of filing of a petition or authorization cards. With respect to a showing of interest or proof of Provider support by Independent Providers, the signatures of only those Independent Providers who were eligible to be paid as Providers as defined and provided by the State data or Case Management Information and Payrolling System (CMIPS) covering the time period of ninety (90) days of the latest available lists from the State, or CMIPS, prior to the date the of submission of the certification petition will be counted.

z. "Supervisory Employee" means any employee who, in the interest of the Public Authority, has the authority 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 merely a routine or a clerical nature, but requires the use of independent judgment.

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ARTICLE III. GUIDING PRINCIPLES

III. Section 1. Qualification as Employee Organization

Any organization which seeks to be formally acknowledged as the Exclusively Recognized Employee Organization to represent employees of the Public Authority or represent Independent Providers in an appropriate unit must first qualify itself by conforming to the requirements established in this Resolution and thereafter must be registered or recognized by the Public Authority as provided herein.

III. Section 2. Employee Rights

a. Employees of the Public Authority and Independent Providers 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 employee relations. Employees of the Public Authority and Independent Providers also have the right to refuse to join or participate in the activities of employee organizations. Employees of the Public Authority and Independent Providers have the right to represent themselves individually in their employee relations with the Public Authority. Neither the Public Authority nor any employee organization shall interfere with, intimidate, restrain, coerce, or discriminate, against employees or Independent Providers because of the exercise of their rights under this Section.

b. Employees of the Public Authority and Independent Providers may choose to belong to one or more employee organizations. However, an employee or Independent Provider may or be represented by the employee organization that has been certified as the exclusively recognized employee organization for the bargaining unit to which his/her classification has been assigned. The employee or Independent Provider may only vote for representation, and be included in a showing of interest or proof of support, in the bargaining unit to which his/her classification has been assigned.

III. Section 3. Public Authority Rights

It is the purpose of this Resolution to provide rules and regulations for determining appropriate bargaining units, selection of bargaining unit representatives, providing procedures for use should a bargaining impasse occur, and generally administering the various aspects of the Public Authority's labor relations structure.

Nothing herein shall be construed to restrict the right of the Public Authority with respect to matters of general legislative or managerial policy. Nothing in this Resolution shall be construed to limit the Public Authority's right to determine its mission; to maintain the efficiency of the Public Authority's operations; to set standards of service; to determine the methods, means, and personnel by which the Public Authority's delivery of In-Home Supportive Services are to be carried out; to take all necessary action to carry out its mission in emergencies; and to exercise complete control over its organization and the technology of performing its work.

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Nothing herein shall be construed to restrict the right of the Public Authority in those matters related to employees of the Public Authority to determine the procedures and standards of selection for employment; to direct its employees; to take disciplinary action; to relieve its employees from duty because of lack of work or for other lawful reasons; to make reasonable rules and regulations pertaining to employees consistent with this Resolution.

Nothing herein shall be construed to authorize the Public Authority to direct Independent Providers, to take disciplinary action as to Independent Providers, or to relieve Independent Providers from duty. Recipients/Consumers retain the right to hire, terminate, and direct the work of any Independent Provider who performs services.

III. Section 4. Rights of Employee Organizations

A recognized employee organization shall be accorded exclusive recognition in relation to the representation unit or units for which that organization has been certified and shall have the following rights:

- a. The right to represent all of its members in filing and processing grievances in accordance with established procedures as designated and defined in policy or in a Memorandum of Understanding.
- b. The right to ask the Public Authority or its designated representatives to meet and confer in good faith with representatives of the employee organization in an endeavor to reach agreement on matters involving wages, hours and other terms and conditions of employment.
- c. The right, upon request, to have payroll deductions for members of the employee organization in the unit or units for which the organization is recognized. A recognized employee organization may also have dues deduction rights for any management, supervisory, or confidential employee who is a member of an employee organization.
- d. The right to receive reasonable advance notice of any ordinance, rule, resolution or regulation proposed to be adopted by the Public Authority directly relating to wages, hours and other terms and conditions of employment. In an emergency, the Public Authority may implement such actions as necessary and notify employee organizations as soon as possible thereafter.
- e. Such other rights as may be the subject of agreement between representatives of the Public Authority and the employee organization and approved by the Governing Board of the Public Authority, which are not inconsistent with this policy or the law.

III. Section 5. Confidentiality Requirements

Independent Providers and all employees of the Public Authority shall comply with any and all confidentiality requirements concerning delivery of In-Home Supportive Services in accordance with requirements of all state and federal laws, including, but not limited to, those contained in the California Welfare and Institutions Code, and California Administrative Code provisions.

Nothing herein shall be construed to restrict the right of the Public Authority in those matters related to employees of the Public Authority to determine the procedures and standards of selection for employment; to direct its employees; to take disciplinary action; to relieve its employees from duty because of lack of work or for other lawful reasons; to make reasonable rules and regulations pertaining to employees consistent with this Resolution.

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III. Section 6. Representation Limitations

- a. Management, supervisory, and confidential employees shall not serve as representatives of an employee organization in negotiations, unless in relation to negotiations on behalf of a representation unit composed solely of management, supervisory, or confidential employees.
- b. The Public Authority, after consultation in good faith with employee organizations, shall designate management, supervisory, and confidential employees in accordance with the definitions in Article II of this policy.
- c. Neither management, nor supervisory, nor confidential employees shall be represented by any employee organization as part of a unit that includes employees other than management, supervisory, or confidential employees.

III. Section 6. Scope of Representation

- a. A recognized employee organization shall have the right to represent its members in their employment relations with the Public Authority in accordance with the Meyer-Miliias-Brown Act (MMBA) and as provided by this Resolution and the rules, policies, and procedures adopted by the Public Authority.
- b. The scope of representation of a recognized employee organization shall include all matters relating to employment conditions and employer/employee relations, including wages, hours and other terms and conditions of employment as defined by the MMBA, and the California Welfare and Institutions Code.
- c. The scope of representation of a recognized employee organization shall not include the merits, necessity, duration, composition, or organization of any service or activity provided by the Public Authority, or any of the Public Authority rights identified in Article III, Section 3 of this policy, or as established under the MMBA, and the California Welfare and Institutions Code.

ARTICLE IV. EMPLOYEE ORGANIZATION ACTIVITIES

IV. Section 1. Use of Resources-Public Authority Facilities

Access to Public Authority work locations and the use of Public Authority paid time, facilities, equipment and other resources by exclusively recognized employee organizations and their representatives shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures of the Public Authority, and shall be limited to lawful activities consistent with the provisions of this Resolution that pertain directly to the employer-employee relationship and shall not interfere with the efficiency, safety and security of Public Authority operations.

Non-exclusively recognized employee organizations shall not enjoy any access to non-public area controlled by the Public Authority, inter/intraoffice mails, other Public Authority resources, or employees on paid time.

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Non-exclusively recognized employee organizations shall not enjoy any access to non-public area controlled by the Public Authority, inter/intraoffice mails, other Public Authority resources, or to employees on paid time.

All requests for access by non-exclusively recognized employee organizations shall be made to the Employee Relations Officer, or designee, in writing.

IV. Section 2. Use of Resources-Consumer Facilities

Nothing herein confers any rights of access to consumers' homes or facilities without the consent of the consumer or consumer's legal guardian, nor does anything herein confer rights of access to equipment or other resources in the consumers' homes by any organization, agency or individual. Union organizing or representation activities shall not interfere with IHSS provider work time or activities. Nothing herein shall be construed to limit the rights of any individual or organization under the laws and regulations of the United States or the State of California.

ARTICLE V. RECOGNITION OF AN EMPLOYEE ORGANIZATION

V. Section 1. Filing of Recognition Petition by Employee Organization

An employee organization that seeks to be formally acknowledged as the exclusive recognized employee organization representing the employees or Independent Providers in an appropriate unit shall file a petition with the Employee Relations Officer. The petition shall contain the following information and documentation:

- a. Name and principal local business address of the organization.
- b. A statement whether the organization is a chapter or local of, or affiliated with, a regional, State, National or International organization; and, if so, the name and principal business address of such regional, state, national or international organization.
- c. A list of the local officers, names of employee organization representatives who are authorized to speak on behalf of the organization, and staff personnel, if any, of the organization and the names of the principal regional, state, national or international officers of such organization along with current phone numbers.
- d. A designation of no more than two persons and their addresses, to whom notice will be sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose relevant hereto.
- e. A statement that the organization has, as one of its primary purposes, the responsibility of representing employees or Independent Providers in their employer-employee relations with the Public Authority, with current certified copies of the organization's constitution, by-laws, or other documents establishing this fact.
- f. The job classifications or position titles of employees or Providers in the unit claimed to be an appropriate unit and the approximate number of member employees or Independent Providers therein.

All requests for access by non-exclusively recognized employee organizations shall be made to the Employee Relations Officer, or designee, in writing.

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- c. A list of the local officers, names of employee organization representatives who are authorized to speak on behalf of the organization, and staff personnel, if any, of the organization and the names of the principal regional, state, national or international officers of such organization along with current phone numbers.
- d. A designation of no more than two persons and their addresses, to whom notice will be sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose relevant hereto.
- e. A statement that the organization has, as one of its primary purposes, the responsibility of representing employees or Independent Providers in their employer-employee relations with the Public Authority, with current certified copies of the organization's constitution, by-laws, or other documents establishing this fact.
- f. The job classifications or position titles of employees or Providers in the unit claimed to be an appropriate unit and the approximate number of member employees or Independent Providers therein.

g. A statement that the employee organization has in its possession proof of employee support/showing of interest or proof of Independent Provider support /showing of interest as defined in Article II to establish that at least thirty percent (30%) of the employees or Independent Providers in the unit claimed to be an appropriate unit have designated the employee organization to represent them in their employment relations with the Public Authority. Such written proof shall be submitted for confirmation to the Employee Relations Officer.

h. An acknowledgement of awareness of this Resolution and any amendments thereto and the agreement to abide by the same.

i. A statement that the organization has no restriction on membership based on race, color, creed, age, marital status, sexual orientation, national origin, religion, sex or disability.

j. The petition, including proof of employee support or the proof of Independent Provider 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.

k. A request that the Employee Relations Officer formally acknowledge the petitioner as the exclusively recognized employee organization representing employees or Providers in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

In circumstances where an employee organization seeks to be the first employee organization to represent employees or Independent Providers who have been previously unrepresented, an employee organization shall file a recognition petition as defined under this section at any time with the Employee Relations Officer, or designee, of the Public Authority.

V. Section 2. Notification/Response by Public Authority

Upon receipt of the petition, the Employee Relations Officer, or designee, shall determine the following have been satisfied:

- a. The petition complies with all requirements listed in Section 1, (a) through (k) above.
- b. The proposed representation unit is an appropriate unit in accordance with Article VII.

Upon determining that both (a) and (b) above are satisfied, the Employee Relations Officer, or designee, shall, within thirty (30) days of the filing of the petition, (1) give notice of the filing thereof to all recognized employee organizations, and (2) post notice of the request at such location or locations as are reasonably accessible to the employees or Independent Providers of the unit.

If either (a) or (b) above are not satisfied, the Employee Relations Officer, or designee, shall within thirty (30) days of the filing of the petition, so inform the petitioning employee organization in writing and provide reasons for the rejection of the petition. The petitioning employee organization may appeal such determination in accordance with Article VIII.

g. A statement that the employee organization has in its possession proof of employee support/showing of interest or proof of Independent Provider support /showing of interest as defined in Article II to establish that at least thirty percent (30%) of the employees or Independent Providers in the unit claimed to be an appropriate unit have designated the employee organization to represent them in their employment relations with the Public Authority. Such written proof shall be submitted for confirmation to the Employee Relations Officer.

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If either (a) or (b) above are not satisfied, the Employee Relations Officer, or designee, shall, within thirty (30) days of the filing of the petition, so inform the petitioning employee organization in writing and provide reasons for the rejection of the petition. The petitioning employee organization may appeal such determination in accordance with Article VIII.

V. Section 3. Open Period for Filing Challenging Petition

Within thirty (30) days of the date written notice was given to affected employees or given to Independent Providers that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be acknowledged as the recognized exclusive employee organization of the employees or Independent Providers in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or titles set forth in the recognition petition being challenged), by filing a petition that meets the requirements of Article V, Section 1 above.

a. If such challenging petition seeks establishment of an appropriate unit by the competing employee organization representative(s) then the competing organization will do so in compliance with the submission of statements and proof of employee or proof of Independent Provider support in the same form and manner as set forth in Section 1, (a) through (k) of this Article V.

b. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer, or designee, shall call for a hearing 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, or designee, shall determine the appropriate unit or units in accordance with the standards set forth in Article VII. The petitioning employee organizations shall have fifteen (15) days from the date of written notice of such unit determination as communicated to them by the Employee Relations Officer, or designee, to amend their petitions to conform to such determination or to appeal determination pursuant to Article VIII.

V. Section 4. Election

a. The Employee Relations Officer, or designee, shall, within ten (10) days of the determination that an election shall be conducted, whether or not a challenging petition is filed, arrange for a secret ballot to determine which organization, if any, shall be the Recognized Employee Organization. All employee organizations that have duly submitted petitions in conformance with this resolution shall be included on the ballot as a qualifying employee organization. The ballot shall also include the choice of "No Organization."

b. The election will be by mail ballot and may be conducted by the California State Mediation Services, or a by a neutral third party agreed to by the Employee Relations Officer, or designee, and the qualifying employee organization(s), in accordance with its rules and procedures subject to the provisions of this resolution.

c. 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 last pay period immediately preceding the date the election commences, including those who did not work during such period due to illness, vacation, or other authorized leaves of absence, and who are still employed by the Public Authority in the same unit on the date of the election.

- d. Independent Providers entitled to vote in such election shall be those persons who were either eligible to be paid in the month that is two months immediately prior, or who were due paying members in the month that is two months immediately prior, to the date the election commences.
- e. An employee organization shall be certified as the recognized employee organization for the designated representation unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast. The rules governing an initial election will apply to a run-off election.
- f. There shall not be more than one valid determinative election under this Resolution pursuant to any petition in a twelve (12) month period affecting the same unit.
- g. Costs of conducting elections shall be born in equal shares by the Public Authority and by each employee organization appearing on the ballot.

ARTICLE VI. PROCEDURE FOR DECERTIFICATION OF EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION

VI. Section 1. Time for Filing of Decertification Petition

A decertification petition alleging that the incumbent exclusively recognized employee organization no longer represents a majority of the employees or a majority of the providers in established appropriate unit may be filed with the Employee Relations Officer, or designee, only:

- a. During the month of January of any year following the first one (1) full year after an employee organization was acknowledged as the exclusively recognized employee organization for an appropriate unit if no Memorandum of Understanding exists; or
- b. Within the period commencing one-hundred twenty (120) and ending ninety (90) days immediately prior to the expiration date of a Memorandum of Understanding, including any extensions.

VI. Section 2. Contents of Decertification Petition

A decertification petition may be filed in writing with the Employee Relations Officer, or designee, by any employee(s), or by any Independent Provider(s), or by an employee organization. The petition, including the proof of employee support or proof of Independent Provider 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 submitting it and include such information as follows:

- a. Name and principal local business address of the organization.

- b. A statement whether the organization is a chapter or local of, or affiliated with, a regional, State, National or International organization; and, if so, the name and principal business address of such regional, state, national or international organization.
- c. A list of the local officers, names of employee organization representatives who are authorized to speak on behalf of the organization, and staff personnel, if any, of the organization and the names of the principal regional, state, national or international officers of such organization along with current phone numbers.
- d. A designation of no more than two persons and their addresses, to whom notice will be sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose relevant hereto.
- e. The name of the established appropriate unit and of the incumbent exclusively recognized employee organization sought to be decertified as the representative of that unit.
- f. An allegation that the incumbent recognized employee organization no longer represents a majority of the employees or Independent Providers in the appropriate unit, and any other relevant and material facts related thereto.
- g. A statement that the organization has, as one of its primary purposes, the responsibility of representing employees or Independent Providers in their employer-employee relations with the Public Authority, with current certified copies of the organization's constitution, by-laws, or other documents establishing this fact.
- h. Proof of support that at least thirty percent (30%) of the employees as defined in Article II, (x), or at least thirty percent (30%) of the Independent Providers as defined in Article II, (y), in the unit no longer desire to be represented by the incumbent recognized employee organization. Such proof of support shall be submitted to the Employee Relations Officer, or designee, within the time limits set forth in this Article VI, Section 1, and Article II, subsection (x) or (y) above.
- i. An acknowledgement of awareness of this Resolution and any amendments thereto and the agreement to abide by the same.
- j. A statement that the organization has no restriction on membership based on race, color, creed, age, marital status, sexual orientation, national origin, religion, sex or disability.
- k. The petition, including proof of employee support or the proof of Independent Provider 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.
- l. A request that the Employee Relations Officer formally acknowledge the petitioner as the exclusively recognized employee organization representing employees or Providers in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

VI. Section 3. Response of Public Authority

The Employee Relations Officer, or designee, shall initially determine whether the decertification petition meets the requirements set forth in Sections 1 and 2 of this Article. If the petition does not meet the requirements of Sections 1 and 2, the Employee Relations Officer, or designee, shall inform the petitioner(s) in writing of the reasons why the petition was rejected within thirty (30) days of the filing of the petition. The petitioners may appeal the rejection in accordance with Article VIII.

If the petition does meet the requirements set forth in Sections 1 and 2 of this Article VI, or if the initial rejection is reversed on appeal, the Employee Relations Officer, or designee, within sixty (60) days of the filing of the decertification petition or within thirty (30) days of the reversal of the rejection on appeal, shall give written notice of the decertification petition to the incumbent recognized employee organization and shall post notice of the petition at such location or locations as are reasonably accessible to the employees or to the Independent Providers of the unit.

VI. Section 4. Election

Upon providing the required notice under Section 3 of this Article VI to the recognized employee organization and the unit employees of the filing of an approved decertification petition, the Employee Relations Officer, or designee, shall arrange for a secret ballot election in accordance with Article V, Section 4 above.

The secret ballot election shall be held not sooner than thirty (30) days after such notice determine the wishes of unit employees or Independent Providers 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 Article V, Section 4. During the "open period" for decertification specified in this Article VI, Section 1, the Employee Relations Officer may call for an election if he/she has documented evidence causing a good faith doubt that:

- a. Unit employees or Providers wish to continue to be represented by the incumbent exclusively recognized employee organization; or
- b. The organization continues to represent the employees or Providers.

The Employee Relations Officer, or designee, may give notice to that employee organization that such doubt exists. Notice shall be sent by certified mail and shall include the reasons for the good faith doubt and a request that the exclusive representative indicate its intention as to whether or not it will provide ongoing representation services to the unit. If the response received indicates that the organization does not intend to continue to represent the unit or if no response is received within fifteen (15) days, the Employee Relations Officer, or designee, shall notify all unit employees or Independent Providers that he/she will arrange for an election to determine the issue of continued representation by the exclusive representative. In such event any other employee organization may within fifteen (15) days of such notice file a recognition petition in accordance

with this Article VI, Section 2, upon which the Employee Relations Officer shall act on in accordance with this Article VI, Sections 3 and 4.

VI. Section 5. Effects of Decertification

If, pursuant to this Article VI, Section 4 above, a different employee organization is formally acknowledged as the exclusively recognized employee organization, the original organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term. However, negotiations between the Public Authority and the newly designated organization for a successor agreement for the unit shall commence approximately sixty (60) days prior to expiration of the then current Memorandum of Understanding.

Any decertification that occurs during the term of a single year agreement or during the final year of a multi-year agreement shall not alter the applicability of such agreement to the employees or to the Independent Providers covered thereby during the remainder of said agreement. A recognized employee organization which has been decertified for a unit shall, at the conclusion of the term of its agreement with the Public Authority, no longer retain the rights accorded exclusively recognized employee organizations in this resolution in relation to the unit for which it was decertified.

ARTICLE VII. POLICY AND STANDARDS FOR DETERMINATION OF APPROPRIATE UNITS

VII. Section 1. Policy for Determining Appropriate Units

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on:

- a. The efficient operations of the Public Authority and its compatibility with the primary responsibility of the Public Authority and its employees or Independent Providers to effectively and economically serve the public, and
- b. Providing employees or Independent Providers with effective representation based on recognized community of interest considerations.

VII. Section 2. Standards for Determining Appropriate Units

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 shall be:

- a. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

- b. History of representation in the Public Authority and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees or Independent Providers in the proposed unit have organized.
- c. Consistency with the organizational patterns of the Public Authority, and the effect of the proposed unit on the Public Authority's classification structure.
- d. The number of employees and classifications or the number of Independent Providers, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferations of units. The analysis of this factor shall include the internal and occupational community of interest among the employees or the Independent Providers, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals; the extent to which the employees have common skills, working conditions, job duties and training requirements; the extent to which the employees or the Independent Providers constitute a traditional craft; and the extent to which the employees or the Independent Providers have common supervision or work-related interchange.
- e. The effect on the classification structure and impact on the stability of the employer-employee relationship of dividing single or related classifications among two or more units.
- f. For purposes of determining appropriate units, a unit of all Independent Providers may be considered an appropriate unit.
- g. The right of professional employees to be represented separately from non-professional employees.

VII. Section 3. Managerial, Supervisory, and Confidential Employees

Managerial, supervisory, and confidential employees, as defined in Article II of this Resolution, are determinative factors in establishing appropriate units hereunder, and therefore managerial, supervisory, and confidential employees may only be included in a unit consisting solely of managerial, supervisory, or confidential employees respectively. Managerial, supervisory, and confidential employees may not represent any employee organization that represents other employees or Independent Providers in another unit nor remain represented beyond such time as required by State law.

VII. Section 4. Procedure for Modification of Established Appropriate Units

a. Modification by Employee Organization

The Employer Relations Officer, or designee may consider requests by employee organizations for modifications of established appropriate units, only during the period specified in Article VI, Section 1. Such requests shall be submitted in the form of a recognition petition with the requirements set forth in Article V of this Resolution, and 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 this section. The Employer Relations Officer, or designee, shall process these petitions as other recognition petitions under this Resolution.

b. Modification by Employee Relations Officer

The Employee Relations Officer, or designee, may on his or her own motion propose during the period specified in Article VI, Section 1 of this Resolution, that an established unit be modified. The Employee Relations Officer, or designee, shall give written notice of the proposed modification(s) to any affected employee organization, employees, or Providers 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, or designee, shall determine the composition of the appropriate unit in accordance with Article VII of this Resolution, and shall give written notice of such determination to the affected employee organizations, employees, or Providers. The Employee Relations Officer's determination may be appealed as provided in Article VIII of this Resolution. If a new unit is created pursuant to the motion of the Employee Relations Officer, or designee, hereunder employee organizations may thereafter file recognition petitions seeking to become the exclusively recognized employee organization for such new appropriate unit or units pursuant to Article V. Modification of units may also be accomplished by written stipulation thereto by the Employee Relations Officer, or designee, and each of the affected employee organizations.

VII. Section 5. Assignment of New Classification

Each newly established job classification shall be assigned to an appropriate representation unit by the Employee Relations Officer, or designee. A recognized employee organization may appeal such assignment to the Employee Relations Officer, or designee. The appeal shall be in writing, shall describe all objections, and shall be filed with the Employee Relations Officer, or designee, within fifteen (15) days after the Employee Relations Officer makes the assignment. The Employee Relations Officer's, or the designee's, determination may be appealed as provided in Article VIII of this Resolution.

VII. Section 6. Reassignment of Existing Job Classification

The Employee Relations Officer, or designee may reassign each existing job classification to a more appropriate representation unit. Such reassignments may, but need not, occur as the result of reorganization, modifications of job duties, or changes in scope of responsibilities. The Employee Relations Officer, or designee, shall notify all employee organizations prior to making any reassignment of an existing job classification. A recognized employee organization may appeal such reassignment to the Employee Relations Officer in writing outlining all objections within fifteen (15) days after the Employee Relations Officer, or designee, makes the reassignment. The Employee Relations Officer's determination may be appealed as provided in Article VIII of this Resolution.

ARTICLE VIII. APPEALS**VIII. Section 1. Appeals from Appropriate Unit Determination**

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer, or designee, under this Resolution may, within ten (10) days of notice thereof,

request the intervention of the California State Mediation and Conciliation Service pursuant to Government Code Section 3507.1 and 3507.3, or may, in lieu thereof or thereafter appeal such determination to the Governing Board of the Public Authority for final decision. Such appeal shall be filed within fifteen (15) days of notice of the Employee Relations Officer's, or designee's, determination or the termination of proceedings pursuant to Government Code Sections 3507.1 and 3507.3, whichever is later.

VIII. Section 2. Appeals from Recognition and Decertification Determination

An employee organization aggrieved by a determination of the Employee Relations Officer, or designee, that a recognition petition, challenging petition, or decertification of recognition petition making a claim that it has not been filed in compliance with the applicable provisions of this Resolution, may, within fifteen (15) days of notice of such determination, appeal the determination to the Governing Board of the Public Authority for final decision.

An employee or an Independent Provider aggrieved by a determination of the Employee Relations Officer, or designee, that a decertification of recognition petition has not been filed in compliance with the applicable provisions of the Resolution may also appeal the determination in the same manner that is demonstrated in the preceding paragraph.

VIII. Section 3. Other Procedural Requirements Involving Appeals

Appeals to the Governing Board of the Public Authority shall be filed in writing, and a copy thereof served on the Employee Relations Officer, or designee. The Governing Board of the Public Authority shall commence to consider the matter within forty-five (45) days of the appeal being filed. The Governing Board of the Public Authority may, in its discretion, refer the dispute to a third party for hearing and recommendations. Any decision of the Governing Board of the Public Authority on the use of such procedure, and/or any decision determining the substance of the dispute shall be final and binding.

ARTICLE IX. IMPASSE PROCEDURES

IX. Section 1. Impasse Meeting

If the meet and confer process has reached an impasse as defined in this resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. The Employee Relations Officer, or designee shall then schedule an impasse meeting promptly. The purpose of such meeting shall be (1) to review the position of the parties in a final effort to reach agreement on a memorandum of understanding; and (2) if the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

If final agreement is not reached after conducting an impasse meeting, the parties may mutually agree to resolve the dispute through mediation.

LX. Section 2. Mediation

If the parties agree to mediate the dispute, they may mutually agree to request the assistance of a mediator from the California State Mediation Service or any other source mutually agreed upon.

If the parties are unable to agree on a mediator after a reasonable period of time, they shall select the mediator from a list of three names to be provided by the California State Mediation Services, or if that body for any reason shall fail to provide such list, by the American Arbitration Association. The mediator to serve shall be determined by the alternate striking of names, with the party who is to strike the first name determined by coin toss.

All mediation proceedings shall be private. The mediator shall make no public recommendations, nor take any public position at any time concerning the issues.

If the parties did not utilize mediation, or having utilized mediation, the impasse has not been resolved, the Governing Board of the Public Authority may take such action regarding the impasse as it deems appropriate in the public interest. The Public Authority Board may, in its discretion, refer the dispute to a third party for hearing and recommendations. Any legislative action by the Public Authority Board on the impasse shall be final and binding.

Nothing herein shall preclude the parties from utilizing any other form of impasse resolution procedure, which has been mutually agreed upon, by the parties in writing.

LX. Section 3. Costs

The costs, if any, for the services of any third party utilized by the parties, and other mutually incurred costs of the impasse procedure, shall be borne equally by the Public Authority and exclusively recognized employee organization or organizations involved.

ARTICLE X. SUBMISSION OF CURRENT INFORMATION BY RECOGNIZED EMPLOYEE ORGANIZATIONS.

All changes in the information filed with the Public Authority by an exclusively recognized employee organization under items (a) through (k) of its recognized petition under Article V of this Resolution shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

ARTICLE XI. INTERPRETATION AND ADMINISTRATION

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

XI. Section 1. Interpretation

- a. The Employee Relations Officer, or designee, shall have the authority to administer this Resolution and to provide any necessary interpretation thereof. Any disagreement in the interpretation of this Resolution shall be referred to the Public Authority for determination.
- b. The Employee Relations Officer is designated as the Public Authority's representative in all matters relating to the meet and confer process and has the authority to consult and to meet and confer in good faith on all matters within the scope of representation, unless another party is otherwise designated by the Governing Board of the Public Authority.

XI. Section 2. Rules, Procedures and Amendments

- a. The Public Authority may from time to time amend this Resolution after consultation in good faith with recognized and registered employee organizations.
- b. The Employee Relations Officer or other representatives designated by the Public Authority may establish rules or procedures, not inconsistent with the foregoing provisions, for the implementation and orderly conduct of employee relations.

ARTICLE XII. MISCELLANEOUS PROVISIONS

XII. Section 1. Construction

This Resolution shall be administered and construed as follows:

- a. Nothing in this Resolution shall be construed to deny to any person, employee, Independent Provider, employee organization, the Public Authority, or any authorized officer, body or other representative of the Public Authority, the rights, powers and authority granted by Federal or State law.
- b. This Resolution shall be interpreted so as to carry out its purposes as set forth in Article I.
- c. Nothing in this Resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to Public Authority employees, Independent Providers, or employee organizations, or of giving employees, Independent Providers, or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the Public Authority, employees and Independent Providers recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive State or contrary local law. In the event employees engage in such actions, they shall subject themselves to termination, except as expressly prohibited by applicable law. In the event Independent Providers engage in such actions they shall subject themselves to termination, except as expressly prohibited by applicable law.

XII. Section 2. Suspension of Recognition

Recognition of an employee organization may be suspended by the Governing Board of the Public Authority for:

- a. Repeated or continued failure or refusal to comply with the provisions of this resolution.
- b. Intentional furnishing of false information to the Public Authority or the County.
- c. Violation of any law, contract provision, court decision or court orders.

Reasonable notice and opportunity to correct violations shall be given prior to suspension under this Article.

ARTICLE XIII. SEVERABILITY

Nothing herein shall be deemed to supersede the provisions of State or Federal law, or ordinances, resolutions, rules and regulations established by the Public Authority. If any paragraph, provision, or section of this Resolution is held to be invalid, such invalidity shall not affect the validity of the remaining paragraphs or sections of this Resolution, and the Public Authority declares that it would have and does adopt the remainder of this Resolution notwithstanding.

ARTICLE XIV. STATUS OF OTHER POLICIES

This Policy supersedes and replaces all other policies on the same subject as those policies relate to the Public Authority, especially that policy entitled, "Employer-Employee Relations Resolution" of El Dorado County dated January 11, 1983, as amended and adopted by the Board of Supervisors on or about that same date. The Public Authority reserves the right to amend this Resolution whenever it is appropriate to conform to state and federal laws, rules and regulations.

PASSED AND ADOPTED by the El Dorado County In-Home supportive Services Public Authority at a regular meeting of said Authority, held on the 3rd day of December, 2002, by the following vote of said Authority:

Ayes: DUPRAY, BAUMANN, BORELLI, HUMPHREYS, SOLARO

ATTEST
DIXIE L. FOOTE
Clerk of the Board of Supervisors

Noes: NONE
Absent: NONE

By Murphy & Mitty
Deputy Clerk

[Signature]
Chair, El Dorado County In-Home Supportive Services Public Authority

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

Date _____

ATTEST: DIXIE L. FOOTE, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By _____
Deputy Clerk

CONTRACT ROUTING SHEET

PROCESSING DEPARTMENT:
 Department: Human Resources
 Dept. Contact: Deborah Kal
 Phone #: X6553
 Department Head
 Signature: [Signature]
 Kathryn Libicki

CONTRACTOR:
 Name: Employer-Employee Relations Resoluti
 Address: for EDC In-Home Supportive Service
Public Authority
 Phone: _____

CONTRACTING DEPARTMENT: _____
 Compliance with Human Resources requirements? Yes: No:
 Compliance verified by: _____

COUNTY COUNSEL: (Must approve all contracts and MOU's)
 Approved: but ~~to be signed~~ Disapproved: _____ Date: 11/35 By: PPF for JIC
 Approved: _____ Disapproved: _____ Date: _____ By: _____

ASSIGNMENT

DATE: 11/22/12

I reviewed the draft rpt/golden rod - ~~found~~ I read, but
did not modify the actual resol. b/c KL told me
it has been reviewed/edited - modified by JK
and approved, and I was not given sufficient
time to research the issues involved in such a
resol (1 day turnaround)

RISK MANAGEMENT: (All contracts and MOU's except boilerplate grant funding agreements)
 Approved: Disapproved: _____ Date: 11/24/12 By: [Signature]
 Approved: _____ Disapproved: _____ Date: _____ By: _____

OTHER APPROVAL (Specify department(s) participating or directly affected by this contract). Department(s): _____
 Approved: _____ Disapproved: _____ Date: _____ By: _____
 Approved: _____ Disapproved: _____ Date: _____ By: _____



El Dorado County Employees Association, Local #1
City of South Lake Tahoe Employees Association, Local #1
El Dorado Hills Community Services Dist. Emps. Assoc., Local #1

2864 Ray Lawyer Drive, Suite 207 ♦ Placerville, CA 95667
Phone: (530) 626-2565 or toll free (800) 479-2560
Fax: (530) 626-2569 ♦ E-mail: edcea@jps.net

December 2, 2002

The Honorable David Solaro, Chair
EDCO Board of Supervisors
330 Fair Lane
Placerville, CA 95667

RE: Agenda Item # ~~8~~ 81

DEC 3 8 00 AM '02
COMMUNITY SERVICES
EL DORADO COUNTY

Dear Supervisor Solaro:

This letter is to address our concerns with the proposed Employer-Employee Relations Resolution for the newly created IHSS Public Authority. We have participated in the public advisory committee meetings and have listened to the discussions surrounding the establishment of the list of care providers for purposes of representation.

The proposal by the El Dorado County Human Resources Department to have the list provided by the state is not acceptable for two reasons: 1). The state's list is not accurate, it reflects between 600 and 650 at any given time, with periodic changes, when the County is only paying approximately 500 caregivers at any one time; and 2). both the County Auditor-Controller's Office and the Department of Community Services can provide lists which more accurately reflect those who are truly currently providing services. Due to the nature of the work involved, this particular field has a considerable turnover, as well as a multitude of short-term employees. This only illustrates some of the challenges with this unique group.

Therefore, we respectfully request that your Board not adopt the Employer-Employee Relations Resolution as written, but rather direct staff to change the language so that it more accurately reflects the employees who are currently employed (those who have received payment for services during both of the last two pay periods). The Department of Community Services is able to provide such a list for the interested labor representatives and will help move this process forward.

Thank you for your attention to this matter.

Sincerely,

Heidi Weiland
Executive Director

Cc: Board of Supervisors

