

NEVADA IRRIGATION DISTRICT EMPLOYER-EMPLOYEE RELATIONS POLICY MANUAL

1.0 GENERAL PROVISIONS

1.1 **Purpose.** It is the purpose of these rules and regulations to implement the provisions of the Meyers-Miliias-Brown Act (MMBA) (Government Code § 3500 et seq.) by promoting full communication between the District and its employees regarding wages, hours and other terms and conditions of employment. It is also the purpose of these provisions to promote the improvement of personnel management and employer-employee relations within the District by providing a uniform basis for recognizing the right of employees of the District to join, or to refrain from joining, organizations of their own choice and be represented, or not to be represented, by such organizations in their employment relationships with the District.

Nothing in these provisions shall interfere with the right of the Board to manage the affairs of the District according to its governing laws, including but not limited to the merits, necessity, or organization of any service or activity allowed by law.

These rules and regulations provide procedures for recognizing and meeting and conferring in good faith with recognized employee organizations regarding matters within the scope of representation including, but not limited to, wages, hours, and other terms and conditions of employment of employees in appropriate units.

2.0 **DEFINITIONS:** When used in these rules and regulations, the following words and terms shall have the meaning indicated, unless the content clearly indicates otherwise.

2.1 **Appropriate Unit.** An appropriate unit means a group of employees whom the General Manager has determined should have the opportunity to be represented together pursuant to Section 4.9.

2.2 **Board.** Board means the Board of Directors of the Nevada Irrigation District.

2.3 **Confidential Employee.** Confidential employee means an employee, who, in the course of his or her regular duties, has access to any confidential information or decisions of the Board or of management which contributes significantly to employer-employee relations. The current list of confidential employees is:

Administrative Assistant I/II – Management
Human Resources/Risk Management Technician
Information Services Administrator
Information Services Technician
Senior Information Services Administrator

2.4 Consult/Consultation. Consult or consultation means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions. As distinguished from meeting and conferring in good faith, it does not involve an exchange of proposals and counter proposals with a recognized employee organization in an endeavor to reach agreement nor is it subject to the impasse and appeals procedures contained herein.

2.5 Day. Day means calendar day unless expressly stated otherwise.

2.6 District. District means Nevada Irrigation District.

2.7 Employee. Employee means regular part-time or full-time employee of the District. It does not include temporary employees.

2.8 Employee Organization. Employee organization means any lawful organization which includes employees of the District, and which has as one of its primary purposes representing such employees in their relations with the District.

2.9 Employee Representative. Employee representative means a person or persons designated and authorized by a recognized employee organization to represent the membership of that organization including, but not limited to, officers of the organization.

2.10 Exclusive Employee Organization. An exclusive employee organization means a recognized employee organization which has been formally acknowledged by the District as the exclusive representative pursuant to these rules as the sole employee organization representing the employees in an appropriate unit. An exclusive employee organization has the exclusive right to meet and confer in good faith on behalf of the employees within such unit concerning matters within the scope of representation, and thereby assumes a corresponding obligation of fairly representing such employees.

2.11 General Manager. General Manager means the General Manager of the District or his/her designee.

2.12 Impasse. Impasse means the District and a recognized employee organization have reached a point in their meeting and conferring in good faith, where differences on matters over which they are required to meet and

confer are so substantial and prolonged, that further meeting and conferring would be futile.

2.13 Management Employee. Management employee means an employee having responsibility for formulating, administering or managing the implementation of District policies and programs.

2.14 Mediation. Mediation means any efforts by an impartial third person or persons who may assist in reaching a voluntary reconciliation over a dispute or impasse between representatives of the District and a recognized employee organization through interpretation, suggestion, and advice.

2.15 Meet and Confer in Good Faith. To meet and confer in good faith means the mutual obligation of the District or the General Manager, and the representatives of recognized employee organizations, to personally meet and confer promptly upon the request of either party. This should continue for a reasonable period of time in order to exchange freely information, opinions and proposals. The purpose is to endeavor to reach an agreement on matters within the authority of such representatives and within the scope of representation, and when applicable, prior to the adoption by the Board of the District's final budget for the ensuing year.

2.16 Memorandum of Understanding (MOU): A negotiated contract between the District and the recognized employee organization(s) of the appropriate bargaining unit(s).

2.17 Part-Time Employee. A Part-Time employee is an employee who is hired by the District to fill a position which warrants year-round employment up to 30 hours per week and no less than 20 hours per week.

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

2.19 Proof of Employee Support. Proof of employee support means:

(a) an authorization card recently signed and personally dated by an employee, or

(b) a verified authorization petition or petitions recently signed and personally dated by an employee. The words "recently signed" shall mean within 180 days prior to the filing of a petition.

2.20 Recognized Employee Organization. A recognized employee organization means an employee organization which has been formally acknowledged by the District pursuant to these rules as an employee organization representing the employees in an appropriate unit. Subject to the rights of a duly designated exclusive representative, a recognized employee organization has the right to meet and confer in good faith on behalf of the employees within such unit concerning matters within the scope of representation, and thereby assumes a corresponding obligation of fairly representing such employees.

2.21 Scope of Representation. 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. However, the scope of representation shall not include consideration of the merits, necessity or organization of any services or activities provided by the District.

2.22 Supervisory. Any employee, regardless of job title, having authority to exercise judgment to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other employees, or having the responsibility to direct them, adjust their grievances, or effectively recommend such action if in connection with the foregoing. The exercise of such authority is not of a merely routine or clerical nature, but requires the use of judgment.

2.23 Wage Class. Wage class means a definitely recognized classification of employment with the District designated to embrace all positions having duties and responsibilities sufficiently similar and performed under sufficiently similar physical working conditions so that the same requirements as to education, experience, knowledge and physical ability may be demanded of incumbents and so that the same schedule of compensation may be made to apply with equity.

3.0 GENERAL RULES

3.1 Employee Rights. Employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public employees 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 public agency. This right is subject to the limitations imposed by exclusivity.

3.1.1 *Management and Confidential.* Management and confidential employees shall have the right to be represented in a separate unit consisting solely of such management and/or confidential employees from all other employees. All management and confidential employees are restricted from being employee representatives representing any

employee organization which represents other District employees, on matters within the scope of representation.

3.1.2 Professional. Professional employees shall have the right to be represented separately from non-professional employees by an employee organization consisting of professional employees.

3.1.3 Participation. No public employee shall be subject to punitive action or denied promotion, or threatened with any such treatment, for the exercise of lawful action as an elected, appointed, or recognized representative of any employee bargaining unit.

3.2 District Rights. The rights of the District include, but are not limited to:

3.2.1 The exclusive right to determine the duties of District departments; set 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 the District operations; determine the methods, means and personnel by which its operations are to be conducted; 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. This rule shall not be interpreted to conflict with any MOU.

3.2.2 To amend these rules and regulations after reasonable notice and consultation with each recognized employee organization.

3.3 Rights of Recognized Employee Organizations. Any recognized employee organizations shall have the following rights:

3.3.1 To represent the members of the bargaining unit in their employment relations with the District and to meet and confer in good faith with the General Manager on matters within the scope of representation, including, but not limited to, amendment of these rules and regulations.

3.3.2 Access. Access to District work locations and the use of District paid time, facilities, equipment and other resources by employee organizations. Those representing them shall be authorized only to the extent provided for in the MOU and/or administrative procedures. Said representatives shall be limited to lawful activities consistent with the provisions of this Resolution that pertain directly to the business of the employee organization, such as soliciting membership, campaigning for

office, and organization meetings and elections. They shall not interfere with the efficiency, safety and security of District operations.

3.3.3 *Bulletin Boards.* Recognized employee organizations may use portions of the District's enclosed bulletin boards specifically designated for employee representatives under the following conditions:

(a) District reserves the right to determine where bulletin boards will be placed and each formally recognized employee organization will have equal space allocated for employee organization material.

(b) Bulletin boards will remain locked and appointed representatives from each organization will be given access to a key to the boards.

(c) Materials must be dated and must identify the organization that published them.

(d) Unless special arrangements have been made, materials posted will be removed 31 days after the posting date. Materials which are obscene, profane or defamatory will not be posted.

(e) An employee organization that does not abide by these rules will be subject to an unfair labor practice charge.

3.3.4 Recognized employee organizations may have reasonable access to non-confidential information pertaining to employment relations as contained in the public records of the District, subject to limitations and conditions set forth in this rule and the Public Records Act (Government Code, §§6250-6260). Such information will be made available during regular office hours and after payment of reasonable cost, where applicable.

3.3.5 Except in case of emergency as provided herein, to have reasonable written notice of any proposed ordinance, rule, resolution, or regulation directly relating to matters within the scope of its representation and the opportunity to meet with the General Manager prior to the adoption of such proposal. In cases of emergency, when the Board determines that an ordinance, rule, resolution, or regulation must be adopted immediately, and advance notice is not feasible, the General Manager shall provide such notice and opportunity to meet at the earliest practical time following the adoption of such ordinance, rule, resolution or regulation.

3.3.6 To have an authorized representative of the recognized employee organization contact members of his/her organization in District facilities provided that he/she has first made arrangements with the management or supervisory employee in charge. This right does not extend to contacting District employees on District time who are not members of the particular employee organization, or to soliciting for membership or representation rights in an employee organization.

3.3.7 To have up to three authorized employee representatives reasonable time off without loss of compensation or other benefits when formally meeting and conferring with the General Manager about matters within the scope of representation.

4.0 REPRESENTATION PROCEEDINGS

4.1 Filing of Recognition Petition. An employee organization that seeks to be formally acknowledged as the majority or exclusive recognized employee organization representing employees in an appropriate unit shall file a petition with the General Manager containing the following information and documentation:

- (a) Name and address of the employee organization.
- (b) Names and titles of its officers.
- (c) Names of employee organization representatives who are authorized to speak on behalf of the organization.
- (d) A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the District.
- (e) A statement as to 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 such organization.
- (f) Certified or verified copy of the employee organization's constitution and bylaws, where existing.
- (g) A designation of those persons and their addresses, not exceeding two in number, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.

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

(i) The unit claimed to be an appropriate unit and the approximate number of employees therein.

(j) 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 group claimed to be an appropriate unit have designated the employee organization to represent them in their employment relations with the District. Such written proof shall be submitted for confirmation to an agreed upon neutral third party. If a neutral party cannot be agreed upon, the California Department of Industrial Relations, Mediation & Conciliation Service will be the neutral party.

(k) A request that the Board formally acknowledge the petitioner as the exclusive employee organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith. The petition, including 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.

4.2 District Response to Recognition Petition. Upon receiving the petition, the General Manager shall determine whether:

(a) There has been compliance with the requirements of the recognition petition.

(b) The proposed representation unit is an appropriate unit in accordance with Section 4.9.

(c) If an affirmative determination is made by the General Manager 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 30 days thereafter. This 30 days is the 30 days referred to in Section 4.3.

(d) If either of the foregoing matters are not affirmatively determined, the General Manager shall offer to consult thereon with such petitioning employee organization and, if such

determination thereafter remains unchanged, shall inform the organization of the reasons therefore in writing.

(e) The petitioning employee organization may do one of the following within 15 days from the determination made in (d) above:

1. Appeal such determination in accordance with Section 4.11.
2. Amend its petition to comply with (a) and (b).

4.3 Open Period for Filing Challenging Petition. Within 30 days of the date written notice as provided in Section 4.2 was given to affected employees that a valid recognition petition for an appropriate unit was filed, any other employee organization may file a competing request to be formally acknowledged as the recognized employee organization of the employees in the same unit, by filing a petition evidencing proof of employee support in the unit of at least 30 percent (30%) of the employees in that unit in the same form and manner as set forth in Section 4.1. The employee organization filing a challenging petition pursuant to this section shall have the same appeal rights concerning any determination made by the General Manager concerning the appropriateness of such petition as provided to the original petitioning employee organization in regard to everything except the unit determination. Such appeal shall be filed in accordance with Section 4.2 (e).

4.4 Election Procedures.

4.4.1 The General Manager shall arrange for an election to be conducted by the California Department of Industrial Relations, Mediation and Conciliation Service in accordance with its rules and procedures, subject to the provisions contained herein. All employee organizations who have duly submitted petitions which have been determined to be in conformance with these rules and regulations shall be included on the ballot. The ballot shall also reserve to employees the choice of no employee organization. Employees entitled to vote in such election shall be those persons employed in regular part-time or full-time positions within the designated appropriate unit who were employed during the last pay period which ended at least 15 days before the date the election commences, including those who did not work during such period because of illness, vacation, excused absences, and who are employed by the District in the same unit on the date of the election.

4.4.2 The District shall distribute an alphabetical list of all eligible voters, showing their job title or classification, work location and home mailing address to each employee organization appearing on the ballot at least 15 days prior to the election. An employee organization shall be formally acknowledged as the recognized majority or exclusive employee organization for the appropriate unit following an election or run-off election if it receives a numerical majority of all valid votes cast in the election. In an election involving three or more valid candidates in which no one receives a majority of the 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).

4.4.3 Except for a run-off election as required above, there shall be no more than one election affecting the same unit or substantially similar unit (as determined at the General Manager's sole discretion) in a 12 month period.

4.5 **Discretionary Recognition.** If the written proof submitted by the employee organization in the unit found to be appropriate establishes that it represents more than 50 percent (50%) of the employees in such unit, and there is no challenging petition filed, the General Manager may, in his or her sole discretion, grant formal exclusive recognition to such employee organization without a secret ballot election.

4.6 **Procedure for Decertification or Withdrawal of Recognition: Form of Petition for Decertification.**

4.6.1 A decertification petition alleging that the incumbent recognized employee organization no longer represents the majority of the employees in an established unit may be filed with the General Manager any time following the first 12 months of recognition, so long as it does not conflict with the terms of an existing, valid MOU. Such petition must be filed at least 30 days prior to the expiration of the MOU.

4.6.2 A decertification petition may be filed by two or more employees or their representative or by an employee organization and shall contain the following information and documentation declared by the fully authorized signatory under penalty of perjury to be true, correct and complete:

- (a) The name, address and telephone number of the petitioner and a designated representative authorized to

receive notices or requests for further information.

(b) The name of the established appropriate unit and of the incumbent recognized employee organization sought to be decertified as the representative of that unit.

(c) An allegation that the incumbent recognized employee organization no longer represents a majority of the employees in that appropriate unit, and any other relevant material or facts relating thereto.

(d) Proof of employee support by establishing that at least 30 percent (30%) of the employees in the established appropriate unit no longer desire to be represented by the incumbent recognized employee organization.

4.6.3 Such petition shall be submitted for confirmation to the General Manager.

4.7 **Determination by General Manager.** The General Manager shall initially determine whether the petition has been filed in compliance with the applicable provisions of this section. If his/her determination is negative, the General Manager shall offer to consult thereon with the representative of such petitioning employees or employee organization, and if his/her 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 4.11. If the determination of the General Manager is in the affirmative, or if his/her negative determination is reversed on appeal, the General Manager shall thereupon arrange for a secret ballot election to be held no earlier than 15 days and no later than 21 days after such notice to determine the wishes of unit employees as to the question of representation.

4.8 **Effect on Existing MOU.** A valid MOU shall not be affected by any of the procedures set forth in this Section 4.0. The District shall not be obligated to meet and confer with any newly recognized employee organization to which the MOU applies, on any matter addressed or considered in the meet and confer sessions which resulted in the MOU, until such MOU expires.

4.9 **Determination of Appropriate Units.**

4.9.1 The policy objectives in determining the appropriateness of units shall be promoting the efficient operations of the District, compatibility with the primary responsibility of the District and its

employees to effectively and economically serve the public, and providing the employee 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. The General Manager shall be initially responsible for designation of appropriate units, which recommendation shall thereafter be subject to meet and confer with recognized representatives that are affected thereby. This does not limit employees or recognized employee organizations from proposing a unit designation for consultation. Community of Interest factors to be considered shall be:

- (a) Similarity of the work performed, types of qualifications required (including skills, training and education), and the general working conditions and hours.
- (b) Similarity in scale and manner of determining earnings.
- (c) Similarity in benefits.
- (d) History of representation in the District and similar employment; except that no unit shall be deemed appropriate solely on the basis of the extent to which the employees in the proposed unit have organized.
- (e) Consistency with the organizational patterns of the District including geographic location, frequency of contact or interchange, relationship to the District's administration, continuity or integration of production processes and common supervision and determination of labor-relations policy.
- (f) Number of employees and wage classes and the degree of impact on employer-employee relations.
- (g) The District's ability to bargain effectively with the unit and the effect of the unit on the efficient operation of the public service.
- (h) Desire of employees.

4.9.2 The General Manager may, after notice to and consultation with affected employee organizations, allocate new wage classes or positions, delete eliminated wage classes or positions,

and remain, reallocate or delete classes or positions from units in accordance with the provisions of this section.

4.10 Procedure for Modification of Established Appropriate Units.

4.10.1 Requests by an employee organization for modifications of established appropriate units shall be considered by the General Manager. Such request shall be submitted in the form of a recognition petition and, in addition to the requirements set forth in Section 4.1, 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 4.9. The General Manager shall determine whether or not to process the request, based upon the best interests of the District and of the employees involved. If the General Manager decides to proceed, he/she shall process such petitions, as provided in these rules for other recognition petitions, except that only employees in the newly proposed and approved appropriate unit may vote.

4.10.2 The General Manager may on his/her own motion propose that an established unit be modified. The General Manager shall give written notice of the proposed modifications to any affected employee organization and shall hold a meeting concerning the proposed modifications, at which time all affected employee organizations shall be heard. Thereafter, the General Manager shall determine the composition of the appropriate unit or units in accordance with Section 4.9, and shall give written notice of such determination to the affected employee organizations. The General Manager's determination may be appealed as provided in Section 4.11. If a unit is modified pursuant to the motion of the General Manager hereunder, employee organizations may thereafter file recognition petitions seeking to become the recognized employee organization for such new appropriate unit or units pursuant to Section 4.1.

4.11 Appeal from the General Manager's Determination.

4.11.1 Employees or an employee organization aggrieved by a determination of the General Manager regarding an appropriate unit or a recognition petition, challenging petition, or decertification of recognition petition, may within 15 days of notice of such determination, appeal the determination to the Board for final decision.

4.11.2 Appeals to the Board shall be filed in writing with the Board Secretary, and a copy thereof served to the General Manager. The Board may select a designee(s) to consider the matter and make a written recommendation to the Board. The Board may designate whether the matter shall be heard by written briefs or by an informal hearing process. The Board or its designee(s) shall commence to consider the matter within 45 days of the filing of the appeal.

4.11.2 The decision of the Board shall be final and binding subject to review by the Public Employees Relations Board (PERB) as provided by law.

5.0 ADMINISTRATION

5.1 **Meet and Confer.** Only recognized employee organizations shall be entitled to meet and confer with the District on matters within the scope of representation as provided by this policy.

5.2 **MOU.** If agreement is reached by the representatives of the District and a recognized employee organization, they shall jointly prepare a written memorandum of such understanding and present it to the employees of the appropriate bargaining unit and the Board for approval. The MOU will not become effective and binding unless those employees in the appropriate bargaining unit ratify it, and the Board approves it, at which time it shall constitute a contract between the District and the recognized employee organization.

If either party does not obtain ratification or approval of the tentatively agreed to MOU, then Section 6.0 Impasse Procedures may be invoked.

5.3 **Payroll Deductions.** A recognized employee organization shall be entitled to request that payroll deductions be made for payment of organization membership dues. Providing that such service to the recognized employee organization by the District be contingent upon and in accordance with the provisions of the MOU and must be approved in writing by each employee on a payroll deduction authorization card provided by the District.

5.4 **Submission of Current Information.** Any changes in the information filed with the District by a recognized employee organization under items (a) and (h) of its recognition petition under Section 4.1 shall be submitted in writing to the General Manager within 15 days of such changes.

5.5 **Administrative Rules and Procedures.** After consultation with the effected employee organizations, the General Manager is hereby authorized

to establish such rules and procedures as appropriate in order to implement and administer the provisions contained herein.

6.0 IMPASSE PROCEDURES

6.1 Initiation of Impasse Procedures. In the meet and confer process as defined in this Policy, 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 subject to the impasse. An impasse meeting shall then be scheduled promptly by the General Manager. The purpose of such meeting shall be:

- (a) To review the position of the parties regarding the listed issues in a final effort to reach agreement on a MOU; and
- (b) If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

6.2 Impasse Procedures. Impasse procedures are as follows:

- (a) The parties agree to submit the dispute to mediation. All mediation proceedings shall be private and non-binding and take a total of 45 days, unless otherwise agreed to in writing by the relevant parties. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- (b) If the parties fail to agree to a mediator after 15 days, or having so agreed, fail to resolve the dispute through mediation after 30 days from the first impasse mediation meeting, the Board of Directors may take such action as it, in its discretion, deems appropriate. Any legislative action by the Board of Directors on the impasse shall be final and binding subject to review by the Public Employment Relations Board (PERB) as provided by law.
- (c) During the period of impasse neither the District or the employee representatives will engage in any organized inappropriate activities including, but not limited to self-promotion of bargaining position, informational pickets, strikes or slowdowns.

6.3 Costs of Impasse Procedures. The costs of the services of a mediator utilized by the parties, and other mutually incurred costs of mediation, shall be borne equally by the District and the exclusively recognized employee organization. Any costs attributed to a single party shall be borne by such party.

7.0 SEVERABILITY

7.1 **Severability.** If any provision of this Policy, or application of such provision to any person or circumstance, is found by a court of appropriate jurisdiction to be invalid, the remainder of this Policy, or the application of its provisions to person(s) or circumstances other than those as to which it is held invalid, shall not be affected thereby.