

ADMINISTRATION AND COURTS BUILDING  
1415 Truxtun Avenue  
Telephone (805) 861-2371

ADMINISTRATIVE OFFICE



Bakersfield, California 93301

COUNTY ADMINISTRATIVE OFFICER  
R. S. Holden  
ASSISTANT CO. ADMINISTRATIVE OFFICER  
Selden S. Hoos  
Edward E. Rous

March 7, 1984

Board of Supervisors  
County of Kern  
Kern County Civic Center  
Bakersfield, California

Amendment to Employer-Employee  
Relations Resolution

The current Employer-Employee Relations Resolution, Article XII, provides that the recognized employee organizations must submit their meet and confer proposals by April 1 of each year. During the 1983-84 meet and confer process, the County entered into agreement with two of employee organizations which reflect a termination date of January 1985. Because of the January expiration date of the MOU's, the April 1 deadline needs to be modified.

The attached Employer-Employee Relations Resolution amends Article XII to require submittal of proposals from the recognized employee organizations ninety (90) days prior to the termination of an MOU contract.

The Employee Relations Officer has contacted each of the employee organizations concerning this amendment to the Employer-Employee Relations Resolution, and all are in agreement.

Therefore, IT IS RECOMMENDED that the Board adopt the amendment to Article XII of the County Employer-Employee Relations Resolution.

Very truly yours,

A handwritten signature in cursive script that reads "R. S. Holden".

R. S. Holden  
County Administrative Officer

RSH/BC/mh  
Attachment  
cc: SEIU #700  
KLEA  
KCFF #1301

COUNTY OF KERN  
EMPLOYER-EMPLOYEE RELATIONS RESOLUTION

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Before the Board of Supervisors  
County of Kern, State of California.

FILE COPY

In the matter of:

Resolution No. 84-166  
Reference No. 846390

ESTABLISHING POLICIES AND  
PROCEDURES GOVERNING  
EMPLOYER-EMPLOYEE RELATIONS

I, M. V. RADEMACHER, Clerk of the Board of Supervisors of the County of Kern, State of California, do hereby certify that the following resolution, proposed by Supervisor Larwood, seconded by Supervisor Harvey, was duly passed and adopted by said Board of Supervisors at an official meeting hereof this 13th day of March, 1984, by the following vote, to wit:

AYES: Tackett, Austin, Larwood,  
Harvey, Mitchell

NOES: None

ABSENT: None

M. V. RADEMACHER  
Clerk of the Board of Supervisors, County of Kern  
State of California



By P. J. Poole  
Deputy Clerk

RESOLUTION

Section 1.

WHEREAS:

(a) The Board of Supervisors of the County of Kern desires to continue its practice of encouraging a relationship of trust, confidence and mutual understanding within an established framework of policy and procedure which will provide a uniform and equitable basis for consideration of employee interests; improve communication between management, employer and employee organizations; improve personnel management; provide a uniform basis for employees to exercise their right to join employee organizations of their choice; and provide for designated representation in employment relationships;

(b) Provisions of the Meyers-Milias-Brown Act (Title 1, Division 4, Chapter 10 of the Government Code, State of California) established authorities and guidelines for public employees in their mutual employment relations;

Section 2.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Kern, State of California, that the following policy and procedure for the administration of employer-employee relationships is hereby adopted:

I. CITATION OF STATUTES

Reference to provisions of State law shall be deemed to include amendments to such laws as may be adopted from time to time.

II. DEFINITIONS

(a) "Employee" means an employee whose salary is fixed by the Board of Supervisors in the Salary Ordinance of the County.

(b) "Recognized Employee Organization" means an employee organization that has been certified pursuant to Section VIII of this resolution.

(c) "Days" shall mean calendar days.

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding matters within the scope of this resolution between representatives of the County and the recognized employee organizations.

(e) "Fact-finding" means identification of the major issues in a particular dispute, review of the positions of the parties, resolution of factual differences by one or more impartial fact-finders, and the making of recommendations for settlement if requested by either party.

(f) "Management" means the Board of Supervisors, the County Administrative Officer, the head or assistant head of a department or agency, and heads of operational divisions when such division serves in a quasi-department status, to include, when appropriate, the Kern County Civil Service Commission.

(g) "Supervisory Employee" means any individual having authority in the interest of the employer to hire, suspend, layoff, recall, promote, discharge, transfer, discipline other employees, responsibly direct them, to adjust their grievances, to effectively recommend the above actions, 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 independent judgment. In order to qualify as a supervisory employee an individual must have the authority to perform or to effectively recommend a preponderance of the specified acts.

(h) "Confidential employee" means an employee who is privy to decisions of County management affecting employee relations.

(i) The term "Employee Organization" shall mean any organization which includes in its membership employees of Kern County, and which has as one of its primary purposes the representation of those employees in their employment relations with the County.

(j) "Employee organization representative" means individuals as named under provisions of Section VIII(c), or such other advisory or supplementary representatives having special knowledge of a specific situation under consideration.

(k) "Representation Unit" means a group of employees established pursuant to the provisions of this chapter as an entity appropriate for representation purposes.

### III. RIGHTS OF EMPLOYEES

Except as otherwise provided by State or Federal law, employees of the County of Kern 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. They shall also have the right to refuse to join or participate in any employee organization, and shall have the right to represent themselves individually in their employment relations with the County.

No management or supervisory employee, or other person, shall directly or indirectly interfere with, restrain, coerce, or discriminate against any public employee or group of public employees in the free exercise of their right to organize and designate representatives of their own choosing for the purpose of collective bargaining, or in the free exercise of any other right under this resolution.

Employees, not to exceed three (3) at any given time, who serve as representatives of recognized employee organizations, shall have

reasonable time off without loss of compensation or other benefits, when meeting and conferring with representatives of the County regarding terms and conditions of employment, provided that attendance of such employees has been formally requested or confirmed in writing by an employee organization. Said written request shall be directed to the appropriate department head stating need for such attendance, and attendance must be approved by said employee's department head or authorized representative. Department heads shall have the right to place reasonable limits on such excused absences, and shall note in writing on the letter of request any conditions or limitations imposed relative to the employee's absence from duty. Unwarranted abuse of any such conditions or limitations shall be grounds for withholding approval for subsequent authorized absences under these provisions. Any disapproval by a department head shall be immediately transmitted in writing to the requesting organization, with a copy to the County Administrative Officer, stating the reason for disapproval. No disapproval shall be valid if review by the County Administrative Officer results in a finding that such disapproval was either arbitrary or capricious.

#### IV. RIGHTS OF RECOGNIZED EMPLOYEE ORGANIZATIONS

1. Recognized employee organizations, as used in this section, shall have equal right to:
  - (a) Represent their members in all proper matters relating to employment conditions and employer-employee relations, including benefits and other terms and conditions of employment.
  - (b) Reasonable access to work locations, after clearance with department head, in order to confer with employee members concerning grievances or disciplinary actions, or with county officials on employment relations matters. Unreasonable arbitrary denial by a department head may be appealed to the County Administrative Officer for hearing.

- (c) Access to non-confidential information pertaining to employment relations.
- (d) Use of reasonable space designated by management on departmental bulletin boards to post notices pertinent to their membership. Such material shall be submitted to the department head or authorized representative for the purpose of keeping the department informed of notices which will appear on the board.
- (e) To assure recognized employee organizations full exercise of their representation rights under (a) above, such organizations will, except in cases of emergency, be given reasonable notice of any new or revised ordinance, resolution, rule or regulation to be proposed for adoption by the Board of Supervisors, or to commissions or other Boards, which relate to matters within the scope of representation. The affected employee organization(s) will then be given reasonable opportunity to confer with the appropriate County authority regarding such proposal prior to adoption.
- (f) "Payroll Deductions" upon written authorization of any public employee within a duly recognized employee organization to the County Auditor-Controller for collection of membership dues, insurance premiums and other organization-sponsored programs, with prior approval of the Board of Supervisors.
- (g) Use of county meeting facilities on the same basis as other organizations.
- (h) Reasonable use of County communication facilities for distribution of material, provided such distribution does not interfere with official business, and prior approval of the County Administrative Officer is obtained.

- (i) When mutually agreed upon, use of County time by designated employee representatives in order to adequately perform their duties.

#### V. RIGHTS OF EMPLOYER

The County and its management representatives shall retain all customary rights, powers, functions and authority consistent with State law, County ordinances, or rules of the Civil Service Commission, and shall include the right to:

- (a) Determine the mission of its constituent departments, commissions and boards.
- (b) Set standards of service.
- (c) Engage in all types of personnel transactions and disciplinary proceedings in accordance with County ordinances and Civil Service rules.
- (d) Plan for and direct the work force toward the organizational goals of County government.
- (e) Effect a reduction in authorized positions because of lack of work, or for other legitimate reasons.
- (f) Determine work methods, number and classifications of personnel, and types of equipment required to accomplish an objective.
- (g) Take any necessary actions to carry out its mission in emergencies.
- (h) Exclude the following employees from exercising any role in any employee organization, other than membership (including payroll deduction):
  - (1) Managerial employees who serve as department heads and assistant department heads, and heads of operational divisions when such division serves in a quasi-departmental status.
  - (2) Employees having a confidential relationship with the Board of Supervisors, County Administrative Officer, Director of Personnel, and County Counsel.



Such excluded employees shall not exceed two percent (2%) of the permanent work force.

Excluded employees may not represent any employee organization which represents other County employees on matters within the scope of representation.

- (i) Modify, supplement or otherwise change this policy to reflect present and future State law and local ordinance, after consultation with employee organization representatives.
- (j) The exercise and retention of such rights does not preclude employees or their representatives from consulting or presenting grievances about the practical consequences that decisions on these matters may have upon wages, hours, and other terms and conditions of employment.

#### VI. PROHIBITED PRACTICES

1. Employee organization representatives or any of their members shall neither directly nor indirectly:

- (a) Interfere with, restrain, or coerce employees in the exercise of their rights provided in these regulations.
- (b) Coerce, intimidate or induce any supervisory employee, or other agent of the County, to interfere with employees in the exercise of their rights provided in these regulations.
- (c) Engage in direct membership promotional activities, including solicitation of new members, during departmental working hours.
- (d) Interfere with or disrupt the orderly conduct of County business, nor shall any County employee absent himself on organizational activity from his place of County employment without prior agreement with his appointing authority.

- (e) Engage in conduct inconsistent with the provisions of Government Code Section 3509, which renders provisions of Labor Code Section 923 inapplicable to County employees.

2. The County of Kern or its designated representatives shall neither directly nor indirectly:

- (a) Intimidate, retaliate, interfere with, restrain or coerce employees in the exercise of any of the rights provided in these regulations.
- (b) Dominate any employee organization by any means, nor influence individual membership in any employee organization. This shall not be construed as depriving management from enforcing administrative responsibilities of managerial and/or confidential employees.
- (c) Take reprisal or discriminate in any way against any individual for use of the grievance or appeal procedure.
- (d) Take reprisal or discriminate against any recognized labor organization representative in fulfilling his appropriate duties.

#### VII. REQUIREMENT FOR RECOGNITION

Organizations desiring to represent County employees in their employee relations must first be certified by the Board of Supervisors.

The employee organization selected by a majority vote of the employees in any representation unit shall be recognized as the sole and exclusive bargaining agent for all of the members of the representation unit, unless and until recognition of such bargaining agent is withdrawn in conformance with conditions of Section XI.

#### VIII. CERTIFICATION PROCEDURE

Fifteen (15) days prior to the requested date of certification, and annually thereafter, prior to January 1 of each year, the employee organization shall file the following information with the Director of Personnel:

- (a) The name and address of the organization.

- (b) A copy of its current constitution and by-laws, and if incorporated, a copy of Articles of Incorporation shall be filed.
- (c) A current list of its officers and of representatives authorized to speak for the organization. Such representation shall not exceed five (5) in number.
- (d) A statement of the objectives of the organization, including a non-discriminatory membership clause pertaining to race, creed, color, sex, political affiliation or national origin.
- (e) Verification of employee membership, which may be shown by payroll dues deduction or authorization cards.
- (f) A statement that the organization has, as one of its primary purposes, representation of County employees in their employment relationship with the County.
- (g) A written statement agreeing to abide by the provisions of the resolution establishing employer-employee relations.

After all information for recognition has been filed, the information will be verified and the Director of Personnel shall submit, within fifteen (15) working days, through the County Administrative Officer to the Board of Supervisors, the request for recognition. If all conditions for recognition have been met, recognition shall be granted by formal resolution of the Board of Supervisors. Any documents filed with the Director of Personnel pursuant to this procedure shall be confidential unless released by formal order of the Board of Supervisors after consultation with the affected organization representatives.

#### IX. ESTABLISHMENT OF REPRESENTATION UNITS

1. Where no representation unit exists, a recognized employee organization may submit a petition to the Director of Personnel

requesting the creation of a new representation unit. The petition shall include a list of the classifications to be included in the proposed unit, the number of employees in each classification, as well as the divisions and departments to which they belong. The petition must be accompanied by proof that the organization represents at least thirty percent (30%) of the employees within the proposed unit. Upon receipt and verification of such petition, the Director of Personnel shall promptly post notice of the request (on appropriate bulletin board(s)) to the employees in the proposed unit, and to any person or recognized employee organization that has filed a written request for such notice. A petition for the establishment of a representation unit may be combined with a petition which seeks certification as the recognized employee organization representing the majority of employees in the representation unit.

2. If the Director of Personnel and the County Administrative Officer agree that the proposed unit is appropriate and no challenge, as provided in paragraph IX(c), the Director of Personnel shall establish the unit and make appropriate notifications. In all cases, notification will include notification to the Board of Supervisors, the Civil Service Commission, affected departments, employees in the unit being represented, persons or employee organizations which have requested such notification, and such others as are deemed appropriate. If the Director of Personnel, County Administrative Officer, and the recognized employee organization do not agree on the appropriateness of the unit, the matter shall be referred to the Civil Service Commission for hearing and final decision.

3. Within thirty (30) days of the date the notice is given to the employees in the proposed unit, another recognized employee organization may challenge the appropriateness of the requested representation unit by petitioning for the establishment of a different unit. The petition shall be filed with the Director of Personnel, and must be accompanied by acceptable proof that the organization represents at least thirty percent (30%) of the employees within the proposed different unit.

4. If a challenge is filed, the Director of Personnel shall notify the recognized employee organization which submitted the original petition for the new unit. If an amended petition is not filed by the original petitioner within seven (7) days of such notice, the original petition and challenge shall be submitted to the Civil Service Commission, as provided below. Upon filing of an amended petition, the original petition shall be deemed revoked and the amended petition shall be considered on its own merits as if originally filed.

5. If a challenging petition has been filed and the challenge has not been resolved by amendment of the original petition or withdrawal of the challenging petition, the Director of Personnel shall submit the petition and challenge to the Civil Service Commission. The Commission shall hold hearings on all challenged petitions for representation units, at which time the recognized employee organization which filed the original petition and the challenging recognized employee organizations shall be heard.

6. The Civil Service Commission shall make the final determination on the appropriateness of the representation unit or units. In making such determination, the Commission shall not be limited to consideration of the unit or units requested, provided, however, that if the Commission is considering the establishment of a representation unit other than one described in an original petition or in a challenging petition, the following procedure shall be followed:

- (a) The Commission shall set a date when it will act on establishing the representation unit or units, and shall direct the Director of Personnel to cause timely notice of the date and purpose of said hearing to be given to all employees within the unit or units being considered, and to all recognized employee organizations.
- (b) At the time set for the hearing, the Commission shall afford all persons present, and all recognized employee organizations or representatives thereof, an opportunity to be heard on the question of establishing the repre-

sentation unit or units which were not described in an original petition, or in a challenging petition.

- (c) After all persons and recognized employee organizations or representatives thereof who wish to be heard on the matter have been afforded an opportunity to be heard, the Commission shall render its decision on establishing the representation unit or units.

X. CRITERION FOR REPRESENTATION UNITS

1. An employee organization may seek formal recognition as the majority representative for an established or proposed representation unit. The principal criterion which will be used in determining an appropriate unit shall be whether the unit proposed contains the largest feasible group with a community of interest among such 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: (1) in the unit; (2) among other employees of the County; and (3) in similar public employment.
- (c) The effect of the unit on the efficient operation of the County, and sound employer-employee relations.
- (d) The extent to which employees have common skills, working conditions, job duties, or similar educational requirements.

2. In the determination of an appropriate unit, the following rules shall apply:

- (a) A single classification of employees shall not be divided among two (2) or more appropriate units.
- (b) No unit shall be deemed appropriate solely on the basis of the extent to which employees in the proposed unit have organized.

(c) Managerial and confidential employees shall not be included in any representation unit which includes employees other than management or confidential.

(d) Management and confidential employees who hold membership in any organization with non-management or non-confidential employees may not represent such employees on matters within the scope of representation.

#### XI. REVOCATION/DECERTIFICATION OF RECOGNITION

1. The Board of Supervisors may, after a public hearing, revoke its recognition of any employee organization which violates any Federal, State, or County law, or any rules adopted herein for orderly and responsible employer-employee relations, or for acts found to be contrary to the best interests of the County of Kern.

2. A petition for decertification may be submitted by:

(a) The recognized organization, as a disavowal of interest.

(b) The County Administrative Officer, for reasons related to substantial changes in county functions, organization structure, or job classification.

Such petitions shall be forwarded forthwith to the Board of Supervisors for hearing and decision.

#### AMENDMENT OF ARTICLE XI(c)

The status of an organization as the recognized representative may be contested by employees of the unit after the initial one (1) year period, but no more than one hundred eighty (180) or less than one hundred fifty (150) days prior to the expiration of any MOU between a recognized employee organization and the County.

A petition for decertification of a recognized employee organization in an appropriate employee unit may be submitted by employees included in the unit. Such decertification petition shall be submitted to the Personnel Director, and shall be accompanied by evidence of authorization from at least thirty percent (30%) of the employees in the appropriate employee unit which the petitioners request be decertified. If the employees are requesting decertification to be followed by

recognition of a new employee organization not recognized, the information in Article VIII(a) through (g) must also accompany the petition. After investigation, the Personnel Director shall refer the petition, with a recommendation to the Civil Service Commission, for a hearing and a determination. If the Commission finds the unit appropriate, it may then make a recommendation to the Board of Supervisors. The Board of Supervisors shall then set the election for a date not exceeding thirty (30) days following the receipt of the certification. Election procedures shall be established by the Board of Supervisors, but cost of any election shall be borne by the petitioners.

The election ballot shall include a choice of "No Representation." The organization certified shall become the recognized bargaining representative immediately, and assume the existing Memorandum of Understanding. Should a group of represented employees decertify and become unrepresented, they shall continue under the existing Memorandum of Understanding for the remainder of its duration.

The unit to be decertified need not be coterminous with the certified unit, but it cannot exceed in scope the certified unit, and the unit to be decertified must be an appropriate unit standing alone.

#### XII. TIMETABLE FOR SUBMISSION OF PROPOSALS

Proposals from recognized employee organizations for changes in wages, fringe benefits, and other terms and conditions of employment, shall be submitted to the Board of Supervisors ninety (90) days prior to the termination date of the existing Memorandum of Understanding.

#### XIII. MEETINGS AND CONFERENCES

The County of Kern and recognized employee organizations shall, on request of either party, meet and confer in good faith with a view to reaching agreement concerning differences regarding wages, hours, and other terms and conditions of employment. In any meetings so held, representation for each of the parties shall not exceed five members, unless the requirement for and the number of any additional members shall have been agreed upon by the involved parties.



The County shall be represented in its employment relations with employee organizations by the County Administrative Officer or his designated representatives, and such other County officials as he may deem necessary. The Board of Supervisors may, in addition, further designate such other County officials as are deemed appropriate, or may employ the services of competent and qualified labor relations persons or firms.

Employee organizations may meet and confer with department heads on matters of employment practices or the application of these regulations which pertain strictly to a department, and for which a solution would not affect or interfere with the normal operation of any other department. On matters of inter-departmental or County-wide applicability, employee organizations shall make their request for meetings and conferences to the County Administrative Officer.

Before requesting to appear before the Board of Supervisors, employee organizations shall attempt to meet with the County Administrative Officer or his designated representative, in an effort to resolve employment relations problems. When an employee organization requests that a matter be placed on the Board's agenda, a written statement specifying the problem and desired action shall be filed with the Clerk of the Board, with a copy to the County Administrative Officer.

#### XIV. MEMORANDUM OF UNDERSTANDING

Upon agreement being reached by representatives of the County and any recognized employee organization or organizations, a Memorandum of Understanding will be prepared and signed jointly by the parties. If Board approval is required, such memorandum shall be presented in written form to said Board of Supervisors within fifteen (15) working days for determination and appropriate action. Upon approval by the Board, such agreement shall be binding upon all parties.

XV. RESOLUTION OF IMPASSES

1. Impasse on Matters Subject to Approval by the Board of Supervisors.

In the event no agreement can be reached between representatives of the recognized employee organization(s) prior to May on a matter within the scope of representation affecting the budget or subject to approval by the Board of Supervisors, notification of such failure to agree shall be transmitted to the Board of Supervisors, setting forth points of disagreement, together with any request for mediation. If the Board concludes that there has been insufficient effort between the parties to resolve the impasse, it may remand the matter to the parties for further consideration. If the Board concludes that such further consideration would not result in settlement, it may, in its discretion, attempt to mediate the dispute. In the event the Board cannot resolve the impasse, the dispute shall be submitted to mediation. If the parties are unable to agree on the mediator, the County and the employee organization(s) agree to request the services of the State or Federal Conciliation Service to provide a mediator. All mediation proceedings shall be private. Reports, findings and recommendations resulting from the mediations shall be provided to the County and to the employee organization(s), and a reasonable time for review shall then be provided prior to any final action by the Board of Supervisors to resolve the impasse. Costs of mediation shall be divided one-half to the County and one-half to the employee organization(s) involved in such mediation proceedings.

2. Impasse on Matters Not Subject to Approval by the Board of Supervisors.

In the event no agreement can be reached between representatives of the County and representatives of the recognized employee organization(s) on a matter not subject to approval by the Board of Supervisors, and within the scope of representation, the parties together may mutually agree upon a method of resolving the dispute, including, but not limited to, mediation. If mutual agreement on a method for resolving

the dispute is not achieved within a reasonable period of time, the dispute shall be submitted to mediation. If the parties are unable to agree upon a mediator, either party may request the services of the State Conciliation Service or Federal Mediation and Conciliation Service to provide a mediator. All mediation proceedings shall be private. Reports, findings, and recommendations resulting from the mediations shall be provided to the parties thereto. Costs of mediation shall be divided one-half to the County and one-half to the employee organization(s) involved in such mediation procedures. The County may furnish meeting space, when required, for such proceedings.

3. Impasse - Use of Fact-Finders.

Either party to an impasse may request fact-finding, in accordance with this section, in connection with any disputed matter. A fact-finder so requested shall be selected by the parties from a list of arbitrators supplied by the State Conciliation Service, the Federal Mediation and Conciliation Service, or the American Arbitration Association:

- (a) Recommendations of the fact-finder or fact-finders shall be limited to the issues originally referred for dispute settlement.
- (b) Fact-finding proceedings shall be private.
- (c) The fact-finding report shall be filed with the parties in interest.

Costs of fact-finding shall be divided one-half to the County and one-half to the employee organization(s) involved in such fact-finding procedures. The County may furnish meeting space, when required, for such proceedings.

XVI GRIEVANCES

This resolution is not intended to supersede or otherwise interfere with ordinance provisions for adjustment of employee grievances under Ordinance A-195 (Article 5, Chapter 3, Division 3, Part 1, Section 993, et seq., of the Ordinance Code of the County of Kern).

XVII. APPLICATION OF LABOR CODE SECTION 923.

Adoption of this resolution shall not be construed as making the provisions of Section 923 of the Labor Code of the State of California applicable to County employees.

XVIII. SEVERABILITY

Nothing contained herein shall be deemed to supersede the provisions of State law, County ordinance, or Rules of the Civil Service Commission. If any paragraph or section of this policy is held to be invalid, such decision shall not affect the validity of the remaining paragraphs or sections of this policy.

XIX. TERM

This resolution shall remain in full force and effect unless and until amended by mutual consent of the County and each of the employee organizations which has been certified under procedures established herein, provided, however, that representatives of the County, and of each recognized employee organization, shall meet not less than annually to determine whether amendments, additions, deletions, or other modifications to this resolution should be recommended to the Board of Supervisors, and shall report to the Board of Supervisors the results of such meeting on or before December 31 of each year following its adoption.

