

**TITLE: DISPUTE RESOLUTION OF BOARD OF TRUSTEES  
AND MEDICAL STAFF**

**POLICY #**

**MANUAL: ADMINISTRATIVE POLICIES AND PROCEDURES**

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Effective Date: 1/05

Approval Jane M. Read, R.N., M.S.N.,

Vice President of Operations

Reviewed/Revised: 3/11, 4/13, 12/16

## **I. VALUES CONTEXT**

Our value of excellence calls us to expect accountability for excellence in performance and for adherence to professional and organizational standards. Our value of dignity calls us to respect differing views, work collaboratively to resolve disputes, and always seek resolution that is in the best interests of the patients served.

## **II. PURPOSE/EXPECTED OUTCOME(S)**

In accordance with the Standards of the Joint Commission for Accreditation of Healthcare Organizations and the established values and mission of [insert Name of Hospital] this policy contemplates that the Medical Staff, through its elected leaders, and the Board of Trustees will work collaboratively to promote justice and the common good through mutual respect, shared responsibility, joint planning, and equitable commitments of human and monetary resources. It is further contemplated that certain disagreements described herein which arise between the Medical Staff and the Board of Trustees shall be resolved in a fair and orderly manner through the dispute resolution process described herein.

## **III. POLICY**

Scope of Policy: The Medical Staff and the Board of Trustees shall attempt to resolve disputes in accordance with the procedure described herein. This policy shall only apply to disputes that are related to actions taken and/or authorized by either body in its official capacity and pursuant to the procedural requirements applicable to such action (e.g., an affirmative vote in the majority or super-majority, as the case may be, and when such body has a quorum for official action). This policy shall not apply to those matters for which the fair hearing procedures contained in Hospital's Medical Staff Bylaws and Appointment Policy apply. In addition, in the event that this policy conflicts with provisions contained in Hospital's Medical Staff Bylaws (including policies and manuals related hereto), Hospital's Medical Staff Rules and Regulations, or any other organizational governance document (including but not limited to corporate bylaws and articles of incorporation) or [insert Name of Hospital], St. Joseph Health System, or the Sisters of St. Joseph of Orange (collectively, "Organizational Documents"), then the relevant provisions of the Organizational Documents shall control.

#### IV. PROCEDURE

- A. Meet and Confer: The Medical Staff or the Board of Trustees may call a special meeting (“Special Meeting”) for the resolution of disputes. The Special Meeting shall be held pursuant to a written request for the meeting, which request shall specify the nature of the dispute to be resolved. The Special Meeting shall be attended by representatives of the Board of Trustees and the Medical Staff, who shall attempt in good faith to resolve the dispute and shall have reasonable authority to do so. On mutual agreement, the dispute may be submitted to the Joint Conference Committee pursuant to the Hospital Bylaws for consideration and a non-binding recommendation to the Board of Trustees. Neither party shall be represented at the meeting by legal counsel unless the parties agree that both shall be so represented.
- B. Mediation: If after sixty (60) days, or longer if mutually agreed to, the dispute has not been resolved, either the Medical Staff or the Board of Trustees may initiate mediation by delivering written notice to the other. Representatives of both the Medical Staff and the Board of Trustees shall attend and participate in the mediation, which shall be non-binding and without prejudice to any other rights or remedies which either the Medical Staff or the Board of Trustees may have. The mediation proceeding shall be conducted in [insert County], California by an impartial third party mediator who shall have relevant healthcare experience and who shall be selected from those offered by Judicial Arbitration & Mediation Services, Inc. (“JAMS”) in accordance with its procedures. The mediator shall be given any written statement(s) of the Medical Staff or the Board of Trustees and may inspect any applicable documents. This meeting shall be attended by representatives of the Medical Staff and Board of Trustees with reasonable authority to resolve the dispute without legal representation at the mediation unless both parties agree. The comments or findings of the mediator shall be non-binding and without prejudice to the rights of the Medical Staff or the Board of Trustees. However, the parties shall make all reasonable efforts to resolve the dispute pursuant to this policy without need for pursuit of further process.
- C. Referee: In the event the “meet and confer” and mediation fail to resolve the dispute, the matter may be submitted to a referee pursuant to California Code of Civil Procedure §638. If the parties cannot agree on a referee, one shall be appointed under §640. Either party may seek a judicial Temporary Restraining Order (“TRO”) or injunction under California Code of Civil Procedure. If a TRO or injunction is granted, the referee has the authority to decide the parties’ rights under the TRO or injunction, including whether to make the TRO/injunction permanent or dissolve it. At the conclusion of the referee process, if there is no prevailing party, the parties shall share all costs. If, on the other hand, there is a prevailing party, such party shall be entitled to reasonable attorney fees, costs and any fees and expenses incurred.

Author/Department: SJHS Legal Department	
References:	
Reviewed/Revised by: Executive Committee	
Approvals: Executive Committee (1/18/05) (3/15/11) (12/20/16) Board of Trustees (1/25/05) (3/22/11) (1/24/17)	Distribution: All Hospital Departments