

CHAPTER THIRTEEN

RULES GOVERNING EMPLOYER-EMPLOYEE RELATIONS

13.1 GENERAL

13.1.1 Purpose of Chapter

It is the purpose of this Chapter to promote full communication between the Superior Court and its employees regarding wages, hours and other terms and conditions of employment. It is also the purpose of this Chapter to promote the improvement of personnel management and employer-employee relations within the Superior Court of California, County of Alameda by providing a uniform basis for recognizing the right of employees of the Court to join organizations of their own choice and be represented by such organizations in their employment relations with the Court.

13.1.2 Matters of Mutual Interest

Nothing in this Chapter shall be interpreted as precluding or discouraging the discussion of any and all matters of mutual interest, at the appropriate level, to the end that there be full understanding and cooperation among the parties and that problems be resolved expeditiously.

13.1.3 Outside Experts

Nothing in this Chapter shall be interpreted as precluding or discouraging the Court from requesting assistance or advice, whether from outside experts or otherwise, in situations deemed appropriate by the Court.

13.2 DEFINITIONS:

13.2.1 Court

COURT means the Superior Court of California, County of Alameda.

13.2.2 Confidential Employee

CONFIDENTIAL EMPLOYEE means any employee who is privy to the decision-making process of court management affecting employee relations.

13.2.3 Director

DIRECTOR means the Director of the Human Resources Division, Superior Court of California, County of Alameda and his or her senior assistant or assistants.

13.2.4 Employee

EMPLOYEE means the same as defined in Government Code section 71601 (l) and (m).

13.2.5 Employee Organization

EMPLOYEE ORGANIZATION means any organization which includes employees of the Court and which has as one of its primary purposes representing such employees in their employment relations with the Court.

13.2.6 Exclusively Recognized Employee Organization

EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION means a recognized employee organization which has been designated pursuant to the provisions of Section 13.9 of this Chapter as the exclusively recognized employee organization for a designated bargaining unit.

13.2.7 Management Employee

MANAGEMENT EMPLOYEE means the Court Executive Officer, his or her chief deputy and assistants, division heads and other positions as designated by the Court.

13.2.8 Mediation

MEDIATION means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the Court and recognized employee organization(s) or, if there is an exclusively recognized

employee organization, said exclusively recognized organization, through interpretation, suggestion and advice.

13.2.9 Meet and Confer

MEET AND CONFER means that a Court or such representatives as it may designate and representatives of recognized employee organizations shall have the obligation personally to meet and confer promptly upon request of either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

13.2.10 Professional Employee

PROFESSIONAL EMPLOYEE means an employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and the various types of physical, chemical, and biological scientists.

13.2.11 Recognized Employee Organization

RECOGNIZED EMPLOYEE ORGANIZATION means an employee organization which has been recognized pursuant to the provisions of Section 13.5 of this Chapter as representing employees in their relations with the Court.

13.2.12 Representation Unit

REPRESENTATION UNIT means a unit of court employees established pursuant to the provisions of Section 13.8 of this Chapter.

13.2.13 Scope of Representation

SCOPE OF REPRESENTATION shall have the same meaning as that scope of representation set forth in Government Code section 71634.

13.2.14 Supervisory Employee

SUPERVISORY EMPLOYEE means an employee working in a classification in which a majority of positions: 1) require the incumbent, on a continuing basis, to assign work to and rate work performance of, a subordinate employee, and 2) authorize the incumbent to initiate or review recommendations for dismissal or other disciplinary action.

13.3 EMPLOYEE RIGHTS

13.3.1 Right to Join

Employees 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 within the scope of representation.

13.3.2 Right Not to Join

Employees shall have the right to refuse to join or participate in the activities of employee organizations.

13.3.3 Individual Representation

Notwithstanding Section 13.9, employees shall have the right to represent themselves individually in the event they have a complaint or grievance with the Court.

13.3.4 No Interference With Representation Rights

Neither Court nor employee organizations shall interfere with, intimidate, restrain, coerce, or discriminate against employees because of the exercise of rights under this Chapter.

13.3.5 Dues Deductions

Employees shall have the right to authorize dues deduction from their salaries for payment directly to recognized employee organizations, upon the following terms and conditions:

- (a) Applications for deduction of dues or revocation of such deduction shall be made in a form approved by the Court, executed by the employees;
- (b) The sums to be deducted shall not include initiation fees, special assessments, or fines;
- (c) Any employee may revoke his dues deduction authorization effective the next succeeding pay period;
- (d) The Court reserves the right to suspend or terminate the deduction of dues in the event that the recognized employee organization or its members engage in unlawful concerted activities; and
- (e) In the event that a recognized employee organization is designated as the exclusively recognized employee organization for a representation unit pursuant to the provisions of Section 13.9 of this Chapter, no other recognized employee organization representing employees within the unit shall have the right to request such employees to authorize dues deduction under this Section and all existing dues deduction authorizations of such employees shall terminate effective the pay period next succeeding the designation of the exclusively recognized employee organization; provided, however, that the exclusively recognized employee organization may request the Court to extend, or subsequently to revoke, the dues deduction provisions set forth in this Section to other recognized employee organizations representing employees within the representation unit, with regard to such employees, and the Court shall consider and determine each such request.

13.4 COURT RIGHTS

The Court may, without meeting and conferring, determine the nature, extent, merits, necessity, organization, and staffing of any service or activity of the Court and exercise any rights, duties, or obligations conferred by law.

13.5 RECOGNIZED EMPLOYEE ORGANIZATION RIGHTS

13.5.1 Meet and Confer

Except where there is an exclusively recognized employee organization designated pursuant to Section 13.9, recognized employee organizations shall have the right to meet and confer with the Court or, at the Court's discretion, with a designated representative of the Court, or his or her senior assistants. Recognized employee organizations shall be advised of the name and address of the Court's representative.

13.5.2 Notices from Court

Except where there is an exclusively recognized employee organization designated pursuant to Section 13.9, and except in cases of emergency as provided in Section 13.5.3 the Court shall give reasonable written notice to each recognized employee organization affected by any rule or policy directly relating to matters within the scope of representation proposed to be adopted by the Court and shall give such recognized employee organization(s) an opportunity to meet with the Court.

13.5.3 Emergency Matters

In cases of emergency when the Court determines that a rule or policy must be adopted immediately without prior notice or meeting with recognized employee organizations, the Court shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such rule or policy.

13.5.4 Notices to Employees

The Court shall post within the employee work or rest area a written notice which sets forth 1) the classifications included within each representation unit, and 2) the name and address of the exclusively recognized employee organization for each such unit, if an organization has been so designated. The Court shall also give written notice to persons newly employed in a representation unit classification of the name and address of the exclusively recognized employee organization for such unit if an organization has been so designated.

13.6 REPRESENTATION

13.6.1 Management and Confidential Employees

Management and confidential employees shall not represent any employee organization which represents other than management and confidential employees of the Court on matters within the scope of representation.

13.6.2 Professional Employees

Professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of such professional employees.

13.7 REGISTRATION PROCEDURE PRIOR TO RECOGNITION

13.7.1 Initial Period

Employee organizations shall register with the Director prior to representing their membership in their employee relations with the Court, and shall thereafter report to the Director in writing any changes in the facts submitted in the registration within thirty days of the occurrence of the change.

13.7.2 Necessity for Registration

No employee organization shall have the rights of a recognized employee organization under this Chapter unless and until it has been registered with the Director.

13.7.3 Contents of Registration

The registration shall consist of:

- (a) The name and address of the employee organization;
- (b) A list of the officers and principal representatives of the employee organization;

- (c) A statement that the employee organization includes Court employees within its membership;
- (d) A statement that the employee organization has, as one of its primary purposes, the function of representing employees in their relations with the Court;
- (e) The designation of two or more persons and their addresses to whom notice, sent by United States mail, will be deemed sufficient notice on the employee organization for any purpose; and
- (f) A statement that the employee organization has no restriction on membership based on race, color, creed, national origin, sex, age, pregnancy, disability, marital status, sexual orientation, veteran status or citizenship.

13.8 PROCEDURES FOR ESTABLISHING REPRESENTATION UNITS

13.8.1 Submission of Request

Representation units shall be established by the Court following submission of requests as hereinafter set forth and submission to the Court of recommendations by the Director.

13.8.2 Petition

Employees or recognized employee organizations may request the Court to establish a particular representation unit by listing classifications and positions to be included and submitting a petition signed by at least one-third of the full-time regular and probationary employees within the proposed representation unit, or a showing that, as of the last regular payroll, at least fifty percent of the employees within the proposed representation unit had executed dues deduction authorizations in favor of the recognized employee organization requesting the establishment of the unit.

13.8.3 Petition Signatures

The signatures contained on the petition to establish a representation unit must be dated no earlier than six months prior to the date of submission of the petition.

13.8.4 Verification of Petitions

The Director shall verify all petitions and, upon verification, shall within a reasonable time give notice to the employees within the proposed representation unit of the contents of the petition.

13.8.5 Petitions for Change in Unit

Employees within the proposed representation unit shall have ten days from the date of notification to submit petitions requesting changes in the proposed representation unit. Such petitions must be signed by at least one-third of the employees within the proposed changed representation unit.

13.8.6 Criteria and Director's Recommendation

The Director, after consultation with interested employees or representatives of a recognized employee organization, shall make a recommendation to the Court concerning the proposed representation unit, and may recommend a representation unit other than that proposed. No single classification of court employees shall be included in more than one representation unit. Management and confidential employees and classifications having a majority of supervisory employees shall not be included in a representation unit containing classifications having a majority of non-management, non-confidential, and non-supervisory employees, respectively. Criteria used in recommending representation units may include, but shall not be limited to, such factors as community of interest among employees, history of representation and the general field of work. No unit shall be established solely on the basis of the extent to which employees in the proposed unit have previously organized.

13.8.7 Action By Court

The Court shall act in a timely manner on recommendations made to it by the Director. In acting on a recommendation and establishing a representation unit, the Court will give

consideration to criteria of the same sort used by the Director in arriving at his or her recommendation as set forth in Section 13.8.6 above.

13.8.8 Further Petitions For Changes

Petitions for changes in representation units may be submitted not sooner than 12 months following designation of the representation unit by the Court, except that in the event that the end of such period shall occur during the months of April, May, or June of any year, such petitions may be submitted on or after December 1 of the preceding year. The Director shall consider the appropriateness of the change in representation unit in accordance with the criteria as set forth in Section 13.8.6 above.

13.8.9 Dispute Regarding Appropriateness of Representation Unit

In the event that the petitioner disagrees with the determination regarding the appropriateness of the bargaining unit, the petitioner may request mediation or a non-binding recommendation from the California State Mediation and Conciliation Service. Such request must be made in writing within 10 calendar days of the notification from the Court responding to the appropriateness of the bargaining unit.

13.8.10 Eligible Employees

For the purpose of this Section, only regular full-time and regular part-time and probationary employees shall be eligible to sign petitions for the establishment of representation units, and when dues deduction authorizations are submitted as the showing of employee interest, only the dues deduction authorizations of such employees will be considered.

13.9 EXCLUSIVE RECOGNITION OF A RECOGNIZED EMPLOYEE ORGANIZATION AND REVOCATION OF EXCLUSIVE RECOGNITION

13.9.1 One-Half Rule

A recognized employee organization shall be considered for certification as an exclusively recognized employee organization by the Court following the submission of a request for exclusive recognition accompanied by, or in the form of, a petition indicating that at least one-

third of the employees within the proposed or existing representation unit desire the petitioning employee organization to be their sole representative, or said request may, in the alternative, be accompanied by a showing that, as of the last regular payroll, over 50% of the employees within the representation unit have executed dues deduction authorizations in favor of the employee organization requesting recognition as the exclusively recognized employee organization for said representation unit.

13.9.2 Verification of Petitions

The Director shall verify each petition or dues deduction showing and following verification shall within a reasonable time give notice to all employees within the proposed or existing representation unit, and all recognized employee organizations, of the contents of the request.

13.9.3 Request for Exclusive Recognition

Any other recognized employee organization seeking certification as the exclusively recognized employee organization to represent the employees of a proposed or existing representation unit for which a request has been submitted and verified pursuant to Sections 13.9.1 and 13.9.2 may, within fifteen days of the date of notice given pursuant to Section 13.9.2, request the Court for exclusive recognition accompanied by, or in the form of, a petition indicating at least one-quarter of the employees within the proposed or existing representation unit desire the petitioning organization to be their sole representative, or said request may, in the alternative, be accompanied by a showing that, as of the last regular payroll, at least 50% of the employees within the representation unit have executed dues deduction authorizations in favor of the employee organization requesting exclusive recognition.

13.9.4 Request for No Exclusive Recognition

Other employees within a proposed or existing representation unit for which a request for exclusive recognition has been submitted and verified may, within fifteen days following notice that a request for exclusive recognition has been submitted and verified, submit a petition on their own indicating that at least one-quarter of the employees within such unit desire not to be represented by an exclusively recognized employee organization.

13.9.5 Action by Director

In the event that a request for exclusive recognition is accompanied or in the form of a petition executed by over 50% of the employees within the proposed or existing representation unit and no challenging petition is filed within fifteen days following the date of notice, the Director, in his or her discretion, shall either 1) cause a secret election to be conducted as provided in Section 13.9.6 hereof or 2) refer the petition to the Court for certification of the petitioning employee organization as the exclusively recognized employee organization for the proposed or existing representation unit.

13.9.6 Secret Election

Except when exclusive recognition has been extended by the Court as provided in Section 13.9.5 hereof, the Director, upon verifying all petitions or showings of dues deduction authorizations, shall cause a secret election to be conducted or supervised by an agency independent of the Court wherein the employees of the representation unit shall be given the opportunity to choose among the petitioning recognized employee organizations and no exclusively recognized organization (whether or not a petition for non-recognition has been submitted pursuant to Section 13.9.4 above). Employees within the representation unit on the payroll immediately preceding the election shall be entitled to vote.

The Court shall certify as the exclusively recognized employee organization that organization, if any, receiving a majority of ballots cast in the secret election. In the event that a majority of the ballots cast is for no exclusively recognized organization, the Court shall certify that no recognized employee organization exclusively represents the employees within the representation unit. If none of the choices on the ballot receives a majority of the ballots cast, a run-off election shall be held between the choices receiving the two highest number of votes. In the case of a run-off, the Court shall certify as the exclusively recognized employee organization for the representation unit the choice receiving the most votes in the run-off election, or, if the majority of votes is for no recognized employee organization, the Court shall certify that no recognized employee organization exclusively represents the employees within

the representation unit. For any election to be valid, at least 50% of the eligible voters must vote.

13.9.7 Requests For Change In No Exclusive Recognition

Requests for certification as an exclusively recognized employee organization may be submitted not sooner than 12 months following a certification that the representation unit shall not be represented by a recognized employee organization.

13.9.8 Requests For Revocation of Exclusive Recognition

A request for revocation of recognition as an exclusively recognized employee organization, or for the certification of another recognized employee organization as the exclusively recognized employee organization, must be accompanied by or in the form of a petition executed by at least one-third of the employees within the representation unit. The Court may also initiate a revocation proceeding where, because of substantial changes in Court functions, organizational structure, or job classifications within the representation unit, it appears that the exclusively recognized employee organization no longer retains significant support among employees within the representation unit. No revocation petition under this Section shall be filed earlier than 12 months following certification of the exclusively recognized employee organization. The provisions of Sections 13.9.2, 13.9.3 and 13.9.4 shall apply to a proceeding under this Section. The Director shall cause a secret election to be conducted or supervised by an agency independent of the Court wherein the employees within the representation unit on the payroll immediately preceding the election shall be entitled to vote. Exclusive recognition of a recognized employee organization shall be revoked or changed by the Court only if a majority of those casting valid ballots in an election vote for revocation or change.

13.9.9 Petition Signatures

The signatures contained on the petition to establish a representation unit must be dated no earlier than six months prior to the date of submission of the petition.

13.9.10 Eligible Employees

For the purposes of this Section, only regular full-time and regular part-time, and probationary, employees shall be eligible to sign representation petitions or to vote in representation elections. When dues deduction authorizations are submitted as the showing of employee interest, only the dues deduction authorizations of such employees will be considered.

13.10 MEETINGS

13.10.1 On Matters Within Scope of Representation

The designated representative of the Court shall meet and confer with representatives of recognized employee organizations or, where there is an exclusively recognized employee organization, with representatives of said organization, on matters within the scope of representation.

13.10.2 Time of Meeting on Salaries

The Court agrees to commence the meet and confer process sufficiently in advance of the date of expiration of the Memorandum of Understanding such that the process can be concluded by the date of expiration of the existing MOU.

13.10.3 Requests to Meet

Recognized employee organizations or, where there is an exclusively recognized employee organization, said organization, and the Court shall make timely requests in writing to meet with designated representatives, including therein a list of the matters to be discussed.

13.10.4 Meetings At Court Facilities

All meetings shall occur at court facilities, unless otherwise mutually agreed.

13.10.5 Joint Meetings

If the subject of a meeting affects more than one representation unit, the designated representative of the Court may require a joint meeting with some or all of the recognized employee organizations affected.

13.10.6 Memorandum of Understanding

If agreement is reached between the designated representative of the Court and a recognized employee organization, they shall jointly prepare and sign a written memorandum of such understanding, which shall not be binding. The memorandum shall then be presented to the Court for determination.

13.10.7 Employee Time Off To Meet

Unless otherwise mutually agreed between the designated representative of the Court and the recognized employee organization(s), no more than one court employee, from each bargaining unit of such recognized employee organization, shall be granted reasonable time off without loss of compensation or other benefits when formally meeting and conferring with the designated representative of the Court on matters within the scope of representation.

13.10.8 Requests For Time Off

Timely requests in writing for reasonable time off for the purpose of Section 13.10.7 shall be submitted to the Court Executive Officer or his or her designated representative. Such requests shall include:

- (a) The name of the employee;
- (b) The name of the organization represented; and
- (c) The time, place, nature and estimated duration of the meeting.

Any such request may be denied by the Court Executive Officer or designee on the basis of an operational emergency, the existence of which shall be reported by the Court Executive Officer

to the designated representative of the Court, who shall then contact the representative of the recognized employee organization(s), so that the meeting may be rescheduled, if the recognized employee organization(s) so desires.

13.10.9 Mediation

If, after meeting and conferring for a reasonable period of time, representatives of the Court and the recognized employee organization(s) or, if there is an exclusively recognized employee organization, said exclusively recognized organization, fail to reach agreement, the Court and the recognized employee organization(s) or, if there is an exclusively recognized employee organization, said exclusively recognized organization, may agree upon the appointment of a mediator mutually agreeable to the parties. Costs of mediation shall be divided one-half to the Court and one-half to the recognized employee organization(s) or, if there is an exclusively recognized employee organization, said exclusively recognized organization.

13.11 USE OF COURT FACILITIES

13.11.1 Bulletin Boards

Reasonable space shall be allowed on bulletin boards as specified by the Court Executive Officer for use by employees and recognized employee organizations to communicate with court employees. Material shall be posted upon the bulletin board space as designated and not upon walls, doors, file cabinets or any other place. Posted material shall not be obscene, defamatory or of a partisan political nature, nor shall it pertain to public issues which do not involve the Court or its relations with court employees. All posted material shall bear the identity of the sponsor, shall be neatly displayed, and shall be removed when no longer timely.

13.11.2 Court Facilities

Court facilities may be made available upon timely application for use by employees and recognized employee organizations. Such use shall not occur during regular office hours, other than the lunch period. Application for such use shall be made to the management person under whose control the facility is placed.

13.12 ACCESS TO EMPLOYEES DURING WORKING HOURS

13.12.1 Contact In Court Facilities

Any authorized representative of a recognized employee organization shall have the right to contact individual employees working within the representation unit represented by his or her employee organization in Court facilities during business hours on matters within the scope of representation providing prior arrangements have been made for each such contact with the Court Executive Officer or his or her designated representative, who shall grant permission for such contact if, in his or her judgment, it will not disrupt the business of the unit involved. When contact in Court facilities during business hours is precluded by confidentiality of records, or of work situation, health and safety of employees or the public, or by disturbance to others, the Court Executive Officer or his or her representative shall have the right to make other arrangements for a contact location removed from the work area.

13.12.2 Group Meetings

Meetings of a representative of a recognized employee organization and a group of employees shall not be permitted during working hours. The Court Executive Officer or his or her designated representative may, upon timely application, allow meetings of a representative of a recognized employee organization and a group of employees during the lunch period in Court facilities and at convenient dates.

13.12.3 Internal Business

No contacts shall be permitted during working hours with employees regarding membership, collection of monies, election of officers, or other similar internal employee organization business.

13.12.4 Court Activities

Unless otherwise agreed, employees or representatives of recognized employee organizations shall not be permitted to attend meetings or conferences called by court personnel to attend to matters arising out of the normal course of court activities.

13.13 CONSTRUCTION OF RULES

13.13.1 Preservation of Rights

Nothing in this Chapter shall be construed to deny any person, organization, or employee any rights granted by federal, state, or local law.

13.13.2 Consistent With Article 3 of the Trial Court Employment Protection and Governance Act

The provisions of this Chapter are intended to be consistent with the provisions of Government Code section 71630 – 71639 and any interpretation of these provisions should consider the relevant provisions of the Government Code.

13.13.3 Validity

If any provision of this Chapter or the application of such provision to any person, organization, employee or circumstance shall be held to be invalid, the remainder of this Chapter or the application of such provision to persons, organizations, employees, or circumstances other than those being held invalid shall not be affected thereby.

13.13.4 Amendments

It is recognized that the provisions of this Chapter may require amendments from time to time. The Court, or its representative, shall consult with recognized employee organizations, or if there is an exclusively recognized employee organization, only with said organization for the represented organization unit, prior to enacting any such amendments.

13.14 ENFORCEMENT OF VIOLATIONS OF GOVERNMENT CODE SECTIONS 71630 - 71639

13.14.1 Written Notice

Prior to commencing any enforcement writ pursuant to Government Code section 71639.1, as amended, the aggrieved party must serve written notice on the responding party, setting forth the provision(s) of the Government Code alleged to have been violated and fully setting forth

the nature of the alleged violation. Such written notice must be served within 15 days from the date the aggrieved party knew or should have known of the alleged violation. The responding party shall respond to the allegation(s) in writing within 15 days.

13.14.2 Mediation

If the aggrieved party is not satisfied with the response, it shall, within 5 days of its receipt of the response, request in writing a meeting between the parties to explore resolution of the dispute. If the matter is not resolved at this meeting, the aggrieved party shall, within 5 days of the meeting, request in writing that the matter be submitted to mediation.

The parties may either jointly agree on the appointment of a neutral third party to serve as a mediator for the dispute or request that the State Mediation and Conciliation Service appoint a mediator. The costs of the mediation, if any, shall be split evenly between the parties.