



● **Board of Directors**  
***Organization and Personnel Committee***

9/14/2010 Board Meeting

**8-9**

**Subject**

Approve amendments updating Division VI, Chapter 1, "Employee Relations," of the Metropolitan Water District Administrative Code

**Description**

This letter proposes amendments updating Metropolitan's Administrative Code chapter on employee relations. The purpose of Metropolitan's employee relations policy is to establish the terms, conditions, and guidelines for labor relations between Metropolitan and its employees.

The Meyers-Miliias-Brown Act (MMBA) was enacted to promote full communication and improve relations between public employers and their employees. The MMBA provides methods to resolve issues regarding conditions of employment and sets procedures for recognition of labor organizations. The MMBA permits a local agency to adopt rules and regulations for the administration of employer-employee relations, but these rules must conform to the overall purpose of the MMBA. The MMBA provides that the Public Employment Relations Board ("PERB") has the authority to adopt rules to apply in areas where a public agency has no rule.

Metropolitan has an existing Administrative Code Chapter entitled Employee Relations (Division VI, Chapter 1), which sets forth the procedures for the creation of bargaining units, the decertification process, negotiation impasse procedures, and other rules and procedures related to management and bargaining unit relations. However, due to changes in the MMBA over time, conforming changes are needed to Metropolitan's Administrative Code.

Human Resources and the Legal Department prepared the updated employee relations chapter by relying on a comprehensive sample Employer-Employee Relations Resolution that is widely utilized by California's local agencies. The sample was developed by the law firm of Liebert Cassidy Whitmore, and the League of California Cities has recommended its member agencies adopt this sample resolution.

A draft of the updated chapter was provided to each bargaining unit, and staff met with the bargaining units before finalizing the updated chapter. A copy of the final version of the updated chapter has been provided to all bargaining units.

The proposed updated employee relations chapter accomplishes several items:

1. Updates definitions and clarifies timeframes to follow.
2. Clarifies the impasse procedure, although the process is essentially the same as the current language.
3. Clarifies the process for recognition of a bargaining unit and decertification procedures.
4. Updates various sections to meet current law.

There is no impact to any Memorandum of Understanding nor any employee benefits through the adoption of the updated chapter. With the adoption of an up-to-date employee relations chapter, Metropolitan can avoid ambiguities in our processes and follow best practices.

**Attachment 1** contains the proposed amendments with the changes shown in underline and strikeout format. **Attachment 2** shows the revised Administrative Code sections with these amendments.

**Policy**

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Metropolitan Water District Administrative Code Section 2481(c): Duties and Functions of the Organization and Personnel Committee

**California Environmental Quality Act (CEQA)**

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CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

**Board Options**

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**Option #1**

Adopt the CEQA determination and approve amendments to the Administrative Code set forth in [Attachment 2](#) to reflect the changes recommended in this letter.

**Fiscal Impact:** None

**Business Analysis:** Update Employee Relations provisions

**Option #2**

Do not approve amendments to the Administrative Code set forth in [Attachment 2](#)

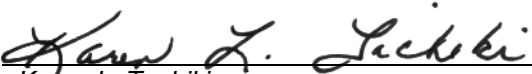
**Fiscal Impact:** None

**Business Analysis:** Update Employee Relations provisions

**Staff Recommendation**

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Option #1

  
\_\_\_\_\_  
Karen L. Tachiki  
General Counsel

9/8/2010  
Date

  
\_\_\_\_\_  
Jeffrey Lightlinger  
General Manager

9/8/2010  
Date

**Attachment 1 – The Administrative Code of The Metropolitan Water District of Southern California (showing additions and deletions)**

**Attachment 2 – The Administrative Code of The Metropolitan Water District of Southern California (changed provisions only)**

**Division VI**

**PERSONNEL MATTERS**

Chapter	Sec.
1 Employee Relations	6100
2 Personnel Regulations	6200
3 General Employee Matters	6300
4 Officers	6400
5 Management and Confidential Employees - General	6500
[6 Repealed	6600]
7 Employee Deferred Compensation and Savings Plans	6700

**Chapter 1**

**EMPLOYEE RELATIONS**

As with the Sample Resolution, proposed Chapter 1 will be organized into the following five articles. [The “Sample Resolution” refers to a document issued by the League of California Cities and the law firm of Liebert Cassidy Whitmore entitled “*Sample Employer-Employee Organization Relations Resolution.*” The Sample Resolution was issued to provide guidance to local agencies, like Metropolitan, who in 2001 were brought under the jurisdiction of the Public Employment Relations Board pursuant to newly adopted legislation. (Senate Bill 739, Chapter 901, Statutes of 2000, effective July 1, 2001.)]

<u>Article</u>	<u>Sec.</u>
<u>1 General Provisions</u>	<u>6100</u>
<u>2 Representation Proceedings</u>	<u>6105</u>
<u>3 Administration</u>	<u>6300</u>
<u>4 Impasse Procedures</u>	<u>6400</u>
<u>5 Miscellaneous Provisions</u>	<u>6500</u>

**Article 1**

**GENERAL PROVISIONS**

- Sec.  
 6100. Statement of Purpose  
 6101. Definitions  
 6102. Employee Rights

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

- 6103. District Rights
- 6104. Advance Notice to Employee Organizations
- ~~6105. Petitions for Recognition~~
- ~~6106. Appropriate Units~~
- ~~6107. Certification Elections~~
- ~~6108. Certification of Employee Organizations~~
- ~~6109. Decertification of Recognized Employee Organization~~
- ~~6110. Meeting and Conferring in Good Faith~~
- ~~6111. Resolution of Impasses~~
- ~~6112. Use of District Facilities~~
- ~~6113. Unfair Employer Practices~~
- ~~6114. Unfair Employee Practices~~
- ~~6115. Time Allowed for Employee Organization Activities~~
- ~~6116. Authority~~
- ~~6117. Construction~~
- ~~6118. Interpretation and Administration~~
- ~~6119. Separability~~

#### § 6100. Statement of Purpose.

The same title and section number are maintained, but the current language is replaced by new language, which is an abridged version of language found in Section 1 of the Sample Resolution.

~~It is the purpose of this chapter to establish policies and procedures (a) for the administration of employer-employee relations by the District (b) for recognition of employee organizations and (c) for the resolution of disputes regarding wages, hours and other terms and conditions of employment.~~

This Chapter implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 *et seq.*) known as the “Meyers-Milias-Brown Act,” by providing orderly procedures for the administration of employer-employee relations between the District and its employee organizations. This Chapter is intended to strengthen the method of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the District. It is the purpose of this Chapter to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations regarding matters that directly and significantly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units. However, nothing herein shall be construed to restrict the District rights identified in this Chapter.

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

Section 430.1 based on Res. 7525 - August 14, 1973. Section 430.1 repealed and Section 6100 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

### § 6101. Definitions.

The same title and section number are maintained, but numerous edits are made to existing language based on language found in Section 2 of the Sample Resolution.

The words and terms defined in this section shall have the following meanings throughout this ~~Article 1~~ Chapter. Any term not defined herein, which is defined in Sections 3500 to 3510, inclusive, of the California Government Code, or which is defined in this Administrative Code shall have the meaning therein.

(a) ~~“Appropriate Unit”~~: ~~-A group of employees comprising an identifiable block with community of interest and meeting other criteria outlined in Section 6106, as determined by the Employee Relations Officer~~ means a unit established pursuant to Article 2 of this Chapter.

(b) ~~“Confidential Employee”~~: ~~- Any~~ means an employee who, ~~is privy to in the course of his or her duties, has access to confidential information relating to the~~ decisions of District management affecting employer-employee relations, ~~as designated by the Employee Relations Officer.~~

(c) ~~“Consult/Consultation in Good Faith”~~: ~~-To communicate orally or in writing for the purpose of presenting or obtaining views or advising of intended action~~ means to communicate orally or in writing with all affected employee organizations, whether exclusively or not, for the purpose of presenting and/or obtaining views or advising of intended actions in good faith effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposals with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article 4 hereof.

~~(d) “Day” – means calendar day unless expressly stated otherwise.~~

~~(de) “District”~~: ~~- means~~ The Metropolitan Water District of Southern California, ~~the Board of Directors, or any duly authorized representative.~~

~~(ef) “Employee Relations Officer”~~: ~~-The General Manager or his authorized representative~~ means the Manager of the Employee Relations Section of the Human Resources Group.

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(g) “Exclusively Recognized Employee Organization” – means an employee organization which has been formally acknowledged by the District as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article 2 hereof, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees.

(h) “Impasse”- After reasonable attempts at agreement, a deadlock in the meet and confer process between the Employee Relations Officer and representatives of recognized employee organizations on matters within the scope of representation means that the representatives of the District and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on unresolved matters to be included in a Memorandum of Understanding, on which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

(i) “Management Employee”- Any means an employee having significant responsibilities responsibility for formulating, and administering or managing the implementation of the District’s policies and programs, including executive officers, their principal assistants and other officers, as defined and listed in the Metropolitan Water District Code, and group, section and unit managers designated by Executive Officers.

(j) “Mediation”- Efforts means the efforts by an impartial third party or person to assist as an intermediary between the Employee Relations Officer and representatives of a Recognized Employee Organization, through interpretation, suggestion and advice, in reaching a voluntary resolution to an impasse. Nothing contained herein shall preclude said mediator from making recommendations to the interested parties.

(k) “Meet and Confer in Good Faith”- The mutual obligation of the Employee Relations Officer and representatives of recognized employee organizations personally to meet to exchange freely information, opinions and proposals, and to endeavor to reach agreement on matters within the scope of representation requiring action by the Board (sometimes referred to herein as “meet and confer” or “meeting and conferring”) means performance by duly authorized District representatives and duly authorized representatives of an employee organization recognized as the majority representative of their mutual obligation to meet at reasonable times and to confer in good faith regarding matters within the scope of representation, including wages, hours, and other terms and conditions of employment, in an effort to: (1) reach agreement on those matters within the authority of such representatives and (2) reach agreement on what will be recommend to the Board of Directors on those matters within the decision making authority of the Board of Directors. This does not require either party to agree to a proposal or to make a concession, or to continue to negotiate when either party declares an impasse.

(l) “Memorandum of Agreement”- A means a written memorandum incorporating agreements reached through negotiation on matters within the jurisdiction of the General

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Manager, and signed by the General Manager and a duly authorized representative of a recognized employee organization.

(km) “Memorandum of Understanding”: — A means a written document, signed by the General Manager and a duly authorized representative of a RRecognized eEmployee oOrganization, incorporating agreement between the General Manager and representatives of a RRecognized eEmployee oOrganizations whereby the General Manager binds himself to recommend to the Board of Directors action on matters within the scope of representation.

(ln) “Negotiation”: — Th means the act of meeting and discussing issues or proposals by the Employee Relations Officer and representatives of a RRecognized eEmployee oOrganizations with the purpose of reaching binding agreement concerning matters within the jurisdiction of the General Manager; such discussions leading to preparation of written memoranda of agreement which are to be binding upon both parties.

(mo) “Professional Employee”: — Any means any employee engaged in work requiring specialized knowledge and skills normally attained through completion of a recognized course of instruction, including, but not limited to, accountants, - architects, attorneys, chemists, engineers, geologists, and various types of physical, chemical and biological scientists.

~~(n) Proposed Unit. — A group of employees seeking to be qualified as an appropriate unit.~~

~~(p) “Proof of Employee Support” – means (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words “recently signed” shall mean within six (6) months prior to the filing of a petition.~~

~~(o) Recognized Employee Organization. — An employee organization certified in accordance with Section 6108 as exclusive majority representative of an appropriate unit.~~

(pq) “Scope of Representation”: — All means all matters relating to employment conditions and employer-employee relations including, but not limited to, wages, hours and other terms and conditions of employment; except that consideration of the merits, necessity, or organization of any service or activity required by law or executive order shall be excluded from the scope of representation; and except that employee rights, as described in Section 6102, and District rights as described in Section 6103, shall be excluded from the scope of representation.

(qr) “Supervisory Employee”: — Any means any employee having authority ~~to exercise independent judgment in the interest of the District~~ to hire, assign, transfer, promote, demote, ~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

suspend, discharge, reward or discipline other employees, or having the responsibility to direct them or to adjust their grievances, or effectively to recommend such action in connection with the foregoing, when the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Section 430.2 based on Res. 7525 - August 14, 1973; amended by M.I. 32690 - April 10, 1979. Section 430.2 repealed and Section 6101 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraphs (e) and (g) amended by M.I. 45943 - October 12, 2004.

### § 6102. Employee Rights.

There is no change in title, section number or text.  
This language is not found in the Sample Resolution.

Employees of the District 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 matters of employer-employee relations including wages, hours and other terms and conditions of employment. Employees of the District also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the District, but may not enter into any arrangements that are contrary to, modify or abridge any understanding reached between the District and the employee organization certified as exclusive representative for the unit in which the individual is included. Neither the District nor any employee organization shall interfere with, intimidate, restrain, coerce or discriminate against any District employee because of his exercise of these rights.

Section 430.3 based on Res. 7525 - August 14, 1973. Section 430.3 repealed and Section 6102 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

### § 6103. District Rights.

There is no change in title, section number or text. Some of the language is found in Section 1 of the Sample Resolution.

The rights of the District shall include, but are not limited to, the exclusive right to determine the mission of its constituent departments; set standards of service; determine the procedures and standards of selection for employment, promotion and transfer; direct its employees; take disciplinary action for proper cause; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of District operations; determine the methods, means and personnel by which District operations are to be conducted; determine the content of job descriptions and specifications; take all necessary action to carry out its mission in emergencies; and exercise complete control and discretion over its organization

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and the technology of performing its work; provided, however, that the exercise of such rights does not preclude employees or their representatives from consulting with the Employee Relations Officer about the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment.

Section 430.4 based on Res. 7525 - August 14, 1973. Section 430.4 repealed and Section 6103 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

**§ 6104. Advance Notice to Employee Organizations.**

There is no change in title or section number, but a minor edit is recommended, i.e., eliminating the word “rule” in two locations. This edit eliminates an ambiguity, since the Board and General Manager do not adopt District-wide “rules” labeled as such.

(a) Except in case of emergency, reasonable written notice shall be given to each ~~r~~Recognized ~~e~~Employee ~~o~~Organization affected by any ordinance, resolution, ~~r~~ule-or regulation, or any change in any existing ordinance, resolution, ~~r~~ule-or regulation, relating to matters within the scope of representation that is proposed to be adopted by the Board of Directors or the General Manager. Each such employee organization shall be given the opportunity to meet with the Employee Relations Officer prior to adoption of such ordinance, resolution, ~~r~~ule-or regulation, or adoption of such change in any existing ordinance, resolution, ~~r~~ule-or regulation.

(b) In case of emergency, when an ordinance, resolution, ~~r~~ule-or regulation, or a change in any existing ordinance, resolution, ~~r~~ule-or regulation, must be adopted immediately and without prior notice, ~~r~~Recognized ~~e~~Employee ~~o~~Organizations affected shall be given notice by and opportunity to meet with the Employee Relations Officer at the earliest practicable time following adoption of such ordinance, resolution, ~~r~~ule-or regulation, or such change in any existing ordinance, resolution, ~~r~~ule-or regulation.

Section 430.5 based on Res. 7525 - August 14, 1973. Section 430.5 repealed and Section 6104 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

**Article 2**

**REPRESENTATION PROCEEDINGS**

Sec.

6105. Filing of Recognition Petition by Employee Organization

6106. District Response to Recognition Petition

6107. Open Period for Filing Challenging Petition

6108. Election Procedure

6109. Procedure for Decertification of Exclusively Recognized Employee Organization

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

6110. Policy and Standards for Determination of Appropriate Units

6111. Procedure for Modification of Established Appropriate Units

6112. Procedure for Processing Severance Requests

6113. Appeals

**§ 6105. Filing of Recognition Petitions for Recognition by Employee Organization.**

The title is changed to *Filing of Recognition Petition by Employee Organization*. Numerous edits are made to existing language based on language found in Section 3 of the Sample Resolution. One key change is that under the proposed language there must be support from a majority of the employees in the proposed unit in order for the petition to be valid. Under the current language, that number is 30 percent.

(a) An employee organization that seeks to be ~~certified~~formally acknowledged as an ~~exclusively #Recognized eEmployee eOrganization~~ representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer ~~a petition for recognition together with~~ containing the following information and documentation:

\_\_\_\_\_ (a1) The name and address of the employee organization.

\_\_\_\_\_ (b2) The names and titles of its officers.

\_\_\_\_\_ (c3) ~~The objectives of the organization~~ A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the District.

\_\_\_\_\_ (d4) ~~The charter, constitution and by-laws, if existing, of the organization~~ Certified copies of the employee organization's constitution and, if existing, by-laws.

\_\_\_\_\_ (e5) The names of ~~person~~employee organization representatives who are authorized to ~~represent the organization, and the extent of the authority of each of such representatives to speak~~ on behalf of its members for or to bind the organization.

\_\_\_\_\_ (6) A designation of those persons, not exceeding two in number, and their addresses, to whom notices sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.

\_\_\_\_\_ (f7) A statement whether the employee organization is a chapter or local of or affiliated directly or ~~directly~~ indirectly in any manner with a regional, state, national or international organization and, if so, the name and address of each such organization.

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\_\_\_\_\_ (g8) A statement that the organization has no restriction on membership based upon race, color, creed, sex, national origin, age, ancestry, marital status, physical handicap (as defined in subdivision (b) of Section 6305), or medical condition (as defined in subdivision (a) of Section 6305), sex (gender or pregnancy), creed, national origin, color, disability (physical or mental), protected veteran status, religion, age, health impairment related to or associated with a diagnosis of cancer, genetic characteristics or information, marital status, ancestry, sexual orientation, or other characteristic protected by law.

\_\_\_\_\_ (h9) A list of the job classifications included in the proposed unit represented by the employee organization. The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of proposed member employees therein.

\_\_\_\_\_ (i10) A petition signed by a minimum of 30 percent of the employees holding the job classifications included in the proposed unit. A statement that the employee organization has in its possession Proof of Employee Support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the District. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.

\_\_\_\_\_ (11) A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

\_\_\_\_\_ (b) The petition, including the Proof of Employee Support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

Section 430.6 based on Res. 7525 - August 14, 1973; paragraph (g) [formerly Section 430.6.7] amended by M.I. 35592 - April 9, 1985. Section 430.6 repealed and Section 6105 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

**§ 6106. Appropriate Units District Response to Recognition Petition.**

*Current Section 6106:* The key aspect of the subject-matter of this section, identifying the standards for an appropriate unit, is moved to Section 6110, and the title is changed to *Policy and Standards for Determination of Appropriate Units*. The proposed Section 6110 entirely incorporates Section 8 of the Sample Resolution.

*Proposed Section 6106:* This section incorporates portions of current Sections 6106 and 6107 regarding notification on whether a proposed unit qualifies as an appropriate unit.

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~~(a) Determination of Appropriate Unit.—The Employee Relations Officer, immediately following receipt of a petition for recognition, shall post notice of a meeting in major locations throughout the District. No less than 10 calendar days advance notice shall be given of the meeting date and time. The notice shall include the name of the petitioning organization and a description of the proposed unit. All interested employee organizations will be invited to present their positions on the appropriateness of the proposed unit. The procedures for such meetings shall be as determined by the General Manager. In making the determination that the unit is appropriate, not appropriate or that another unit is more appropriate, the Employee Relations Officer shall consider the following criteria~~ Upon receipt of the petition, the Employee Relations Officer shall determine whether:

~~(1) Whether there is a community of interest among the employees. Such community shall be determined from, among other factors, the extent to which the employees have common classifications, job families, skills, training, working conditions, job duties, educational requirements, and whether the employees are part of an integrated work process or contribute to a continuous work flow~~ There has been compliance with the requirements of the recognition petition, and-

~~(2) The history of employee representation in the proposed unit, among other employees of the District, and in similar employment in other agencies and firms~~ The proposed representation unit is an appropriate unit in accordance with Section 6110 of this Article 2.

~~\_\_\_\_\_ (3) The effect of the proposed unit on the efficient operation of the District and sound employee relations.~~

~~\_\_\_\_\_ (4) The right of professional employees to be represented separately from nonprofessional employees.~~

~~(b) Adverse Determination.—In the event the Employee Relations Officer determines that a proposed unit does not qualify as an appropriate unit, the authorized representatives of the employee organization seeking to be recognized as the organization representing the proposed unit may appeal to the Operations and Personnel Committee to make final determination of appropriateness of the unit~~ If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section 6113 of this Chapter.

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~~———— (c) Limitations.~~

~~———— (1) No proposed unit shall qualify as an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.~~

~~———— (2) Management and confidential employees may be excluded by the Employee Relations Officer from a unit including non-management and non-confidential employees.~~

~~———— (3) No job classification and no employee shall be included in more than one appropriate unit.~~

~~———— (4) Supervisory employees may be excluded by the Employee Relations Officer from a unit including nonsupervisory employees when the supervisory employee has charge of a remote facility or is himself subject to limited supervision.~~

~~———— (d) New Classifications. —When the District establishes a new job classification, the Employee Relations Officer shall determine whether the new classification is managerial, confidential, supervisory, or nonsupervisory and to which, if any, appropriate unit the classification is to be assigned.~~

Section 430.7 based on Res. 7525 - August 14, 1973; paragraph (c)(2) [formerly Section 430.7.3.2] amended by M.I. 34309 - July 13, 1982. Section 430.7 repealed and Section 6106 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraphs (a) and (b) amended by M. I. 44582 – August 20, 2001; paragraph (b) amended by M. I. 46064 – January 11, 2005; paragraph (b) amended by M.I. 46983 - February 13, 2007; paragraph (b) amended by M.I. 48081 – November 10, 2009.

**§ 6107. ~~Certification Elections~~ Open Period for Filing Challenging Petition.**

The subject-matter of this section, addressing elections, is moved to Section 6108, and the title is changed to *Election Procedure*. The proposed Section 6108 entirely incorporates Section 5 of the Sample Resolution. The portion of current Section 6107 addressing Challenging Petitions for Recognition remains, but the language is replaced by language taken from Section 5 of the Sample Resolution. The proposed language lengthens the time period for filing a challenging petition from 15 to 30 days.

~~———— (a) When it has been determined that a proposed unit qualifies as an appropriate unit, the Employee Relations Officer shall arrange for a secret ballot election to determine whether or by which employee organization, employees of the appropriate unit desire to be represented.~~

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~~———— (b) ——— The Employee Relations Officer shall post an election notice giving no less than 30 days' notice to all employee organizations when the election will be held. The date of the election, a description of the appropriate unit and the name of the petitioning organization shall be included in the notice.~~

~~———— (c) Within 15 calendar days of the date of the notice given pursuant to Section 6107(b), employee organizations other than the petitioning organization may file challenging petitions for recognition. Such challenging petitions for recognition shall comply with the requirements of Section 6105, provided, however, that such other employee organizations shall be bound by the determination of appropriate unit made pursuant to the petition for recognition filed by the original petitioning organization.~~

~~———— (d) Employee organizations desirous of recognition shall bear the burden of encouraging employees to vote in elections. In any election, more than 50 percent of eligible employees must vote in order to qualify an employee organization for recognition. If this requirement is not met with the first election, a second election shall be held within 30 days following the first election. If less than 50 percent of eligible employees cast ballots in the second election, no organization will be recognized for the appropriate unit.~~

~~———— (e) The choice of "no organization" shall be included on all ballots. In case that 50 percent or more of the employees voting in the appropriate unit elect "no organization," no employee organization shall be certified to represent the employees of the appropriate unit.~~

~~———— (f) When less than 50 percent of the employees voting in the appropriate unit choose "no organization" and more than two employee organizations are on the ballot but no single organization receives the votes of more than 50 percent of the employees voting in the appropriate unit, a runoff election shall be held between the two organizations receiving the largest number of votes. Failure by an employee organization to secure the votes of more than 50 percent of the employees voting in the runoff shall result in a choice of "no organization" for that unit.~~

~~———— (g) The Employee Relations Officer shall conduct elections, including the gathering and counting of ballots and may prescribe election procedures as he deems necessary. Affected employee organizations shall be notified in writing of the results of the election. Affected employees shall be notified of the results of each election by notice in writing posted on District bulletin boards in the area of the appropriate unit.~~

~~———— (h) Except as provided in Section 6107(d) hereof, no more than one determination election shall be held in any appropriate unit in any twelve-month period.~~

~~Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed ("open period"), any other employee organization may file a competing request to be formally acknowledged as the Exclusively Recognized Employee Organization of the employees in the same or in an~~  
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overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing Proof of Employee Support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Section 6105 of this Article 2. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer 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 shall determine the appropriate unit or units in accordance with the standards in Section 6110 of this Article 2. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 6113 of this Article 2.

Section 430.8 based on Res. 7525 - August 14, 1973. Section 430.8 repealed and Section 6107 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

**§ 6108. ~~Certification of Employee Organizations~~Election Procedure.**

This section is renamed *Election Procedure*, and the new language is taken from Section 6 of the Sample Resolution. The portion of the current Section 6108 recognizing the four bargaining units as exclusive representatives is dropped, and thus will no longer be found in Chapter 1. Such recognition language, however, has been appropriately placed into the memorandum of understanding for each bargaining unit. With respect to the election procedure, the proposed procedure will rely on a third party to conduct the election, whereas under the current procedure the Employee Relations Officer conducts the election. Also, under the current regulation, at least 50% of the eligible voters must participate; there is no such requirement in the proposed procedure (although at least 50% of the voters must have previously signed the recognition petition under the proposed regulations).

~~(a) An employee organization receiving the valid votes of more than 50 percent of the employees voting in an appropriate unit and having met the requirement that at least 50 percent of eligible employees voted, as well as, all other conditions of this Article 1 shall be issued a certificate of recognition by the General Manager. Said certification shall grant the recognized employee organization the exclusive right to represent employees of the appropriate unit described therein, provided that no employee shall be denied the right to represent himself. The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of this Chapter. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article 2 shall be included on the ballot. The ballot shall also reserve to~~

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employees the choice of representing themselves individually in their employment relations with the District. 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 pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the District in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate 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 being applicable to a run-off election.

(b) ~~A certificate shall remain in effect for one year following the date of issuance and thereafter until the organization is decertified.~~ There shall be no more than one valid election under this Chapter pursuant to any petition in a twelve (12)-month period affecting the same unit.

~~—————(c) Recognition of District Employee Associations.—(1) The Employees Association of The Metropolitan Water District of Southern California shall be recognized as the employee organization that represents employees of the District within that unit in their employment relations. (2) The Supervisors Association of The Metropolitan Water District of Southern California shall be recognized as the employee organization that represents employees of the District within that unit in their employment relations. (3) The Management and Professional Employees Association of The Metropolitan Water District of Southern California shall be recognized as the employee organization that represents employees of the District within that unit in their employment relations. (4) The Association of Confidential Employees of The Metropolitan Water District of Southern California shall be recognized as the employee organization that represents employees of the District within that unit in their employment relations; (5) The Water Attorneys of The Metropolitan Water District of Southern California shall be recognized as the employee organization that represents employees of the District within that unit in their employment relations~~

(c) In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service.

(d) Costs of conducting elections shall be borne in equal shares by the District and by each employee organization appearing on the ballot.

Section 430.9 based on Res. 7525 - August 14, 1973. Section 430.9 repealed and Section 6108 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraph (c) amended by M.I. 38304 - June 12, 1990; paragraph (c)(2) amended and paragraph (c)(5) added by M. I. \_45943 – October 12, 2004.

**§ 6109. Procedure for Decertification of Exclusively Recognized Employee Organization.**

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~



The title is changed to *Procedure for Decertification of Exclusively Recognized Employee Organization*. The changes to Section 6109 incorporate Section 7 of the Sample Resolution, other than the time limits.

~~(a) After a recognized employee organization has been certified for not less than twelve months~~ A decertification petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer. A decertification petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

~~(1) Employees in the appropriate unit represented by the organization may request decertification of the organization by filing with the Employee Relations Officer a petition containing signatures of a minimum of 30 percent of the employees in that unit; or~~ The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.

~~(2) Another employee organization may file a petition for recognition in compliance with Section 6105~~ The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit.

~~(3) An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.~~

~~(4) Proof of Employee Support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.~~

~~(b) If the Employee Relations Officer determines that petition requirements have been met, he shall arrange for an election in accordance with Section 6107, with the exception that the recognized employee organization shall automatically be listed on the ballot without requirement of petition. Decertification of the recognized organization shall occur upon certification of the successor recognized employee organization, or in the event an election results in a choice of "no organization," upon determination of the results of said election~~ An employee organization may, in satisfaction of the decertification petition requirements hereunder, file a petition under this Section in the form of a recognition petition that evidences Proof of Employee Support of at least

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thirty (30) percent, that includes the allegation and information required under paragraph (a.) of this Section, and otherwise conforms to the requirements of Section 6105 of this Article.

(c) The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article 2. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 6113 of this Article 2. If the determination of the Employee Relations Officer is in the affirmative, or his/her negative determination is reversed on appeal, he/she shall give written notice of such decertification or recognition petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

(d) The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about twenty (20) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a recognition petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 6108 of this Article 2.

(e) The Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue and the reason for his/her belief. In such event any other employee organization may within fifteen (15) days of such notice file a recognition petition in accordance with this Section, which the Employee Relations Officer shall act on in accordance with this Section.

(f) If, pursuant to this Section, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

Section 430.10 based on Res. 7525 - August 14, 1973. Section 430.10 repealed and Section 6109 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

**§ 6110. Meeting and Conferring in Good Faith Policy and Standards for Determination of Appropriate Units.**

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

*Current Section 6110:* The subject-matter of this section, meeting and conferring in good faith, is dropped from proposed Chapter 1. Since Metropolitan is subject to PERB's jurisdiction, and since the MMBA does not require PERB to enforce local rules on meeting and conferring in good faith, there is no need for Metropolitan to address this subject in Chapter 1 because the relevant and enforceable rules, regulations and legal precedent lies with PERB. In other words, the enforceable obligation to meet and confer in good faith solely arises from state law under the MMBA, and not from local regulation.

*Proposed Section 6110:* Current Section 6106, *Appropriate Units*, is rewritten based on incorporating Section 8 of the Sample Resolution and becomes Section 6110. The title is changed to *Policy and Standards for Determination of Appropriate Units*.

(a) ~~The District, through the Employee Relations Officer, and representatives of recognized employee organizations promptly upon request by either party, shall meet and confer in good faith~~ The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the District and its compatibility with the primary responsibility of the District and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. 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:-

(1) Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

(2) History of representation in the District 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 in the proposed unit have organized.

(3) Consistency with the organizational patterns of the District.

(4) Effect of differing legally mandated impasse resolution procedures.

(5) Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.

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~~(6) Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.~~

~~(b) Neither the District nor representatives of any recognized employee organization shall be required to meet and confer in good faith. Notwithstanding the foregoing provisions of this Section, managerial, supervisory, professional, and/or confidential responsibilities, as defined in Section 6101 of this Chapter, are determining factors in establishing appropriate units hereunder. Managerial and confidential employees may not represent any employee organization which represents other employees.~~

~~(1) On any subject preempted by Federal or State law or by District ordinances.~~

~~(2) On employee or District rights as defined in Sections 6102 and 6103.~~

~~(3) On any subject with unrecognized employee organizations.~~

~~(4) On proposed amendments to Article 1 of Chapter 1, Division VI.~~

~~(c) Proposals by either recognized employee organizations or the Employee Relations Officer shall be submitted to the other party or parties sufficiently in advance of meeting and conferring to permit review and consideration.~~

~~(d) If two or more employee organizations have been recognized, meetings on matters affecting employees generally may be, and, if required by the Employee Relations Officer, shall be, held jointly with representatives of those recognized employee organizations representing affected employees.~~

~~(e) If agreement is reached by the parties, a written memorandum of understanding shall be prepared and signed by an authorized representative of the recognized employee organization and by the General Manager. The memorandum shall then be recommended by the General Manager to the Board of Directors for consideration.~~

~~(f) Except in case of emergency, as determined by mutual agreement between the General Manager and a recognized employee organization, memoranda of understanding relating to wages, salaries and economic benefits shall be submitted to the Board of Directors no more than once each calendar year. Memoranda of understanding pertaining to noneconomic matters may be submitted at the discretion of the General Manager.~~

Section 430.11 based on Res. 7525 - August 14, 1973. Section 430.11 repealed and Section 6110 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

**§ 6111. ~~Resolution of Impasses.~~Procedures for Modification of Established Appropriate Units.**

*Current Section 6111:* The subject-matter of this section, *Resolution of Impasses*, is rewritten and moved to Sections 6117 (*Initiation of Impasse Procedure*), Section 6118 (*Impasse Procedures*) and Section 6119 (*Costs of Impasse Procedures*). The proposed changes incorporate Sections 15, 16 and 17 of the Sample Resolution. These changes, however, do not substantially alter the impasse process at Metropolitan.

*Proposed Section 6106:* The proposed new section addresses a subject-matter, modifying existing bargaining units, which is not explicitly addressed by existing Code language.

~~(a) When an impasse occurs between the Employee Relations Officer and a recognized employee organization, either party may initiate the impasse procedure by filing with the other party or parties affected, a written request for an impasse meeting together with a statement of its position on all disputed issues. After the date of filing of the written request for such a meeting, the Employee Relations Officer shall schedule an impasse meeting with the General Manager, and send written notice to all affected parties. Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer. Such requests shall be submitted in the form of a recognition petition and, in addition to the requirements set forth in Section 6105 of this Article, 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 Section 6110 hereof. The Employee Relations Officer shall process such petitions as other recognition petitions under this Article 2.~~

~~(b) The Employee Relations Officer may by his/her own motion propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) and the reasons therefor to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 6110 of this Article 2, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 6113 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file recognition petitions seeking to become the Exclusively Recognized Employee Organization for such modified appropriate unit or units pursuant to Section 6105 hereof.~~

~~(1) To permit a review of the position of all parties in a final effort to reach agreement on the disputed issue, and~~

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~~(2) If agreement is not reached, to mutually select an impasse procedure described in Section 6111(e) hereof by which the dispute shall be resolved; in the absence of agreement between the parties on an impasse procedure, the matter shall be referred to the Organization and Personnel Committee which shall select an impasse procedure.~~

~~(c) The available impasse procedures are:~~

~~(1) Mediation as defined in Section 6101(h). The parties shall mutually select one mediator. In the event the parties are unable to agree on a mediator, the mediator shall be selected and furnished by the California State Mediation and Conciliation Service. All mediation proceedings shall be private. The mediator may make no public recommendations nor take any public position concerning the impasse. Fees and expenses of the mediator, if any, shall be payable one half by the District and one half by the recognized employee organization or organizations affected. Issues in which, in the opinion of the mediator or any party to the mediation, mediation has failed, shall be presented in writing to the Organization and Personnel Committee at its next regularly scheduled meeting following date of said written notice. Mediation may be considered to have failed by any party only after that party has given reasonable time and effort to the mediation proceeding. Upon presentation of said issue to the Organization and Personnel Committee, said committee shall proceed as in Section 6111(e)(2).~~

~~(2) Determination by the Organization and Personnel Committee of the Board of Directors, following a meeting at which all parties to the dispute shall have been represented, shall have heard testimony by other parties, and been given opportunity to rebut such testimony.~~

Section 430.12 based on Res. 7525 - August 14, 1973; paragraph (c)(1) [formerly Section 430.12.3.1] amended by M.I. 32690 - April 10, 1979. Section 430.12 repealed and Section 6111 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraphs (a), (b)(2), (c)(1), and (c)(2) amended by M.I. 44582 - August 20, 2001 paragraphs (b)(2), (c)(1) and (2) amended by M. I. 46064 - January 11, 2005; paragraphs (b)(2), (c)(1)(2) amended by M.I. 46983 - February 13, 2007; paragraph (b)(2) amended, paragraph (c)(1) and (2) amended by M.I. 48081 - November 10, 2009.

**§ 6112. ~~Use of District Facilities~~ Procedure for Processing Severance Requests.**

*Current Section 6112:* The subject-matter of this section is moved to Section 6115, and the title is changed to *Employee Organization Activities – Use of District Resources*. The proposed Section 6115 incorporates Section 13 of the Sample Resolution.

*Proposed Section 6112:* The proposed new section, taken from Section 10 of the Sample Resolution, addresses a subject-matter, a severance request, which is not explicitly addressed by existing Code language.

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~~————(a) No unrecognized employee organization shall use District facilities for organizing or any other purpose nor shall it interfere with District employees during their working hours except as provided in rules to be prescribed by the General Manager.~~

~~————(b) Subject to rules to be prescribed by the General Manager, District facilities may be used by recognized employee organizations for meetings.~~

~~————(c) Elections conducted under authority of Section 6107, may be held on District property during working hours.~~

~~————(d) Recognized employee organizations may use District bulletin boards subject to rules to be prescribed by the General Manager, provided such use does not interfere with the needs of the District. Any notice posted on behalf of a recognized employee organization shall be dated and signed by the authorized representative responsible for its issuance. Information posted by recognized employee organizations shall not contain anything which may reasonably be construed as maligning the District or any of its employees or agents.~~

~~————(e) Recognized employee organizations may have the regular organization dues of their members deducted from employees' paychecks so long as such deductions do not interfere with regular District payroll deductions and programs. Membership dues deductions may be made only upon receipt by the Employee Relations Officer of written authorization signed by the individual employee. It shall be the responsibility of the recognized employee organizations to ensure the proper preparation of such authorizations and to submit them to the Employee Relations Officer. Cancellation of dues deduction authorizations may be submitted to the Employee Relations Officer by the individual employee. The individual employee shall not be restricted from dual membership.~~

~~————(f) An employee shall be entitled to dues deduction only for the recognized employee organization which represents the employee's permanent classification in the appropriate unit of which he is a member. Temporary reclassifications for specified periods of time shall not affect rights to dues deduction.~~

An employee organization may file a request to become the Recognized Employee Organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another Recognized Employee Organization. The form and processing of such request shall be as specified in Section 6111 for modification requests.

Section 430.13 based on Res. 7525 - August 14, 1973; paragraph (e) [formerly Section 430.13.5.1] renumbered and amended and paragraph (f) [formerly Section 430.13.5.2] added by M.I. 35166 - June 12, 1984. Section 430.13 repealed and Section 6112 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraph (d) amended by M. I. 45943 – October 12, 2004.

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§ 6113. ~~Unfair Employer Practices~~Appeals.

*Current Section 6113:* The subject-matter of this section is dropped from the proposed Chapter 1. Since Metropolitan is subject to PERB's jurisdiction, and since the MMBA does not require PERB to enforce local rules establishing unfair employer practices, there is no need for Metropolitan to address this subject in Chapter 1 because the relevant and enforceable rules, regulations and legal precedent lie with PERB.

*Proposed Section 6113:* This language incorporates the appeal rights on unit determination contained in current Section 6106, but expands those appeal rights to cover challenging, decertification and unit modification petitions. The language for this section is taken from Section 11 of the Sample Resolution.

(a) ~~It shall be an unfair employer practice for the District through its supervisory or management employees: An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer; or an employee organization aggrieved by a determination of the Employee Relations Officer that a recognition petition (Section 6105), challenging petition (Section 6107), decertification petition (Section 6109), unit modification petition (Section 6111) --- or employees aggrieved by a determination of the Employee Relations Officer that a decertification petition (Section 6109) --- has not been filed in compliance with the applicable provisions of this Article, may, within twenty (20) days of notice of the Employee Relations Officer's final decision request to submit the matter to mediation by the State Mediation and Conciliation Service, or may, in lieu thereof or thereafter, appeal such determination to the Organization and Personnel Committee for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of mediation proceedings, whichever is later.~~

~~—————(1) To interfere with, restrain or coerce employees in the exercise of rights recognized or granted in this Article 1.~~

~~—————(2) To dominate or interfere with the formation of any employee organization or to encourage formation of or contribute financial support to it. As provided in other sections of this Article 1, however, it shall not be unfair employer practice for the District to provide meeting places, make dues deductions or permit time off without loss of pay for employee relations purposes.~~

~~—————(3) To refuse to meet and confer in good faith with properly designated representatives of recognized employee organizations on wages, hours and other terms and conditions of employment.~~

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~~\_\_\_\_\_ (4) To discriminate against employees or employee organizations for filing petitions, notices of grievance or participating in meetings under provisions of this Article 1.~~

~~\_\_\_\_\_ (5) To give preferential treatment to any recognized employee organization over another.~~

~~(b) When District management has engaged in a practice prohibited by this section, and said practice has not been corrected by the General Manager, the chief officer of the organization may notify the Chairman of the Organization and Personnel Committee and request corrective action by that committee Appeals to the Organization and Personnel Committee shall be filed in writing with the Board’s Executive Secretary, and a copy thereof served on the Employee Relations Officer. The Organization and Personnel Committee shall commence to consider the matter within thirty (30) days of the filing of the appeal. The Organization and Personnel Committee may, in its discretion, refer the dispute to a third party hearing process. Any decision of the Organization and Personnel Committee on the use of such procedures, and/or any decision of the Organization and Personnel Committee determining the substance of the dispute shall be final and binding.~~

Section 430.14 based on Res. 7525 - August 14, 1973. Section 430.14 repealed and Section 6113 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraph (b) amended by M.I. 44582 – August 2001; paragraph (b) amended by M.I. 46064 – January 11, 2005; amended by M.I. 46983 - February 13, 2007; paragraph (b) amended by M.I. 48081 – November 10, 2009.

**Article 3**

**ADMINISTRATION**

Sec.

6114. Submission of Current Information by Recognized Employee Organization

6115. Employee Organization Activities – Use of District Resources

6116. Administrative Rules and Procedures

**§ 6114. Unfair Employee Practices**Submission of Current Information by Recognized Employee Organization.

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

*Current Section 6114:* The subject-matter of this section is dropped from proposed Chapter 1. Since Metropolitan is subject to PERB’s jurisdiction, and since the MMBA does not require PERB to enforce local rules establishing unfair employee practices, there is no need for Metropolitan to address this subject in Chapter 1 because the relevant and enforceable rules, regulations and legal precedent lie with PERB.

*Proposed Section 6114:* This language incorporates the obligation placed on the bargaining units by current Section 6116(d)(2) to maintain current information on file with the Employee Relations Officer. This language is taken from Section 12 of the Sample Resolution.

- ~~———— (a) It shall be an unfair employee practice for any employee organization:~~
- ~~———— (1) To interfere with, restrain or coerce employees or the District in the exercise of rights recognized or granted in this Article 1.~~
- ~~———— (2) To refuse to meet and confer in good faith with the Employee Relations Officer on wages, hours and terms and conditions of employment.~~
- ~~———— (3) To refuse or deny equal representation to all members of the appropriate unit, regardless of their membership in the employee organization.~~
- ~~———— (b) Any employee organization failing to comply with these provisions may be decertified on a temporary or permanent basis by the General Manager, subject to subsequent appeal to the Organization and Personnel Committee said committee having final authority in such matters:~~
- ~~———— All changes in the information filed with the District by an Exclusively Recognized Employee Organization under items (1) through (8) of its recognition petition under Section 6105 of this Chapter shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.~~

Section 430.15 based on Res. 7525 - August 14, 1973. Section 430.15 repealed and Section 6114 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraph (b) amended by M. I. 44582 – August 20, 2001; paragraph (b) amended by M. I. \_46064 – January 11, 2005; paragraph (b) amended by M.I. 46983 - February 13, 2007; paragraph (b) amended by M.I. 48081 – November 10, 2009.

**§ 6115. ~~Time Allowed for Employee Organization Activities~~ Employee Organization Activities – Use of District Resources.**

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

The title is changed to *Employee Organization Activities – Use of District Resources*. The proposed Section 6115 incorporates most of Section 13 of the Sample Resolution. The proposed language does a better job of identifying the practical restrictions placed by law on using District-paid time for union activities.

~~————(a) Reasonable time off without loss of pay shall be granted to employees serving as authorized representatives of recognized employee organizations when formally meeting and conferring in good faith, negotiating, or consulting during regular working hours with management representatives on matters within the scope of representation, or while engaged in the resolution of impasses. The number of such employees authorized such time off shall be as determined by the General Manager.~~

~~————(b) Employees engaged in the presentation of grievances, in voting in authorized employee organization elections, and in impasse meetings shall be allowed time off for such purposes without loss of pay.~~

~~————(c) The General Manager may promulgate regulations providing for use of and conditions of use of District facilities, time, equipment and supplies by officers and members of employee organizations for organization business. The regulations shall include provision for such reasonable time off without loss of pay as is deemed to be in the best interest of the District. Such time off shall be considered to be working time.~~

Access to District work locations and use of District paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memorandum of Understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of this Chapter that pertain directly to the employer-employee relationship and not such internal employee organization business such as soliciting membership and campaigning for office, and shall not interfere with the efficiency, safety and security of District operations.

Section 430.16 based on Res. 7525 - August 14, 1973; paragraph (c) [formerly Section 430.16.3] amended by M.I. 34309 - July 13, 1982. Section 430.16 repealed and Section 6115 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

**§ 6116. Authority Administrative Rules and Procedures.**

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

The subject-matter of this section – defining the authority of the O&P Committee, the General Manager, the Employee Relations Officer, and Employee Organizations – is dropped for the most part from proposed Chapter 1. The broad authority of O&P in the area of employee relations has already been acknowledged by other Code sections, e.g., Sections 2481(c) and 6121 (proposed) of the Code. Section 6116 has been renamed *Administrative Rules and Procedures* and the new language, which incorporates Section 14 of the Sample Resolution, recognizes the ability of the General Manager to issue rules and procedures to further implement Chapter 1 after consultation with the bargaining units. The language on the Employee Relations Officer (“ERO”) in the current Section 6116 is not necessary since the Sample Resolution language clearly grants the ERO all necessary authority. Finally, the current language on Employee Organizations is not needed since the proposed Section 6114 language requires the bargaining units to update their organizational information.

~~(a) Organization and Personnel Committee is hereby empowered to carry out all functions assigned to said committee by any provision of this Article 1 and the Chairman of said committee is empowered to carry out any function assigned to him by this Article 1. In carrying out its functions, the Organization and Personnel Committee may enact such rules of procedure as it deems appropriate.~~

~~(b) The General Manager. The General Manager shall represent the Board in its dealings with employee organizations in accordance with law and codes of the Board. The General Manager is authorized to prescribe rules necessary to implement the intent of this Article 1.~~

~~(c) Employee Relations Officer. If the authority and functions of the Employee Relations Officer are delegated by the General Manager to another person, that person is authorized to carry out all functions assigned by this Article 1 in a manner prescribed by the General Manager. The General Manager shall notify each recognized employee organization in writing of such delegation and shall post notice thereof on District bulletin boards.~~

~~(d) Employee Organizations.~~

~~(1) Nothing contained in this Article 1 shall prevent an organization, either before or after certification as a recognized employee organization from substituting other persons for persons previously designated as representatives, from naming new representatives, or from revoking the authority of representatives previously designated. No such change shall be recognized by the Employee Relations Officer unless he shall have been notified thereof in writing by an authorized representative of the organization.~~

~~(2) Each employee organization, whether recognized or not, shall promptly inform the Employee Relations Officer in writing of each change in any item of information furnished with a petition of recognition.~~

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

The General Manager is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Chapter after consultation with affected employee organizations.

Section 430.17 based on Res. 7525 - August 14, 1973; paragraph (b) [formerly Section 430.17.2] amended by M.I. 35166 - June 12, 1984. Section 430.17 repealed and Section 6116 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraph (a) amended by M. I. 44582 – August 20, 2001; paragraph (a) amended by M. I. 46064 – January 11, 2005; paragraph (a) amended by M.I. 46983 - February 13, 2007; paragraph (a) amended by M.I. 48081 – November 10, 2009.

**Article IV**

**IMPASSE PROCEDURES**

This article incorporates Sections 15, 16 and 17 of the Sample Resolution. These changes, however, do not substantially alter the impasse process at Metropolitan, as described in current Section 6111.

**Sec.**

**6117. Initiation of Impasse Procedures**

**6118. Impasse Procedures**

**6119. Cost of Impasse Procedures**

**§ 6117. Initiation of Impasse Procedures.**

If the meet and confer process has reached impasse as defined in Section 6101 of this Chapter, 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. An impasse meeting with the General Manager shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

(a) To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and

(b) If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

**§ 6118. Impasse Procedures.**

Impasse procedures are as follows:

(a) If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be

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private. The parties shall mutually select one mediator. In the event the parties are unable to agree on a mediator, the mediator shall be selected and furnished by the California State Mediation and Conciliation Service. The mediator shall make no public recommendations, nor take any public position at any time concerning the issues. Issues in which, in the opinion of the mediator or any party to the mediation, mediation has failed, shall be presented in writing to the Board at its next regularly scheduled meeting following date of said written notice. Mediation may be considered to have failed by any party only after that party has given reasonable time and effort to the mediation proceeding. Upon presentation of said issues to the Board, the Board shall proceed as described in Section 6118(b).

(b) If the parties did not agree on mediation, or having so agreed, the impasse has not been resolved, the Board may take such action regarding the impasse as it in its discretion deems appropriate as in the public interest. Any legislative action by the Board on the impasse shall be final and binding.

**§ 6119. Costs of Impasse Procedures.**

The cost for the services of a mediator, and other mutually incurred costs of mediation, shall be borne equally by the District and Exclusively Recognized Employee Organization.

**Article V**

**MISCELLANEOUS PROVISIONS**

Sec.

6120. Construction

6121. Interpretation and Administration

6122. Severability

**§ ~~6117~~6120. Construction.**

<p>The subject-matter of this section is moved to Section 6120, and the title remains the same. The proposed Section 6120 contains edits derived from language found in Section 18 of the Sample Resolution.</p>
--

(a) Nothing in this ~~Article I~~Chapter shall be construed to deny any person, ~~or~~ employee, organization, the District, or any authorized officer, body or other representative of the District, the rights, powers and authority granted by Federal and State laws and by this Administrative Code.

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(b) The rights, powers and authority of the Board of Directors in all matters, including the right to maintain any legal action, shall not be modified or restricted by this ~~Article 1~~Chapter.

(c) The provisions of this ~~Article 1~~Chapter shall be construed in accordance with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Section 3500 et seq.). A complaint alleging any violation of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Section 3500 et seq.) or any section of this ~~Article 1~~Chapter shall be processed as mandated by state law.

Section 430.18 based on Res. 7525 - August 14, 1973; paragraph (a) [formerly Section 430.18.1] amended by M.I. 32690 - April 10, 1979. Section 430.18 repealed and Section 6117 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M. I. 46838 – October 10, 2006.

§ ~~6118~~6121. **Interpretation and Administration.**

The section number is changed to 6121. This language is not found in the Sample Resolution.

The General Manager shall have authority to interpret and administer provisions of this ~~Article 1~~Chapter, subject to appeal to the Organization and Personnel Committee.

Section 430.19 based on Res. 7525 - August 14, 1973. Section 430.19 repealed and Section 6118 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M. I. 44582 – August 20, 2001; amended by M. I. 46064 – January 11, 2005; amended by M.I. 46983 - February 13, 2007; amended by M.I. 48081 – November 10, 2009.

§ ~~6119~~6122. **Separability**~~Severability~~.

The section number is changed to 6122, and the name is changed to *Severability*. There is one edit – changing the phrase “this Article 1” to “this Chapter” in two locations. This section is comparable to Section 19 of the Sample Resolution.

If any provision of this ~~Article 1~~Chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this ~~Article 1~~Chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 430.20 based on Res. 7525 - August 14, 1973. Section 430.20 repealed and Section 6119 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

~~Provisions updated to reflect the actions of the Board of Directors through its 03/09/2010 meeting.~~

## Division VI

### PERSONNEL MATTERS

Chapter	Sec.
1 Employee Relations	6100
2 Personnel Regulations	6200
3 General Employee Matters	6300
4 Officers	6400
5 Management and Confidential Employees - General	6500
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7 Employee Deferred Compensation and Savings Plans	6700

### Chapter 1

#### EMPLOYEE RELATIONS

Article	Sec.
1 General Provisions	6100
2 Representation Proceedings	6105
3 Administration	6300
4 Impasse Procedures	6400
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#### Article 1

##### GENERAL PROVISIONS

Sec.
6100. Statement of Purpose
6101. Definitions
6102. Employee Rights
6103. District Rights
6104. Advance Notice to Employee Organizations

#### **§ 6100. Statement of Purpose.**

This Chapter implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 *et seq.*) known as the “Meyers-Milias-Brown Act,” by providing orderly procedures for the administration of employer-employee relations between the District and its employee organizations. This Chapter is intended to strengthen the method of administering employer-employee relations through the establishment of uniform and orderly



methods of communications between employees, employee organizations and the District. It is the purpose of this Chapter to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations regarding matters that directly and significantly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units. However, nothing herein shall be construed to restrict the District rights identified in this Chapter.

Section 430.1 based on Res. 7525 - August 14, 1973. Section 430.1 repealed and Section 6100 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

### **§ 6101. Definitions.**

The words and terms defined in this section shall have the following meanings throughout this Chapter. Any term not defined herein, which is defined in Sections 3500 to 3510, inclusive, of the California Government Code, or which is defined in this Administrative Code shall have the meaning therein.

- (a) "Appropriate Unit" - means a unit established pursuant to Article 2 of this Chapter.
- (b) "Confidential Employee" – means an employee who, in the course of his or her duties, has access to confidential information relating to the decisions of District management affecting employer-employee relations.
- (c) "Consult/Consultation in Good Faith" – means to communicate orally or in writing with all affected employee organizations, whether exclusively or not, for the purpose of presenting and/or obtaining views or advising of intended actions in good faith effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposals with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article 4 hereof.
- (d) "Day" – means calendar day unless expressly stated otherwise.
- (e) "District" – means The Metropolitan Water District of Southern California, the Board of Directors, or any duly authorized representative.
- (f) "Employee Relations Officer" – means the Manager of the Employee Relations Section of the Human Resources Group.
- (g) "Exclusively Recognized Employee Organization" – means an employee organization which has been formally acknowledged by the District as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article 2 hereof,

having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees.

(h) “Impasse” - means that the representatives of the District and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on unresolved matters to be included in a Memorandum of Understanding, on which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

(i) “Management Employee” – means an employee having responsibility for formulating, administering or managing the implementation of the District’s policies and programs.

(j) “Mediation” – means the efforts by an impartial third party or person to assist as an intermediary between the Employee Relations Officer and representatives of a Recognized Employee Organization, through interpretation, suggestion and advice, in reaching a voluntary resolution to an impasse. Nothing contained herein shall preclude said mediator from making recommendations to the interested parties.

(k) “Meet and Confer in Good Faith” - (sometimes referred to herein as “meet and confer” or “meeting and conferring”) means performance by duly authorized District representatives and duly authorized representatives of an employee organization recognized as the majority representative of their mutual obligation to meet at reasonable times and to confer in good faith regarding matters within the scope of representation, including wages, hours, and other terms and conditions of employment, in an effort to: (1) reach agreement on those matters within the authority of such representatives and (2) reach agreement on what will be recommend to the Board of Directors on those matters within the decision making authority of the Board of Directors. This does not require either party to agree to a proposal or to make a concession, or to continue to negotiate when either party declares an impasse.

(l) “Memorandum of Agreement” – means a written memorandum incorporating agreements reached through negotiation on matters within the jurisdiction of the General Manager, and signed by the General Manager and a duly authorized representative of a recognized employee organization.

(m) “Memorandum of Understanding” – means a written document, signed by the General Manager and a duly authorized representative of a Recognized Employee Organization, incorporating agreement between the General Manager and representatives of a Recognized Employee Organization whereby the General Manager binds himself to recommend to the Board of Directors action on matters within the scope of representation.

(n) “Negotiation” – means the act of meeting and discussing issues or proposals by the Employee Relations Officer and representatives of a Recognized Employee Organization with the purpose of reaching binding agreement concerning matters within the jurisdiction of the

General Manager; such discussions leading to preparation of written memoranda of agreement which are to be binding upon both parties.

(o) “Professional Employee” – means any employee engaged in work requiring specialized knowledge and skills normally attained through completion of a recognized course of instruction, including, but not limited to, accountants, architects, attorneys, chemists, engineers, geologists, and various types of physical, chemical and biological scientists.

(p) “Proof of Employee Support” – means (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words “recently signed” shall mean within six (6) months prior to the filing of a petition.

(q) “Scope of Representation” – means all matters relating to employment conditions and employer-employee relations including, but not limited to, wages, hours and other terms and conditions of employment; except that consideration of the merits, necessity, or organization of any service or activity required by law or executive order shall be excluded from the scope of representation; and except that employee rights, as described in Section 6102, and District rights as described in Section 6103, shall be excluded from the scope of representation.

(r) “Supervisory Employee” – means any employee having authority in the interest of the District to hire, assign, transfer, promote, demote, suspend, discharge, reward or discipline other employees, or having the responsibility to direct them or to adjust their grievances, or effectively to recommend such action in connection with the foregoing, when the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Section 430.2 based on Res. 7525 - August 14, 1973; amended by M.I. 32690 - April 10, 1979. Section 430.2 repealed and Section 6101 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraphs (e) and (g) amended by M.I. 45943 - October 12, 2004.

## **§ 6102. Employee Rights.**

Employees of the District 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 matters of employer-employee relations including wages, hours and other terms and conditions of employment. Employees of the District also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the District, but may not enter into any arrangements that are contrary to, modify or abridge any understanding reached between the

District and the employee organization certified as exclusive representative for the unit in which the individual is included. Neither the District nor any employee organization shall interfere with, intimidate, restrain, coerce or discriminate against any District employee because of his exercise of these rights.

Section 430.3 based on Res. 7525 - August 14, 1973. Section 430.3 repealed and Section 6102 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

### **§ 6103. District Rights.**

The rights of the District shall include, but are not limited to, the exclusive right to determine the mission of its constituent departments; set standards of service; determine the procedures and standards of selection for employment, promotion and transfer; direct its employees; take disciplinary action for proper cause; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of District operations; determine the methods, means and personnel by which District operations are to be conducted; determine the content of job descriptions and specifications; take all necessary action to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work; provided, however, that the exercise of such rights does not preclude employees or their representatives from consulting with the Employee Relations Officer about the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment.

Section 430.4 based on Res. 7525 - August 14, 1973. Section 430.4 repealed and Section 6103 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

### **§ 6104. Advance Notice to Employee Organizations.**

(a) Except in case of emergency, reasonable written notice shall be given to each Recognized Employee Organization affected by any ordinance, resolution, or regulation, or any change in any existing ordinance, resolution, or regulation, relating to matters within the scope of representation that is proposed to be adopted by the Board of Directors or the General Manager. Each such employee organization shall be given the opportunity to meet with the Employee Relations Officer prior to adoption of such ordinance, resolution, or regulation, or adoption of such change in any existing ordinance, resolution, or regulation.

(b) In case of emergency, when an ordinance, resolution, or regulation, or a change in any existing ordinance, resolution, or regulation, must be adopted immediately and without prior notice, Recognized Employee Organizations affected shall be given notice by and opportunity to meet with the Employee Relations Officer at the earliest practicable time following adoption of such ordinance, resolution, or regulation, or such change in any existing ordinance, resolution, or regulation.

Section 430.5 based on Res. 7525 - August 14, 1973. Section 430.5 repealed and Section 6104 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

## Article 2

### REPRESENTATION PROCEEDINGS

Sec.

- 6105. Filing of Recognition Petition by Employee Organization
- 6106. District Response to Recognition Petition
- 6107. Open Period for Filing Challenging Petition
- 6108. Election Procedure
- 6109. Procedure for Decertification of Exclusively Recognized Employee Organization
- 6110. Policy and Standards for Determination of Appropriate Units
- 6111. Procedure for Modification of Established Appropriate Units
- 6112. Procedure for Processing Severance Requests
- 6113. Appeals

#### **§ 6105. Filing of Recognition Petition by Employee Organization.**

(a) An employee organization that seeks to be formally acknowledged as an exclusively Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

- (1) The name and address of the employee organization.
- (2) The names and titles of its officers.
- (3) A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the District.
- (4) Certified copies of the employee organization's constitution and, if existing, by-laws.
- (5) The names of employee organization representatives who are authorized to speak on behalf of its members.
- (6) A designation of those persons, not exceeding two in number, and their addresses, to whom notices sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- (7) A statement whether the employee organization is a chapter or local of or affiliated directly or indirectly in any manner with a regional, state, national or international organization and, if so, the name and address of each such organization.

(8) A statement that the organization has no restriction on membership based upon race, sex (gender or pregnancy), creed, national origin, color, disability (physical or mental), protected veteran status, religion, age, health impairment related to or associated with a diagnosis of cancer, genetic characteristics or information, marital status, ancestry, sexual orientation, or other characteristic protected by law.

(9) The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of proposed member employees therein.

(10) A statement that the employee organization has in its possession Proof of Employee Support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the District. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.

(11) A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

(b) The petition, including the Proof of Employee Support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

Section 430.6 based on Res. 7525 - August 14, 1973; paragraph (g) [formerly Section 430.6.7] amended by M.I. 35592 - April 9, 1985. Section 430.6 repealed and Section 6105 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

### **§ 6106. District Response to Recognition Petition.**

(a) Upon receipt of the petition, the Employee Relations Officer shall determine whether:

(1) There has been compliance with the requirements of the recognition petition,  
and

(2) The proposed representation unit is an appropriate unit in accordance with Section 6110 of this Article 2.

(b) If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged,

shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section 6113 of this Chapter.

Section 430.7 based on Res. 7525 - August 14, 1973; paragraph (c)(2) [formerly Section 430.7.3.2] amended by M.I. 34309 - July 13, 1982. Section 430.7 repealed and Section 6106 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraphs (a) and (b) amended by M. I. 44582 – August 20, 2001; paragraph (b) amended by M. I. 46064 – January 11, 2005; paragraph (b) amended by M.I. 46983 - February 13, 2007; paragraph (b) amended by M.I. 48081 – November 10, 2009.

### **§ 6107. Open Period for Filing Challenging Petition.**

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed (“open period”), any other employee organization may file a competing request to be formally acknowledged as the Exclusively Recognized Employee Organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing Proof of Employee Support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Section 6105 of this Article 2. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer 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 shall determine the appropriate unit or units in accordance with the standards in Section 6110 of this Article 2. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 6113 of this Article 2.

Section 430.8 based on Res. 7525 - August 14, 1973. Section 430.8 repealed and Section 6107 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

### **§ 6108. Election Procedure.**

(a) The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party’s rules and procedures subject to the provisions of this Chapter. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article 2 shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the District. 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 pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the District in the same unit on the date of the election. An employee

organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate 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 being applicable to a run-off election.

(b) There shall be no more than one valid election under this Chapter pursuant to any petition in a twelve (12) month period affecting the same unit.

(c) In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service.

(d) Costs of conducting elections shall be borne in equal shares by the District and by each employee organization appearing on the ballot.

Section 430.9 based on Res. 7525 - August 14, 1973. Section 430.9 repealed and Section 6108 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraph (c) amended by M.I. 38304 - June 12, 1990; paragraph (c)(2) amended and paragraph (c)(5) added by M. I. \_45943 - October 12, 2004.

#### **§ 6109. Procedure for Decertification of Exclusively Recognized Employee Organization.**

(a) A decertification petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer. A decertification petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

(1) The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.

(2) The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as a representative of that unit

(3) An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.

(4) Proof of Employee Support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.



(b) An employee organization may, in satisfaction of the decertification petition requirements hereunder, file a petition under this Section in the form of a recognition petition that evidences Proof of Employee Support of at least thirty (30) percent, that includes the allegation and information required under paragraph (a.) of this Section, and otherwise conforms to the requirements of Section 6105 of this Article.

(c) The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article 2. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 6113 of this Article 2. If the determination of the Employee Relations Officer is in the affirmative, or his/her negative determination is reversed on appeal, he/she shall give written notice of such decertification or recognition petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

(d) The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about twenty (20) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a recognition petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 6108 of this Article 2.

(e) The Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to that organization and all unit employees that he/she will arrange for an election to determine that issue and the reason for his/her belief. In such event any other employee organization may within fifteen (15) days of such notice file a recognition petition in accordance with this Section, which the Employee Relations Officer shall act on in accordance with this Section.

(f) If, pursuant to this Section, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

**§ 6110. Policy and Standards for Determination of Appropriate Units.**

(a) The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the District and its compatibility with the primary responsibility of the District and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. 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:

(1) Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

(2) History of representation in the District 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 in the proposed unit have organized.

(3) Consistency with the organizational patterns of the District.

(4) Effect of differing legally mandated impasse resolution procedures.

(5) Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.

(6) Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.

(b) Notwithstanding the foregoing provisions of this Section, managerial, supervisory, professional, and/or confidential responsibilities, as defined in Section 6101 of this Chapter, are determining factors in establishing appropriate units hereunder. Managerial and confidential employees may not represent any employee organization which represents other employees.

Section 430.11 based on Res. 7525 - August 14, 1973. Section 430.11 repealed and Section 6110 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

**§ 6111. Procedures for Modification of Established Appropriate Units.**

(a) Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer. Such requests shall be submitted in the form of a recognition petition and, in addition to the requirements set forth in Section 6105 of this Article, 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 Section 6110 hereof. The Employee Relations Officer shall process such petitions as other recognition petitions under this Article 2.

(b) The Employee Relations Officer may by his/her own motion propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) and the reasons therefor to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 6110 of this Article 2, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 6113 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file recognition petitions seeking to become the Exclusively Recognized Employee Organization for such modified appropriate unit or units pursuant to Section 6105 hereof.

Section 430.12 based on Res. 7525 - August 14, 1973; paragraph (c)(1) [formerly Section 430.12.3.1] amended by M.I. 32690 - April 10, 1979. Section 430.12 repealed and Section 6111 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraphs (a), (b)(2), (c)(1), and (c)(2) amended by M.I. 44582 - August 20, 2001 paragraphs (b)(2), (c)(1) and (2) amended by M. I. 46064 - January 11, 2005; paragraphs (b)(2), (c)(1)(2) amended by M.I. 46983 - February 13, 2007; paragraph (b)(2) amended, paragraph (c)(1) and (2) amended by M.I. 48081 - November 10, 2009.

### **§ 6112. Procedure for Processing Severance Requests.**

An employee organization may file a request to become the Recognized Employee Organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another Recognized Employee Organization. The form and processing of such request shall be as specified in Section 6111 for modification requests.

Section 430.13 based on Res. 7525 - August 14, 1973; paragraph (e) [formerly Section 430.13.5.1] renumbered and amended and paragraph (f) [formerly Section 430.13.5.2] added by M.I. 35166 - June 12, 1984. Section 430.13 repealed and Section 6112 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraph (d) amended by M. I. 45943 - October 12, 2004.

### **§ 6113. Appeals.**

(a) An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer; or an employee organization aggrieved by a determination of the Employee Relations Officer that a recognition petition (Section 6105), challenging petition (Section 6107), decertification petition (Section 6109), unit modification petition (Section 6111) --- or employees aggrieved by a determination of the Employee Relations Officer that a decertification petition (Section 6109) --- has not been filed in compliance with the applicable

provisions of this Article, may, within twenty (20) days of notice of the Employee Relations Officer's final decision request to submit the matter to mediation by the State Mediation and Conciliation Service, or may, in lieu thereof or thereafter, appeal such determination to the Organization and Personnel Committee for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of mediation proceedings, whichever is later.

(b) Appeals to the Organization and Personnel Committee shall be filed in writing with the Board's Executive Secretary, and a copy thereof served on the Employee Relations Officer. The Organization and Personnel Committee shall commence to consider the matter within thirty (30) days of the filing of the appeal. The Organization and Personnel Committee may, in its discretion, refer the dispute to a third party hearing process. Any decision of the Organization and Personnel Committee on the use of such procedures, and/or any decision of the Organization and Personnel Committee determining the substance of the dispute shall be final and binding.

Section 430.14 based on Res. 7525 - August 14, 1973. Section 430.14 repealed and Section 6113 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraph (b) amended by M. I. 44582 - August 2001; paragraph (b) amended by M. I. \_46064 - January 11, 2005; amended by M.I. 46983 - February 13, 2007; paragraph (b) amended by M.I. 48081 - November 10, 2009.

### Article 3

#### ADMINISTRATION

Sec.

6114. Submission of Current Information by Recognized Employee Organization

6115. Employee Organization Activities – Use of District Resources

6116. Administrative Rules and Procedures

#### **§ 6114. Submission of Current Information by Recognized Employee Organization.**

All changes in the information filed with the District by an Exclusively Recognized Employee Organization under items (1) through (8) of its recognition petition under Section 6105 of this Chapter shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

Section 430.15 based on Res. 7525 - August 14, 1973. Section 430.15 repealed and Section 6114 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraph (b) amended by M. I. 44582 - August 20, 2001; paragraph (b) amended by M. I. \_46064 - January 11, 2005; paragraph (b) amended by M.I. 46983 - February 13, 2007; paragraph (b) amended by M.I. 48081 - November 10, 2009.

#### **§ 6115. Employee Organization Activities – Use of District Resources.**

Access to District work locations and use of District paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only

to the extent provided for in Memorandum of Understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of this Chapter that pertain directly to the employer-employee relationship and not such internal employee organization business such as soliciting membership and campaigning for office, and shall not interfere with the efficiency, safety and security of District operations.

Section 430.16 based on Res. 7525 - August 14, 1973; paragraph (c) [formerly Section 430.16.3] amended by M.I. 34309 - July 13, 1982. Section 430.16 repealed and Section 6115 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.

### **§ 6116. Administrative Rules and Procedures.**

The General Manager is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Chapter after consultation with affected employee organizations.

Section 430.17 based on Res. 7525 - August 14, 1973; paragraph (b) [formerly Section 430.17.2] amended by M.I. 35166 - June 12, 1984. Section 430.17 repealed and Section 6116 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; paragraph (a) amended by M. I. 44582 – August 20, 2001; paragraph (a) amended by M. I. 46064 – January 11, 2005; paragraph (a) amended by M.I. 46983 - February 13, 2007; paragraph (a) amended by M.I. 48081 – November 10, 2009.

## **Article IV**

### **IMPASSE PROCEDURES**

Sec.

6117. Initiation of Impasse Procedures

6118. Impasse Procedures

6119. Cost of Impasse Procedures

### **§ 6117. Initiation of Impasse Procedures.**

If the meet and confer process has reached impasse as defined in Section 6101 of this Chapter, 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. An impasse meeting with the General Manager shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

(a) To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and

(b) If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

**§ 6118. Impasse Procedures.**

Impasse procedures are as follows:

(a) If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The parties shall mutually select one mediator. In the event the parties are unable to agree on a mediator, the mediator shall be selected and furnished by the California State Mediation and Conciliation Service. The mediator shall make no public recommendations, nor take any public position at any time concerning the issues. Issues in which, in the opinion of the mediator or any party to the mediation, mediation has failed, shall be presented in writing to the Board at its next regularly scheduled meeting following date of said written notice. Mediation may be considered to have failed by any party only after that party has given reasonable time and effort to the mediation proceeding. Upon presentation of said issues to the Board, the Board shall proceed as described in Section 6118(b).

(b) If the parties did not agree on mediation, or having so agreed, the impasse has not been resolved, the Board may take such action regarding the impasse as it in its discretion deems appropriate as in the public interest. Any legislative action by the Board on the impasse shall be final and binding.

**§ 6119. Costs of Impasse Procedures.**

The cost for the services of a mediator, and other mutually incurred costs of mediation, shall be borne equally by the District and Exclusively Recognized Employee Organization.

**Article V****MISCELLANEOUS PROVISIONS**

Sec.

6120. Construction

6121. Interpretation and Administration

6122. Severability

**§ 6120. Construction.**

(a) Nothing in this Chapter shall be construed to deny any person, employee, organization, the District, or any authorized officer, body or other representative of the District, the rights, powers and authority granted by Federal and State laws and by this Administrative Code.

(b) The rights, powers and authority of the Board of Directors in all matters, including the right to maintain any legal action, shall not be modified or restricted by this Chapter.

(c) The provisions of this Chapter shall be construed in accordance with the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Section 3500 et seq.). A complaint alleging any violation of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Section 3500 et seq.) or any section of this Chapter shall be processed as mandated by state law.

Section 430.18 based on Res. 7525 - August 14, 1973; paragraph (a) [formerly Section 430.18.1] amended by M.I. 32690 - April 10, 1979. Section 430.18 repealed and Section 6117 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M. I. 46838 – October 10, 2006.

### **§ 6121. Interpretation and Administration.**

The General Manager shall have authority to interpret and administer provisions of this Chapter, subject to appeal to the Organization and Personnel Committee.

Section 430.19 based on Res. 7525 - August 14, 1973. Section 430.19 repealed and Section 6118 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; amended by M. I. 44582 – August 20, 2001; amended by M. I. 46064 – January 11, 2005; amended by M.I. 46983 - February 13, 2007; amended by M.I. 48081 – November 10, 2009.

### **§ 6122. Severability.**

If any provision of this Chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 430.20 based on Res. 7525 - August 14, 1973. Section 430.20 repealed and Section 6119 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987.