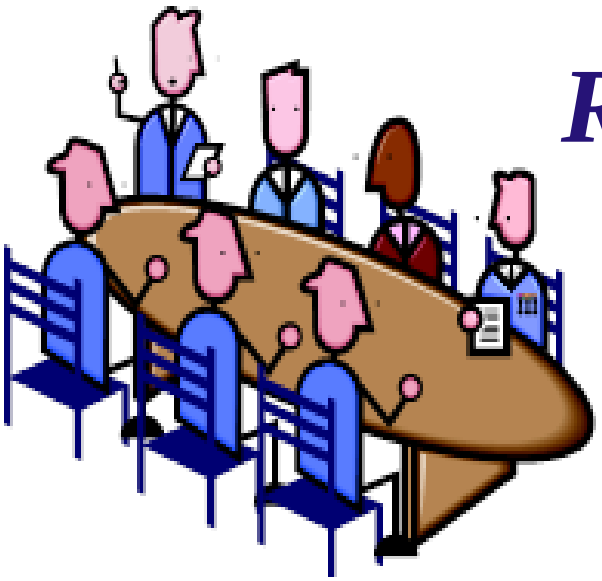


Regional Employees Association of Professionals June 2016 News

THE DECERTIFICATION OF SEIU 721

From June 3, 2016 – July 1, 2016, employees currently required to be represented by SEIU will have the opportunity to **FIRE SEIU** in Riverside County. Many are under the impression they "work" for SEIU. In a sense, they do! SEIU's plans include dues increases, because that's what the "International" encourages (it's in the International Bylaws), page 26-28, Article XV, Section 6 (a)-(e). Don't let SEIU fool you! Go to our website, www.reap4us.org. Download and sign both petitons for your bargaining unit. Circulate the petitions to your coworkers also represented by SEIU. Once completed, mail to:

The Regional Employees Association of Professionals
19510 Van Buren Blvd. #F3-197
Riverside, CA, 92508

"Intentional Infliction of Emotional Distress"

(When Can You File a Stress Claim?)

Intentional infliction of emotional distress is sometimes referred to as the "tort of outrage." In some cases, an employer's behavior toward an employee is so cruel, intimidating, and severe that an employee suffers extreme emotional upset. You may use your grievance procedure to report harassment and seek relief, but if you believe that your employer OWES YOU SOMETHING for your suffering, you have the

right to sue. This would be a claim over the “intentional infliction of distress.

It is unlawful for an employer to deliberately cause an employee emotional harm. You might have been treated unlawfully if the employer's conduct toward you was:

1) Extreme and outrageous, beyond the bounds of acceptable conduct in civil society;
2) Intended to, or could reasonably be foreseen to, cause a reasonable person emotional trauma; or
3) Actually the cause of severe and serious emotional distress for you.

The law does not protect against "mere insult." The focus for this kind of claim is on the outrageousness of the conduct and the severity of the distress that results. For example, being escorted out of the worksite by security in front of your co-workers is probably not enough, alone, to constitute intentional infliction of serious emotional distress. But, being handcuffed and dragged out or being subjected to repeated name calling or racial slurs may constitute an "outrage.”

Similarly, physical violence, or sexual harassment which includes physical contact or threats of termination unless an employee complies with a supervisor’s requests, may be considered “outrageous” behavior causing “severe distress.”

Labor Department Amps Up Overtime Law…

The Fair Labor Standards Act, passed in 1938, established the 40-hour workweek, with a requirement that employees be paid time-and-a-half for hours over 40. But the FLSA also provided for “exemptions” for very high paid employees (those earning over $100,000) and for professionals, managers and administrators. These employees may be considered “salaried” and can work any number of hours, without the right to overtime.

The writers of the law saw the potential for abuse and established an income threshold, below which, *even if an employee was exempt,* s/he would be eligible for overtime. Currently, that threshold is $23,660; if a salaried employee earns less than this annually, s/he is eligible for overtime.

The law is old and inflation has taken its toll. In 1975, 62% of salaried employees earned less than $23,660. Today, it is less than 7%. Further, in the 78 years since the passage of the FLSA, the law has been eroded – massively. For example, under the Bush administration, the definition of “salaried” was expanded to include a much wider range of job classes. This meant that more and more people were considered managers or administrators, rather than hourly workers, with the direct effect that they were no longer eligible for overtime pay. In the last few years, the Department of Labor has been

working to tighten up the many loopholes through which working people have been falling. In 2010, strong definitions for exempt status were resurrected, with the result that many groups of employees (such as social workers, executive secretaries and pharmacists) have been able to sue for overtime. And this year the salary threshold will rise to $47,476. This means that even if an employee is "exempt" and she makes less than $913 per week, she will be eligible for overtime.

The new Guidelines include cost-of-living adjustments every three years, so that the threshold will be over $51,000 by 2020. They ALSO include a new, higher cut-off for the exclusion of highly compensated employees. In other words, currently, if an employee is *eligible for overtime,* but earns over $100,000 per year, the employer doesn't have to pay overtime. The new Rules raise this threshold to $134,004, which means that a wider range of higher-paid employees will become eligible for overtime. In California, the DOL estimates that 392,084 (9.3% of the working population) will earn more as the result of these changes. Nationally, the number is 4.2 million, with a boost of $12 billion in wages over the next 10 years.

Law Prevents PERB from Imposing Strike Penalties

SB 857, implemented in 2012, prevents the Public Employment Relations Board from awarding damages to employers resulting from an employee strike. Prior to this, several employers had sued public employees' unions on the grounds that their strikes cost the agencies money. This, of course, is part of the power of the strike.

Although strikes in the public sector are still extremely rare, this bill removes the threat of a large financial penalty against unions that encourage their members to take collective action.

What Do The Taxpayers Have the Right to Know about YOU?

For the last decade, public agencies and their employees have been on the same side of a battle against taxpayer groups that have been probing for personal information about public employees. In 2009, virtually every agency in the state received a Public Records Act request, asking for names, job titles, union affiliations, and salaries of the people who work there. Many of these requests have been denied, on grounds that they violate employee privacy; **but in the cases that have gone to court, the right to privacy has NOT won out over the public's right to know.**

Under the California Public Records Act (the purpose of which is to "ensure public access to vital information about the government's conduct of its business…") any member of the public has the right to

know the name, position, work location, work phone, and email address and salary of any employee. The Courts have found that employees have "no reasonable expectation of privacy" about their jobs or their relationship to those jobs.

The CPRA does establish two exemptions: 1) personnel files and medical files, which if disclosed would constitute an "unwarranted invasion of personal privacy," and 2) facts which, "better serve the public interest" by withholding the information than by disclosing it. Number 2 is obviously a broad exemption; a myriad of court cases are currently debating what kinds of information "better serves the public interest by non-disclosure…"

Clearly, the overall battle to protect the privacy of who you are, what you do and what you earn has been lost – although "personal" information (parents' names, place of birth, school records, examination records, performance evaluations, etc.) is still protected.

Non-Work "Contact" Information

In hearing these "Taxpayer demands" the Courts apply a "balancing test," weighing the value of the information the public is seeking in "contributing to public understanding of government activities" against the damage that might be done by intrusion into employees' work lives. Thus, the Courts have denied requests for employees' personal phone numbers or home addresses. In 2009, in *County of Santa Clara v Superior Court,* the judge found that "even when the requester asserts that personal contact is necessary to confirm government compliance with mandatory duties," disclosure may be denied when there are "less intrusive means of obtaining that information…"

What about the "public's interest" in protecting employees against intrusions on their time or against threats from members of the public? The Courts have said that *some* employees (basically undercover police officers) may be allowed to maintain anonymity under *some* circumstances, because of personal danger if their identities are released. But the Courts have NOT come down on the side of workplace privacy in the face of "threats" in general. Instead, the current state of the law is that safety or security issues may be examined on a case by case basis -- but that the mere assertion of possible endangerment does not clearly outweigh the public interest in access to records.

On the question of "disruption" by bothersome members of the public, the Courts have not been sympathetic. **Public employees are considered servants OF the public**. This means that they must be available for contact by the public, at any time, while they are at work.

We all know that most contact information that the public really needs in order to reach their local Agency is available on that agency's website. The REAL REASON for this deluge of Public Records Act requests is to disrupt: to pester public agencies and their employees, or to try to embarrass them by releasing financial information. The public is not in any way "illuminated" about the operations of the County when they print *your* salary, or the value of *your* retirement plan, in the local newspaper. For now, however, it's a perfectly legal practice.

Courts 'Lean in the Free Speech Direction' of Employee

Until very recently, there was a good chance that you could be fired for remarks made about your job on the Internet. Now, however, several Court decisions are reversing this trend. In one recent case, a judge ordered a company to re-hire employees who had been fired for comments made on Facebook. The judge said that the employees' right to gripe about their working conditions, during non-work hours, was protected by the National Labor Relations Act.

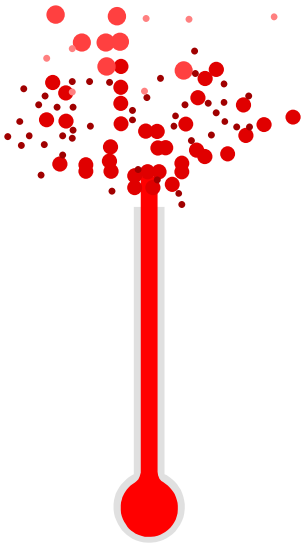
Also this year, a private company, American Medical Response of Connecticut, was ordered to revise its Internet policy to discontinue patrolling Facebook for employee postings. According to the NLRB, employees cannot be barred from discussing the terms and conditions of their employment with co-workers – whether this takes place in the lunchroom or on the Internet.

In another setting, the ACLU of Maryland sued the State's Public Safety and Correctional Services, which had required employees to provide their Facebook passwords. The plaintiffs successfully argued that insisting that employees provide private passwords was tantamount to "listening in on their personal telephone calls." The Court agreed: employers have no right to insist that employees take them in as "friends." These decisions point to a trend: employers are being told that what employees say to one another at public media sites is really none of their business. Unless the employees commit outright slander, they should not expect to be disciplined for "talking" about their jobs.

KNOW YOUR RIGHTS-

Courts Strengthen 'No drug testing' Rights of Public Employees

Years ago, the Supreme Court made a decision about whether public employers could randomly test employees for substance abuse. The decision weighed the interests of personal privacy against the safety interests of the public -- and came down largely in support of employee privacy. The outcome: because of constitutional privacy rights, employers cannot require urinalysis-based drug testing of all employees without sufficient justification, i.e., without 'reasonable suspicion.' A city must now show a compelling interest in the testing that outweighs the employee's fundamental rights.



The struggle over this issue dates to 1986, when because of an increase in the number of disciplinary cases where substance abuse was a significant factor, the City of Glendale adopted a policy requiring every job applicant and every candidate for promotion, regardless of the position sought, and without reasonable suspicion of drug use or abuse, to take a urinalysis-based drug test. The city created a "justification" for drug testing for each job classification from blue collar to professional staff and managers, based on the argument that

every city job affects health, safety, welfare, benefits, and morals of the employee and/or others.

On appeal from the trial court by a taxpayer who brought the original suit, the California State Court of Appeal found that "the collection and testing of urine infringes upon protected privacy interests . . . and that the validity of an employer's drug testing program must be determined by balancing the privacy interests of the employee against the interests promoted by the search."

When the Court of Appeal applied this "balancing test," it found that the city's interest in such things as controlling expenses or the "integrity of its public image" did not outweigh the employees' interest in securing their constitutional rights. The court concluded that the balancing test must be done on a job by job basis, finding, for example, that driving a vehicle does not meet the standard unless driving is the main job duty, or the driving was combined with other special physical or ethical demands.

In its job-by-job review of the need to test certain jobs for public safety considerations, the Court also found no legitimacy in the city's need for testing clerical employees who maintain confidential records, as none of a city's records are "top secret" national security information. Likewise, jobs requiring the ability to exercise sound judgments are not sufficiently compelling to justify testing without evidence that serious harm to the public would result from impairment of that judgment. Where skilled and manual labor jobs were concerned, the Court found that the city's concern for safety was 'not sufficiently compelling' unless improper job performance would create a 'danger of disastrous proportions.'

To sum it up, the Court of Appeal ruled that the city's drug testing program could only be applied to jobs where the regular duties involve some special and obvious physical or ethical demand, and where the compromise of the employee's ability to meet such demands could have an immediate disastrous consequence on Public safety or security.

Finally, the court ruled that drug testing for those jobs that met the above standard could be required only: 1) for initial employment (2) if the test does not violate the Americans With Disabilities Act (i.e., requiring the disclosure of medical information not relevant to the applicant's ability to perform the job); (3) if the sample is collected in a way not unnecessarily intrusive to personal privacy; and (4) if an initial positive test is confirmed by a second test that is regarded as reliable by the scientific evidence.

None of this stops the city from negotiating an agreement with its unions to test employees when and if they have a "reasonable suspicion" of drug use on the job. Reasonable suspicion means verifiable evidence, which can be corroborated by more than one party. In the absence of negotiations on the subject, only those employees who are identified, by some other government agency, as subject to testing (i.e., heavy vehicle drivers, pursuant to Department of Transportation Regulations) can be compelled to cooperate with substance abuse testing.

Who Are Your Staff at the CEA Office?

Our Association contracts with CEA (City Employees Associates) for help with our labor relations. CEA currently represents to more than 140 independent unions in eight counties. Their clients work in cities, counties, vector and utility districts, and range in size from three people to 500. CEA's services range from contract

negotiations and legal advice to our Board of Directors to direct assistance to members with work-related problems.

Although most of CEA's clients call themselves associations, they are all the "exclusive representatives" for members of their bargaining units. Legally speaking, they are unions, with the same legal rights and obligations as *any* labor organization. Your Association is obligated to enforce your MOU and to represent you, its members, if you have a grievance and disciplinary appeal. CEA staff also conducts "decertifications" for groups of employees that want to leave their big unions and form their own independent unions. More than half of CEA's current members were previously represented by large, International unions.

As public employees have come "under siege," in the last decade, many unions have faced crisis-level problems. Responding to the crisis, CEA's staff has nearly doubled. Today, we are a 12-person staff: Director, Robin Nahin; Attorneys Vicky Barker, Jeff Natke, Brian Niehaus, and Oshea Orchid; Union Representatives, Mary LaPlante, Rich Anderson, Marjeli Cruz, Joan Heithoff, John Dalrymple, Nik Soukonnikov; and Office Manager, Pat Marr. With all this growth, CEA has discovered that many of their clients and staff no longer know one another! So the purpose of this brief article is to tell you a bit about your staff at the CEA office:

Director Robin Nahin holds two Masters Degrees, one from UCLA, with an emphasis on labor relations. Starting as a union rep for the Long Beach CEA, her 36-years' experience includes grievances, arbitration and contract negotiations for more than 100 employees associations. Robin is an expert at helping employees form new organizations, as well as in ADA, benefits and retirement matters. She also oversees CEA's staff and makes sure the taxes are paid!
Robin lives with her husband, Byron and puppy, Rosebud. In her free time she makes pottery, repairs their 1906 house and takes Rosie to the dog beach.

Attorney Vicky Barker received her B.A. in Political Science, Magna Cum Laude, from UC San Diego and her law degree from the UC Davis. In law school she was an Editor on the U.C. Davis Law Review.

Vicky specializes in contract negotiations and arbitration. Named one of the top women litigators by California's legal newspaper, she has dedicated her career to pursuing justice for public employees. While not pursuing justice, Vicky takes her competitive skills to the water polo pool, as both a player and coach, and has recently discovered CrossFit.

Attorney Jeffrey Natke is originally from Detroit. He has a B.A. in History, and received his law degree, Magna Cum Laude, from Michigan State University. In law school, Jeff earned Achievement Awards in both Labor and Sports Law. He served as editor of his Law Review, as an intern with the Army JAG Corps, and an extern for a Michigan Supreme Court Justice.

Jeff actually ENJOYS contract negotiations. In his off time, he plays guitar, attends concerts, and is a Detroit sports fan. (But Jeff doesn't have a lot of off hours…)

Attorney Brian Niehaus received his B.A. in Political Science from the University of Cincinnati, and his law degree, with a concentration in labor and employment, from California Western School of Law. During law school, he worked for the Employee Rights Center, representing employees over lost wages, overtime and unemployment insurance. He also worked as a legal intern for the AFSCME and an attorney for the California Correctional Peace Officers and the Riverside Sheriffs' Association. Brian enjoys contract negotiations and helping members appeal unjustified discipline. He also conducts Civil Service hearings and arbitrations. Brian and his wife live in Culver City, love nature, and are expecting a little girl *any minute now.*

Attorney Oshea Orchid received her B.A. in Political Science from Tulane University and her law degree from Whittier Law School. Oshea represented L.A. County employees for several years, handling

grievances and discipline cases. During law school, she worked at the National Labor Relations Board, investigating unfair labor practices. In her free time, Oshea enjoys organic farmers markets and vegetable gardening with her daughter, Adelaide.

Associate John Dalrymple graduated from Antioch University with a degree is Labor Studies, but says his real education was the bargaining table and in helping to elect good officials into public office. John has represented employees in city, county, state and "special district" jurisdictions. For several years he was Director of the Contra Costa Labor Council, representing over 70,000 union members. Later, he worked as Staff Director for his Union's Hospital Division. His thirty-five years in labor have given him extensive knowledge in organizing, negotiations and contract enforcement. When John seeks a break from work you can most likely find him hiking with a good friend or maybe at a Warriors basketball game.

Associate Rich Anderson received his B.A. and M.A. in English from CSU Northridge, where he served as President of his union, representing employees at 23 campuses. He negotiated statewide contracts, handled individual and group grievances, managed organizing staff, and lobbied legislators on the local, state, and national level. Most recently, Rich worked for another international union as a Field Rep, handling grievances and arbitrations, implementing steward training, and conducting political campaigns. On his weekends, Rich takes his dog Truffle to the dog beach and spends time practicing his jazz drumming "chops."

Associate Marjeli Cruz went to UC Santa Barbara where she got her B.A. in English. She has 12 years' experience working with public and private sector employees, and widespread background in union recognition, grievance handing, NLRB hearings. Marjeli has organized dozens of labor union from scratch and negotiated their first contracts. Marjeli is recently married and loves spending quality time with her husband, Hector.

Associate Joan Heithoff earned her B.S. in Education and an M.S. in Labor Relations from the University of Wisconsin. She taught high school social studies, and served for 15 years as chief negotiator for the Milwaukee teachers union. Although Joan's special expertise lies in contract negotiations, she also has extensive experience in grievances, discipline, and arbitrations. Joan has a husband and two sons in college, is a lifelong Green Bay Packer fan, and firmly believes the Packers are America's true team (sorry Cowboys fans).

Associate Nikita "Nik" Soukonnikov came to the US at the age of 10, and received his B.A. from Bard College at 19, and his law degree (magna cum laude) from the University of Minnesota Law School. He is licensed to practice law in Oregon. He worked as a union organizer before law school, helping employees form unions and negotiate labor contracts. During law school, he helped represent victims of employment discrimination and wage theft in state and federal courts. Nik emphasizes his goal is to "expand the rights of the average employee" though contract negotiations, and individual and group grievances.

Associate Mary L. LaPlante worked for 16 years in public agencies in California, serving as president of

her city union and several years as a manager in San Bernardino County. She graduated Magna Cum Laude from the University of La Verne with a B.S. degree in Public Administration. She came to CEA after she realized she only wants to work on the "union side of the table. Mary's special skill lies in contract negotiations. She has served as chief negotiator more than 80 times. She also represents members in grievances, PERB hearings, and disciplinary appeals. When Mary has an opportunity to vacation, she and her husband prefer "glamping" – otherwise known as RV camping – and cooking new foods together.

Office Manager Pat Marr spent most of her professional career as a court reporter and office manager for non-profit businesses. She has been keeping the CEA office running smoothly for eight years.

Pat came from a union family. Her first job out of High School was with Seafarers International. She lives in Lakewood with her husband of 33 years and has two daughters, from whom she's patiently awaiting

grandchildren. In her spare time, Pat likes traveling, concerts, reading, and being outdoors.

MAJOR LEGAL DECISIONS

The following are significant decisions involving the rights of public employees. If you have a specific question or problem, please call your Board Rep or our professional staff at 562-433-6983 or cea@cityemployees.net.

Supreme Court Defends 1st Amendment: Affirms Public Employees Can't be Disciplined for Political Affiliations

The U.S. Supreme Court has reaffirmed that a public agency cannot discipline an employee for political activities off the job. In *Heffernan v. City of Paterson,* the City had demoted a Police Officer for allegedly supporting a Council Candidate who had opposed the Mayor and Police Chief. In truth, the Police Officer had done little more than pick up a lawn sign from the candidate for his mother, but the Police Chief *believed* that his Officer was supporting a candidate he didn't like. In other words, the Chief disciplined the employee for apparently exercising his right of free expression.

Under the First Amendment, a public employer cannot take an "adverse action" against an employee because he supports a political cause or candidate. With this decision, the highest Court in the land has said that it will take a strong stand in evaluating employers' motives when they try to discipline employees for political activity – even if it's only picking up a lawn sign.

Law Protects Employees Who Must Assist Family Member With a Disability

Dependable Highway Express (DHE) hired a truck driver in 2009. At the time he was hired, the truck driver told the company that he had a disabled son who required daily dialysis, and that he was the only person in his family who knew how to operate the dialysis machine. His supervisor at the time agreed to give him a shift that allowed him to take care of his son's needs.

In 2013, the truck driver got a new supervisor. He told the supervisor about his son's needs, but shortly thereafter, the supervisor changed his schedule so he would not be home in time to administer his son's dialysis. The truck driver complained to Human Resources, who told the supervisor to "work on this." For the next several months, the supervisor repeatedly changed the driver's shifts until finally he gave him a shift that made it impossible to get home to take care of his son. When the driver refused the shift, he was fired. On that day, at least 8 other drivers could have taken that shift.

The employee filed a claim under the Fair Employment and Housing Act. FEHA makes it illegal for an employer to discriminate against a person because they have a physical disability, or based on a perception that the person is associated with someone who has a disability. The lower court rejected his case, saying there was no precedent for such a claim, but the employee appealed. The Appeals Court reversed the decision citing a January 2016 amendment to FEHA that makes it unlawful for an employer to retaliate against a person for requesting a reasonable accommodation, even if that accommodation is to assist a family member.

New Law Mandates Higher Level of Sexual Harassment Training

New California Fair Employment and Housing Act regulations that went into effect April 1, 2016, requires employers to have a discrimination, harassment, retaliation and prevention policy, and set criteria for mandatory sexual harassment training. The regulation requires employers with at least 50 employees to provide regular training to a supervisor that includes:

1. **Ability to identify behavior that may constitute harassment, discrimination, and retaliation (as opposed to just defining these concepts).**
2. **Supervisors' obligation to report harassing, discriminatory, or retaliatory behavior when they become aware of it.**
3. **Remedies available for victims in civil actions, and potential employer and/or individual liability.**
4. **Active discussion of strategies to prevent harassment and steps involved in remedial measures to correct harassing behavior.**
5. **Documentation of the training provided including: names of the supervisors trained, the date of the training, the sign-in sheet, copies of all written or recorded materials.**

Questions & Answers:
Your Rights on the Job

Each month we receive dozens of questions about your rights on the job. The following are some GENERAL answers. If you have a work-related problem, feel free to talk to your Board Rep or Association Staff at (562) 433-6983, cea@cityemployees.net.

Question: I had a weeks' vacation scheduled and then hurt myself at work, pretty badly, the day before my vacation was going to start. Our family trip had to be canceled and I was off the job for 3 weeks. Now I'm back at work, on modified duty, and I asked my boss about rescheduling the vacation. He said "don't you think you've already had long enough rest," and denied my request! I think this is extremely unfair! My whole family has suffered from the cancellation of my vacation and it was caused by an injury that wasn't my fault. What can I do about this?

Answer: It is illegal for your employer to punish you for having a job injury or filing a workers' compensation claim. You should call your union staff for help with this. Although Management may have some control over the timing of vacations, you have the absolute right to take one – within a reasonable time frame.

Question: I'm an animal control officer and have been badly mauled by a dog. I am going to need plastic surgery and may have a permanent disability. I have these questions:

1. Does the District have to hold my job open for me until I return to work?

2. They've been taking care of my medical needs. But my co-workers are saying that I need a workers comp attorney. Is this true?

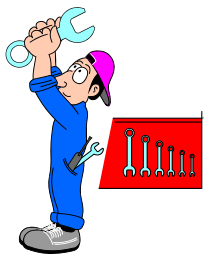
3. If I'm not able to return to work, does the District have to take care of me? Am I eligible for disability retirement? I'm only 33 years old.

4. Could I sue the owner of the dog?

Answer: This is a horrible tragedy. Here are answers: Strictly speaking, your employer only needs to hold your job for the period covered by the Family Medical Leave Act: 12 weeks. However, most employers feel a strong sense of responsibility to people injured on the job and will often hold your job *for years* pending recovery. You are able to collect Temporary Disability pay for up to two years, so it isn't really costing the employer anything to keep you on the payroll. Their consideration about how long to continue your employment has a lot to do with your prognosis. If they think there's a very good chance that you'll be able to return to full duty, they are unlikely to terminate you while you are still in the recuperation phase.

Ultimately, though, the District can press for a medical determination as to when you'll be able to return to work—or you should be declared "permanently disabled." Before you can be terminated, assuming that you do have some permanent disability or have been off the job for a long time, the District must conduct an "interactive analysis," per the Americans with Disabilities Act. This enables them to decide whether you'll be able to return to work and, if so, whether you'll need accommodation. These meetings are often the "beginning of the end" of your job; you should not attend without a representative. If the District finds that you're unable to work and/or be accommodated, the next step will be a Notice of Intended termination. They MUST give you a hearing, and you DO have the right to argue that you're able to work. The outcome would be based upon medical evidence.

Disability Retirement. If you're unable to work, due to the disability, the District must file for (and be granted) your disability retirement status before you can be terminated. You must have at least five years in the System. Disability retirement, under CalPERS is only one-third of your last year's salary. Yes, in this case you probably DO need a lawyer. It sounds as if you'll be permanently disfigured. You should be compensated for this. Also, you need to make sure the District pays for medical care for this injury *for the rest of your life.* Also, you may need to be compensated for the loss of employment *for the rest of your life.* **Suing the dog owners.** If you are hurt on the job, your first recourse is workers' compensation. However, the other party, the owner of the dog, may ALSO be liable. Most workers' compensation attorneys will help you with this kind of 3rd party claim.



Question: I am in charge of keeping records of all the District keys. I check them in and out to authorized personnel; this is in my job description. I was recently told by a co-worker that our boss wants to take this job away from me and give it to him. I think that this person has been helping himself to keys and passing them out without recording anything! Can they just take a job duty away from me without approval from our union or the District Board?

Answer: The District doesn't have to assign <u>all</u> the duties on an employee's job description to him. So, yes, they can take away your responsibility for the keys. (This is different from changing your written job description, which IS negotiable.) If you think your co-worker is mishandling his duties and creating liability for the District, you CAN report this to Management. Be aware, though, that you have no obligation to do this, and could be accused of meddling.

Question: I was told The District can gain access to my personal cell phone because I participate in their cell phone stipend program. Is this true? They give me a mere $10 per check! Do I have the right to

NOT participate? If I request to get out of this program, could they demand to view my phone on the spot?

Answer: If your employer pays for any portion of any tool or device that you use for work purposes, including your phone, the "work product" (including recording or text messages) belongs to the employer. Most employees know that they have very little "expectation of privacy" in their communication at work. Your phone calls can be monitored, your e-mail spied upon, and you can even be videotaped without your knowledge. If you use your phone for work, particularly if they pay for it, they will have the right to monitor its contents.

PAID LEAVE FOR ORGAN DONORS

California Senate Bill 1304 enacted in 2011, requires employers with 15 or more employees to provide paid leave for employees who donate an organ or bone marrow to another person. The leave period may be up to 30 days per year for an organ donation and up to five days for a bone marrow donation.

The law permits employers to require their employees to use up to two weeks of their own accrued leave for organ donation and up to five days for bone marrow donation. The employer must continue the employees' health care benefits during these leave periods, and the period cannot be counted as a break in service for seniority purposes.

Reinstatement after such leaves is NOT required, if the job would otherwise be ending (such as the end of a temporary project or a layoff). These leaves do not count against Family Medical Leave accruals and, of course, the usual anti-discrimination provisions apply.