

10-8-96

96-427

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

DATE: 9/24/96; 10/1/96 Policy
AGENDA ITEM NO.: POLICY A

DEPARTMENT: County Counsel BY: Jeffrey G. Green PHONE: 966-3222

9

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes X No)

1. Adopt the attached Resolution which amends the existing policy relative to the procedures on filing a complaint against appointed Department Heads or other County employees. Based upon recent amendments to the Brown Act, the existing policy is outdated. In the existing policy, the Board considered all complaints in closed session without the presence of the affected employee, unless the Board requested his or her presence. Government Code section 54957 now allows the affected employee the option of having a complaint considered in either an open or closed session of the Board. A copy of the existing policy is attached.
2. Discuss the drafting of a policy concerning complaints that are lodged against elected officials. The existing policy does not include elected officials.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On October 8, 1985, the Board adopted Resolution No. 85-315 which established a policy relative to complaints against County employees.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

1.
 - Adopt policy amendment as proposed.
 - Revise policy amendment as the Board desires and adopt.
 - Do not adopt policy amendment, however, the County will not be in compliance with the Brown Act.
2.
 - Direct staff to prepare an elected officials' complaint policy.
 - Do not take any action concerning this matter at this time.

COSTS: (x) Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

SOURCE: () 4/5ths Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

Balance in Reserve for Contingencies, if approved: \$ _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

Amended Resolution, Resolution No. 85-315

CLERK'S USE ONLY:

Res. No.: 96-427 Ord. No. _____

Vote - Ayes: _____ Noes: _____

Absent: Reilly Abstained: _____

Approved: _____ () Denied _____

() Minute Order Attached () No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____

ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California

By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

- Recommended
- Not Recommended
- For Policy Determination
- Submitted with Comment
- Returned for Further Action

Comment: _____

A.O. Initials: mc / jay mww

MARIPOSA COUNTY RESOLUTION NO. 96-427

RESOLUTION AMENDING THE POLICY RELATIVE TO PROCEDURES
REGARDING COMPLAINTS AGAINST APPOINTED DEPARTMENT HEADS OR
OTHER EMPLOYEES OF THE BOARD OF SUPERVISORS

WHEREAS, the Board of Supervisors desires to amend its policy and procedure relative to handling complaints which may arise against an appointed Department Head or other employee of the Board;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Mariposa County, a political subdivision of the State of California, as follows:

1. All Complaints regarding an appointed Department Head or other employee of the Board of Supervisors (Employee) must be in writing and delivered to the Board in care of the Clerk of the Board, in the County Administrative Office, in a sealed envelope marked "CONFIDENTIAL" with a notation it is a Complaint filed pursuant to this Resolution.

2. The Complaint shall be specific regarding the following:
- a. The allegation of misconduct or wrongdoing.
 - b. Citation of State law or County Code, if applicable.
 - c. Give dates, times, and places where event or events occurred.
 - d. Give names of persons involved and addresses, if available.
 - e. Any other information which would help the Board determine if there is a basis for any charge of misconduct or wrongdoing.
 - f. The Complaint must be signed by the individual making the Complaint, or by an authorized representative of a legal entity. If it is not signed by the individual or authorized representative of a legal entity, the Complaint will not be considered by the Board.

3. Within five (5) working days of receipt of the Complaint, the Clerk of the Board shall provide a copy of the Complaint to the affected employee and the employee shall be given the election to have the Board consider the Complaint at either an open or closed session of the Board of Supervisors. (Government Code § 54957). The employee shall inform the Clerk of the Board, in writing, within five (5) working days from receipt of the Complaint whether the employee wishes to have the matter conducted in an open session.

4. The matter shall be scheduled by the Clerk of the Board on the Board's agenda within thirty (30) days after the employee has made the election as described in paragraph 3 above. If the employee fails to request an open session timely, the matter shall be scheduled in a closed session.

5. If the Board, after an open or closed session consideration of the Complaint determines there is cause to conduct a hearing, the hearing shall be

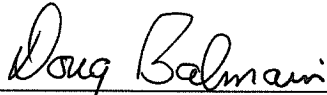
conducted as soon as possible, but no later than four (4) weeks from the determination by the Board to conduct a hearing.

6. The Board of Supervisors shall make available to the Complainant, in writing, the action taken by the Board within ten (10) days from reaching an ultimate decision on the Complaint.

7. The procedures outlined herein shall in no way affect the Board's ability to terminate without hearing or cause an employee who serves at the pleasure of the Board

PASSED AND ADOPTED this 8th day of October, 1996, by the Board of Supervisors of Mariposa County by the following vote:

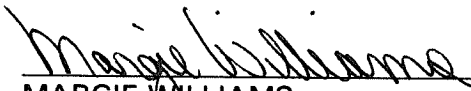
AYES: Balmain, Stewart, Parker, and Pickard
NOES: None
ABSENT: Reilly
ABSTAINED: None



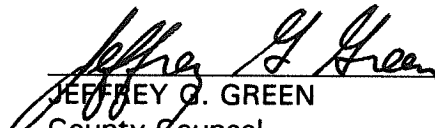
DOUG BALMAIN, Chairman
Board of Supervisors

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:




MARGIE WILLIAMS
Clerk of the Board



JEFFREY G. GREEN
County Counsel

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: JEFF GREEN, County Counsel
FROM: MARGIE WILLIAMS, Clerk of the Board 
SUBJECT: AMENDING COMPLAINT PROCEDURE POLICY; RES. 96-427

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,
ADOPTED THIS Order on October 8, 1996

ACTION AND VOTE:

Resolution Amending the Complaint Procedure Policy Against Appointed Department Heads or Miscellaneous Employees and Discussion of Adopting a Policy Relative to Complaints Involving Elected Officials (Continued from Forthcoming Policy 10/1/96) (County Counsel)

BOARD ACTION: Following discussion, (M)Pickard, (S)Stewart, Res. 96-427 adopted amending the complaint procedure policy against appointed department heads or miscellaneous employees/Ayes: Balmain, Stewart, Parker, Pickard; Excused: Reilly.

cc: Nancy Kyle, Personnel
Board of Supervisors Policy Book
File