

RESOLUTION NO. 2562

RESOLUTION OF THE BOARD OF PORT COMMISSIONERS
OF THE VENTURA PORT DISTRICT ESTABLISHING
EMPLOYER-EMPLOYEE RELATIONS,
PROCEDURES, RULES AND POLICIES

The Board of Port Commissioners of Ventura Port District ("District"), hereby takes the action and adopts the following Resolution:

PURPOSE OF RESOLUTION

1. (a) The purpose of this Resolution is to implement Title 1, Division 4, Chapter 10, of the Government Code of the State of California (Sections 3500, et seq.), also known as the "Meyers-Miliias-Brown Act," to promote full communication between the District and its employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between the District and employee organizations.

(b) Nothing in this Resolution shall be construed to restrict any District rights with respect to matters of general managerial policy, including but not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or 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 classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

DEFINITION OF TERMS

2. The following terms are defined:

(a) "Appropriate unit" means a unit of employees established under Paragraphs 11 and 12 of this Resolution.

(b) "Board" means the Board of Port Commissioners of Ventura Port District.

(c) "Confidential employee" means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

(d) "Days" means calendar days.

(e) "District" means the Ventura Port District.

(f) "Employee" means any person regularly employed on a full-time basis in a permanent position by the District, except those persons elected by popular vote.

(g) "Employee organization" means any organization which includes employees of the District and which has as one of its primary purposes representing those employees in their employment relations with District.

(h) "Employee Relations Officer" means the District's principal representative in all matters of employer-employee relations designated under Paragraphs 13 and 14, or his duly authorized representative.

(i) "Employer-employee relations" means the relationship between the District and its employees and their employee organization, or, when used in a general sense, the relationship between the District management and employees or employee organizations.

(j) "Impasse" means (1) a deadlock in the discussions between a recognized employee organization and the District over any matters concerning which they are required to meet and confer in good faith, or over the scope of such subject matter; or (2) any unresolved complaint by a recognized employee organization, advanced in good faith, concerning a decision of the Employee Relations Officer made under Paragraphs 7 through 14 of this Resolution.

(k) "Management" means:

(1) The following District employees:

General Manager
Harbormaster
Assistant Harbormaster
Senior Deputy Harbormaster
Accountant
Administrative Assistant
Maintenance Supervisor

or;

(2) Any employee having significant responsibilities for formulating or administering District policies or programs; or

(3) Any employee having authority to affect decisions of the District with respect to hiring, transferring, suspending, laying off, recalling, promoting, discharging, assigning, rewarding, or disciplining other employees, or having the responsibility to direct them, or to adjust their grievances.

(l) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of District and a recognized employee organization through interpretation, suggestion and advice.

(m) "Meet and confer in good faith" means that District, or its representative, and representatives of a recognized employee organization, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinion, and proposals, and to endeavor to reach agreement on matters within the scope of representation, including wages, hours, and other terms and conditions of employment. The term "meet and confer in good faith" does not require either party to agree to a proposal or make a concession.

(n) "Professional employee" means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction; including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers and various types of physical, chemical and biological scientists.

(o) "Recognized employee organization" means an employee organization that represents employees of District, and has attained that status pursuant to the procedures for recognition specified by this Resolution.

(p) "Resolution" means, unless the context indicates otherwise, this Resolution of the District.

(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.

EMPLOYEE RIGHTS

3. Employees of the District 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. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of his exercise of these rights.

MEET AND CONFER IN GOOD FAITH

4. The District, through its representatives, shall meet and confer in good faith with representatives of formally recognized employee organizations regarding matters within the scope of representation.

5. The District shall not be required to meet and confer in good faith on any subject preempted by Federal or State law or by the Water Code of California, nor shall it be required to meet and confer in good faith on Employee Rights, as defined in Paragraph 3. Proposed amendments to this Resolution, and all rights confirmed to the District under Paragraph 1 or otherwise reserved by the District, are excluded from the scope of meeting and conferring in good faith.

ADVANCE NOTICE

6. Reasonable written notice shall be given to each recognized employee organization affected by any rule, Resolution (except this Resolution), or regulation directly relating to matters within the scope of representation proposed to be adopted as amended by the Board and each shall be given the opportunity to meet with such body prior to adoption.

PETITION FOR RECOGNITION

7. (a) An employee organization that seeks formal recognition for purposes of meeting and conferring in good faith as the recognized employee organization of an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

- (1) Name and address of the employee organization.
- (2) Names and titles of its officers.
- (3) Names of employee organization representatives who are authorized to act on behalf of the employer organization.

(4) A statement that the employee organization has as one of its primary purposes representing employees in their employment relations with the District.

(5) 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 regional, state, national or international organization.

(6) Certified copies of the employee organization's constitution and bylaws.

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

(8) A statement that the employee organization recognizes that the provisions of Section 923 of the Labor Code are not applicable to the District employees.

(9) A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, religion, medical condition, or age.

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

(11) A statement that the employee organization has in its possession written proof, dated within six months of the date upon which the petition is filed, to establish that employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with District. Such written proof shall be submitted for confirmation to the Employee Relations Officer.

(12) A request that the Employee Relations Officer recognize the employee organization as the majority representative of the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation.

(b) All changes in the information filed with the District by a recognized Employee Organization of items (1) through (12) of Paragraph 7(a) shall be submitted in writing to the Employee Relations Officer within 14 days of such change.

8. The petition, including all accompanying documents, shall be verified, under oath, by the Executive Officer and Secretary of the petitioning organization, that the statements are true.

9. No employee may be represented by more than one recognized employee organization for purposes of this Resolution. An employee shall not be prohibited from appearing in his own behalf in his employment relations with the District.

FORMAL RECOGNITION AS THE RECOGNIZED
EMPLOYEE ORGANIZATION

10. (a) (1) An employee organization that seeks formal recognition as the recognized employee organization of an appropriate unit shall file a petition for recognition with the Employee Relations Officer containing all of the information set forth in Paragraph 7(a), accompanied by written proof that at least 30% 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. Upon receipt of the petition for recognition, the Employee Relations Officer shall determine:

(i) Whether there has been compliance with the requirements of the petition for recognition under Paragraph 7 (a); and

(ii) Whether the proposed unit is an appropriate unit.

If an affirmative determination is made by the Employee Relations Officer on the preceding two matters, he shall give written notice of such request for formal recognition to the employees in the unit and shall take no action on the request for 30 days thereafter. If either of the preceding matters are not affirmatively determined, the Employee Relations Officer shall inform the employee organization of the negative determination.

(2) Within 30 days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, 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 of 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 30% and otherwise in the same form and manner as set forth in Paragraph 7. If the challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall hold 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 criterion in Paragraphs 11 and 12.

(3) If the written proof submitted by the employee organization for the unit found to be appropriate establishes that it represents more than 50% of the employees in such unit, the Employee Relations Office may, in his discretion, grant formal recognition to such employee organization without a secret ballot election.

(4) When an employee organization for the unit found to be appropriate submits written proof, dated within six months of the date upon which its petition for recognition was filed, that it represents at least 30% of the employees in such unit, and it does not qualify for or has not been granted recognition under Paragraph 10 (a)(3) above, the Employee Relations Officer shall arrange for a secret ballot election to be conducted by District or another agreed-upon neutral third party. All challenging organizations who have submitted written proof that they represent at least 10% of the employees in the unit found to be appropriate, and have submitted a petition for recognition as required by Paragraph 7, shall be included on the ballot. The choice of "No Organization" shall also be included on the ballot. Employees entitled to vote in the election shall be those persons regularly employed on a full-time basis in permanent positions within the unit who were so employed during the pay period immediately prior to the date which is 15 days before the election, including those who did not work during such period because of illness, vacation or authorized leaves of absence, and who are so employed by the District in the same unit on the date of the election. An employee organization shall be granted formal recognition following an election or run-off election if that employee organization has received the vote of 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 shall also apply to a run-off election.

(5) There shall be no more than one valid election in a 12-month period within the same unit.

(b) Decertification of Established Unit

(1) A petition for decertification alleging that an employee organization granted formal recognition is no longer the recognized employee organization in an appropriate unit may be filed with the Employee Relations Officer. Petitions for decertification may be filed by an employee, a group of employees or their representative, or any employee organization. The petition, including all accompanying documents, shall be verified, under oath, by the person signing it, that its contents are true. It may be accompanied by a petition for recognition by a challenging organization. The petition for decertification shall contain the following information:

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

(ii) the name of the formally recognized employee organization.

(iii) an allegation that the formally recognized employee organization no longer represents a majority of the employees in the appropriate unit; and

(iv) written proof that at least 30% of the employees in the unit do not desire to be represented by the formally recognized employee organization. Such written proof shall be dated within six months of the date upon which the petition is filed and shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.

(2) Following verification of the petition, accompanying documents and proof, the Employee Relations Officer shall arrange for a secret ballot election to determine if the formally recognized employee organization shall retain its recognition rights. The formally recognized employee organization shall be decertified if a majority of those casting valid ballots vote for decertification.

(3) If the written proof submitted by the formally recognized employee organization establishes that more than 50% of the employees in the unit do not desire to be represented by the formally recognized employee organization, the Employee Relations Officer may, in his discretion, grant decertification to such employee organization without a secret ballot election.

(4) There shall be no more than one valid decertification election in the same unit in any 12-month period.

(5) If a recognized employee organization voluntarily disbands or withdraws from continuing to represent employees in the District, it shall, through its authorized representative, notify the Employee Relations Officer in writing of such action, and the District shall thereafter be relieved of any meet and confer obligations with that employee organization under paragraphs 4 and 5, above.

(c) Modification of Established Unit. A petition for modification of an established unit may be filed by an employee organization with the Employee Relations Officer. The petition for modification shall contain all of the information set forth in Paragraph 7(a) along with a statement of all relevant facts in support of the proposed modified unit. The petition for modification shall be accompanied by written proof, dated within six months of the date upon which the petition for modification was filed, that at least 50% of the employees within the proposed modified

unit have designated the employee organization to represent them in their employment relations with the District. The Employee Relations Officer shall hold a hearing on the petition for modification, at which time all affected employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units as between the existing unit and the proposed unit. If the Employee Relations Officer determines that the proposed modified unit is the appropriate unit, using the criterion set forth in Paragraphs 11 and 12, then the procedures set forth in Paragraph 10(a) shall be implemented for determining formal recognition rights in such unit.

(d) Duration Of Formal Recognition. When an employee organization has been formally recognized, such recognition shall remain in effect from the date thereof and thereafter until such time as the Employee Relations Officer shall determine, on the basis of a secret ballot election conducted under these rules, that the formally recognized employee organization no longer represents a majority of the employees in the appropriate unit or until such time as the unit may be modified, or until the employee organization gives written notice that it has voluntarily disbanded or withdraws from representation, as provided in Paragraph 10(b)(5).

(e) Cost of Election Proceedings. The cost of an election proceeding shall be borne equally by the employee organizations whose names appear on the ballot.

APPROPRIATE UNIT

11. The Employee Relations Officer, after reviewing the petition filed by an employee organization seeking formal recognition as majority representative, shall determine whether the proposed unit is an appropriate unit. The principal criterion in making this determination is whether there is a community of interest among the employees. The following factors, among others, are to be considered in making such determination:

(a) Which unit will assure employees the fullest freedom in the exercise of rights set forth under this Resolution.

(b) The history of employee relations: (i) in the unit; (ii) among other employees of District; and (iii) in similar public employment.

(c) The effect of the unit on the efficient operation of District and sound employer-employee relations.

(d) The extent to which employees have common skills, working conditions, job duties or similar educational requirements.

(e) The effect on the existing classification structure of dividing a single classification among two or more units; provided, however, no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.

12. In the establishment of appropriate units (1) professional employees shall not be denied the right to be represented separately from non-professional employees; and (2) management and confidential employees who are included in the same unit with non-management or non-confidential employees may not represent such employees on matters within the scope of representation. A separate unit may be established for management and confidential employees.

DESIGNATION OF DISTRICT EMPLOYEE RELATIONS OFFICER

13. The Board hereby designates the General Manager of the District as the Employee Relations Officer. He shall be the District's principal representative in all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation, including wages, hours and other terms and conditions of employment.

14. The Employee Relations Officer is authorized to delegate the duties and responsibilities specified in Paragraph 13.

RESOLUTION OF IMPASSES

15. (a) Impasse procedures may be invoked only after the possibility of settlement by meeting and conferring under Paragraphs 4 and 5 have been exhausted. Any 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. If the party or parties requesting the impasse meeting have complied with the preceding sentence, an impasse meeting shall then be scheduled by the Employee Relations Officer forthwith after the date of filing of the written request for such meeting, with written notice to all parties affected. The purpose of such impasse meeting is to permit a review of the position of all parties in an effort to reach agreement on the disputed issues.

(b) If the disputed issues are not resolved under Paragraph 15(a), and if the parties agree, the dispute may then be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues. The mediator shall be selected by the mutual consent of the parties. If the parties do not agree, then each party shall appoint a person

as a mediator, and the two persons so selected shall appoint an additional mediator.

(c) If the parties fail to agree to submit to mediation, or fail to resolve the impasse through mediation within 15 days after the mediator commenced meeting with the parties, the Board may take such action regarding the impasse issues as it in its discretion deems appropriate in the public interest. Any action by the Board on the impasse issues shall be final and binding.

16. (a) If there is one mediator, all fees and expenses shall be payable one-half by the District and one-half by the recognized employee organization.

(b) If there are three mediators, the District shall pay for the fees and expenses of its appointee, and the recognized employee organization shall pay for the fees and expenses of its appointee. The fees and expenses of the third mediator selected by the appointed mediators shall be payable equally by the District and the recognized employee organization.

MEMORANDUM OF UNDERSTANDING

17. If agreement is reached by the representatives of District and a recognized employee organization, they shall jointly prepare a written memorandum of such understanding, which shall not be binding on the parties until it is presented to and approved by formal action of the Board.

RULES AND REGULATIONS

18. The Board may adopt such rules and regulations necessary or convenient to implement the provisions of this Resolution.

CONSTRUCTION

19. Nothing in this Resolution shall be construed to deny any person or employee the rights granted by Federal and State laws and the Water Code of California.

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

21. Nothing contained in this Resolution shall abrogate any written agreement between any employee organization and District in effect on the effective date of this Resolution. All such agreements shall continue in effect for the duration of the term

specified therein unless modified or rescinded by mutual agreement of the parties.

22. The provisions of this Resolution are not intended to conflict with the provisions of the Meyers-Milias-Brown Act.

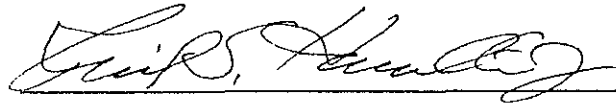
23. As used in this Resolution, the masculine, feminine or neuter gender, and the singular or plural number, shall each include the others whenever the context so indicates.

SEVERABILITY

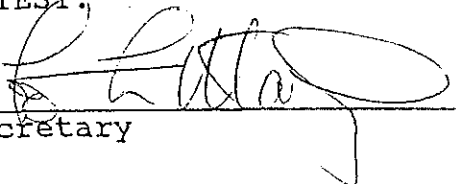
24. If any provision of this Resolution, or the application of any provision to any person or circumstance, shall be held invalid, the remainder of this Resolution, or the application of any provision to persons or circumstances other than those as to which it is held invalid, shall not be affected.

ADOPTION

25. This Resolution is adopted and effective this 18th day of March, 1992.



ATTEST:



Secretary