



# HUMAN RESOURCES DEPARTMENT

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## **Findings Regarding Petitions for Decertification and Certification – Marin Association of Public Employees (Bargaining Unit 16)**

The following representation petitions were filed by the Marin Association of Public Employees with the County of Marin Human Resources Director:

- 1.) Petition requesting decertification of the incumbent recognized representative for bargaining unit 16 (Public Defender Attorneys); and
- 2.) Statement of Representation accompanied by a petition requesting certification of the Marin Association of Public Employees as the recognized employee organization for bargaining unit 16 (Public Defender Attorneys).

The representation procedures (certification, decertification and unit modification) for the County of Marin are governed by the Employee Relations Resolution contained in the County of Marin Personnel Management Regulation (PMR) No. 4, Sections 4.4 through 4.7.

PMR Section 4.7, "Modification of Established Unit and Decertification," provides that a petition for decertification may be filed with the Director of Human Resources "during a window period of no more than 180 days or less than 150 days prior to the expiration date of a collective bargaining agreement between a certified organization and the County." The Collective Bargaining Agreement covering bargaining unit 16 expires on July 1, 2010, setting the window period as January 1, 2010 through January 31, 2010. The petition for decertification was received on January 29, 2010, 152 days prior to the expiration of the Collective Bargaining Agreement.

PMR Section 4.7 B(2) also provides that a decertification petition may be filed by "[a]nother organization provided the petition is accompanied by authorization cards signed by at least thirty per cent (sic) of all employees in the proposed unit," which shall serve as proof of employee support. The County requested that California State Mediation and Conciliation Services verify whether or not the decertification signatures submitted by the Marin Association of Public Employees satisfies the 30% requirement articulated in PMR Section 4.7. Sandra Poole, Mediator from State Mediation and Conciliation Services, reviewed the petition and on February 12, 2010 submitted written confirmation that the petition for decertification consists of at least thirty percent of all employees in the bargaining unit. A copy of that letter indicating her findings is attached.

Employees in the bargaining unit were defined as all permanent and extra-hire employees in the County's payroll system as of January 23, 2010, regardless of the actual hours worked.

PMR Section 4.4 identifies that an employee organization must file a statement of representation in order to attain certification as the recognized bargaining representative. A statement of representation was filed along with the decertification petition on January 29, 2010. It included all of the required elements including:

1. Name and address of employee organization.
2. Names and titles of its officers.
3. Names of employee organization representatives who are authorized to speak on behalf of the organization.
4. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the County.
5. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other 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 has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, mental or physical disability or medical condition.
9. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of 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 County. Such written proof will be submitted for confirmation to the Human Resources Director or to a mutually agreed upon disinterested third party.
11. A request that the Personnel Commission formally acknowledge the petitioner as the Certified Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

Consistent with the obligation under PMR Section 4.5, which indicates that “[t]he Director of Human Resources will investigate the statement, confer with affected department heads and organizations and prepare findings as to the...authentication of the representative status of the organization,” I or my designee met with representatives of the Service Employees’ International Union Local 1021, the Marin Association of Public Employees and the affected department heads prior to writing these findings.

Pursuant to Subsection 10 above, the petitioning organization submitted the certification signatures, indicating proof of employee support, to the Human Resources Director for neutral review and validation. While this Subsection states that the proof of employee support should include a majority of employees in the bargaining unit claimed to be appropriate, Government Code 3507 (c) sets the minimum requirement for such proof of employee support at 30%. Provided this conflict between the County Regulation and the Government Code, the County must conform to the requirement of the Government Code. The County requested that the California State Mediation and Conciliation Services verify whether or not the certification signatures submitted by the Marin Association of Public Employees satisfies the 30% showing of employee support. Sandra Poole, mediator from State Mediation and Conciliation Services, reviewed the petition and on February 25, 2010 submitted written confirmation that the petition for certification consists of at least thirty percent of all employees in the bargaining unit. A copy of that letter indicating her findings is attached. Employees in the bargaining unit were defined as all permanent and extra-hire employees in the County’s payroll system as of January 23, 2010, regardless of the actual hours worked.

In accordance with the requirements set forth in this Section, I submit the following findings as to the two petitions referenced above:

1. The petition for decertification of the incumbent recognized representative was filed with the Director of Human Resources within the window period prescribed by PMR Section 4.7.
2. In order to investigate the statement raised by the decertification petition that a question of representation exists as to the bargaining unit referenced above, the County had the decertification petition reviewed by Mediator Sandra Poole from State Mediation and Conciliation Services.
3. On February 12, 2010, State Mediation and Conciliation Services verified that the petition for decertification of the incumbent recognized representative met the 30% requirement identified in PMR Section 4.7.
4. The petition for certification by the petitioning organization as the recognized representative for bargaining unit 16 (Public Defender Attorneys) was filed with the Director of Human Resources in accordance PMR Section 4.4.

5. On February 25, 2010, State Mediation and Conciliation Services verified that the petition for certification filed by the petitioning organization meets the 30% requirement for proof of employee support.
6. The County has conferred with the affected organizations, the Service Employees' International Union Local 1021 and the Marin Association of Public Employees, and the affected department heads.
7. Based on all of the above I have determined that a valid question of representation exists with respect to the decertification petition and the certification petition.

As Director of Human Resources, I advise that the Personnel Commission call for a secret ballot election as identified in PMR Section 4.5 D (1).