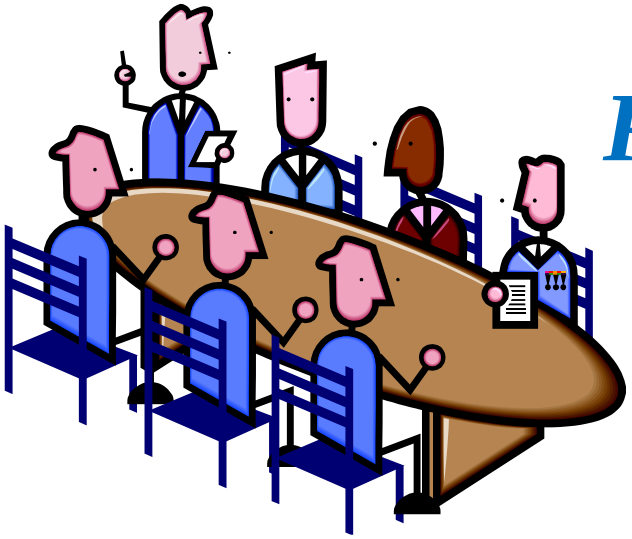


Regional Employees Association of Professionals May 2014 News

BUT I'M SICK!

YOU MEAN THEY CAN FIRE ME??

As too many employees have learned in recent years, the myth that "You Can't Fire a Public Employee" is false. There are three general reasons you can be unwillingly separated from your job: 1) disciplinary dismissal, 2) layoff, and 3) termination due to absenteeism caused by illness or disability.

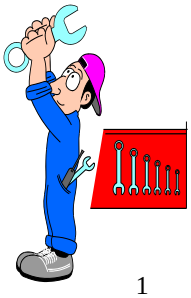
The first two scenarios are fairly well understood. If you're fired for bad behavior, you have the right to a Skelly Hearing and a full, evidentiary hearing in front of a reasonably impartial third party. In this case, the burden is on the County to *prove* that you did something seriously wrong. If you are laid off because your position is eliminated, the County must negotiate over such "impacts" as your bumping rights and severance pay. Further, you can sue if you believe you were targeted for layoff.

But, if your employer attempts to terminate you due to long-term illness or injury, the rules affecting your rights are very confusing. What follows is our best attempt to clarify these rights.

PROTECTION DURING LONG-TERM ILLNESS

Many people operate under a false assumption that if they have a legitimate illness, they can't be fired. Frankly, this just isn't true. However, thanks to the state and federal Family Leave laws, your job is protected for at least 12 weeks in the case of an illness or injury which prevents you from coming to work.

The County does NOT have to pay you during Family Leave time, but you do have the right to use all accrued leave before going into unpaid status. When your accrued leave runs out, many agencies provide disability insurance, which can cover your loss of income for a period of time. Or, if your employer is a member, you may be able to draw from the State Disability Insurance Fund. You may also have a negotiation leave donation plan available.



But the fact that you are on disability is no guarantee that your job will be held for you indefinitely. If your disabling condition lasts long enough, or

if you are really not able to perform your job after you return to work, you CAN be replaced by someone who IS able to do it.

IF YOUR CONDITION IS WORK-RELATED

If your absence is caused by a work-related injury, the law requires that you be paid Temporary Disability pay, which is generally 66% of your regular income. Some employers provide *full pay* for injured workers for a period time; this is negotiable.

In terms of job security, an employee with a work-related injury is not really any more "protected" than someone with a non-work injury or illness – but many employers *believe* that they are. Therefore, people with work injuries are often kept on the books for long periods of time, even when it's likely that they will never be able to return to their regular jobs. In truth, the law makes it clear that employers may exercise their "business necessity" right to fill the absent employees' positions after a period of time.

What is this period of time? Unless you have negotiated better protections in your MOU, an employee who is off the job for medical reasons may be terminated after he has exhausted 12 weeks of FMLA leave – *once his employer has ALSO completed all the other steps involved in terminating a public employee in California*. Lucky for you, these steps can be numerous and complex.

DUE PROCESS FOR SICK OR INJURED WORKERS

Public employers in California can't terminate an employee who is medically unable to work until they have exhausted his/her rights under 1) the Americans with Disabilities Act, 2) *Skelly* due process and 3) his/her Retirement System. Here's a summary of each:

1) AMERICANS WITH DISABILITIES ACT…

After an employee has exhausted his FMLA period, *or a medical doctor has provided evidence that s/he will never be able to perform the core duties of the job,* the County must do an analysis to determine whether it can accommodate the medical condition. Generally "accommodation" means either modifying the workplace or offering the employee a job, which s/he's more capable of performing.

This analysis is an actual Interactive Meeting, usually conducted by a professional in this field who looks at your job description and your work limitations and asks a lot of detailed questions about your capabilities. **You should be represented by** your attorney or your union staff. This is NOT a meeting about your well-being; it's about your continued employment. The County **can** terminate you, even if you have a work injury, if they determine that it would cause unreasonable hardship or expense to accommodate you.

2) YOUR SKELLY RIGHTS

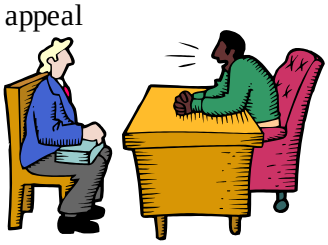
In the late '80s, the California Supreme Court decided injured and disabled workers have the same right to appeal their terminations from public agencies as employees who are terminated for disciplinary reasons. The original case arose in the City of Hawthorne, where Police Department management decided that its sole female police officer was mentally ill. They fired her for this "disability," without proving it – and without any right of appeal. Hence YOU now have the right of appeal.

So, if your employer attempts to terminate you because you are too sick or disabled to work, you do have the right to go through two levels of hearing, the second of which must be a "full evidentiary hearing before a reasonable impartial third party." At this hearing the burden lies with the County to prove that you are incapable of performing the core duties of the job.

Skelly hearings over these circumstances don't occur very often, because (as the ADA has become a stronger law) most facts about your medical condition and the demands of the job were probably hashed out in the Interactive Meeting. But, where the employer hasn't treated its ADA obligation seriously, or where an employee still believes that he IS still able to perform, an arbitrator or Civil Service Commission may make the final decision.

3) APPEALING INVOLUNTARY DISABILITY RETIREMENT

If your agency contracts with a public employees retirement plan, it cannot terminate you involuntarily for disability reasons until it has applied for *and secured* your PERS disability retirement. You do NOT need to agree to this; in fact, you can appeal it.



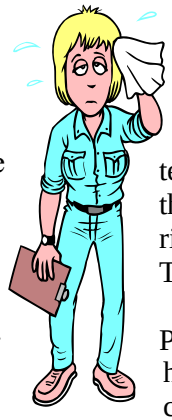
THE HUMAN FACTOR

The days when a public employee could consider himself hired for life are long gone. Nowadays, most public agencies employ Risk Managers who, literally, evaluate the risk of keeping a sick or injured employee

in relation to his value to the organization. The pressure to remove an unproductive worker, especially one who might become a greater liability, is very real.

To what extent can you expect the County to truly accommodate your condition? There are definitely some laws on your side, and good union representation can help a lot. But, the law is also full of loopholes, and if you must actually go to Court, the cost can be high. **In truth, it's the human factor – the extent to which you are still helpful and productive in the workplace – that has the greatest influence over your ability to keep your job.**

If your supervisor views you as a valuable, hard-working member of the team, he is FAR more likely to advocate that you be accommodated than if you are just an "OK" employee who seems to be absent a lot. A hard-working, well-liked employee who becomes ill engenders sympathy, and it's difficult to fire someone you like and feel sympathy for. This isn't law; it's psychology and reality. Even top managers are human beings. The role of their subjective opinions in making personnel decisions shouldn't be underestimated.



ILLNESS PUTS HUGE STRAIN ON THE EMPLOYMENT RELATIONSHIP

Even the best employee can be the source of irritation to management when he is not really able to do his job. This is one reason that it may be smarter to stay off the job entirely when you are sick or partially disabled, than to try to work intermittently or with limitations. It is often much smarter simply to stay out of view….

Similarly, someone suffering from illness or injury isn't always the most cheerful employee – especially if your workplace was *the cause* of your medical condition. People in this situation are often stunned by their employer's callousness: badgering them for information, criticizing their best efforts, making medical treatment difficult, even threatening termination. If you are having trouble maneuvering through the bureaucracy, or you believe that your rights are being violated, call your Association staff. The law is complicated; this is why you pay dues.

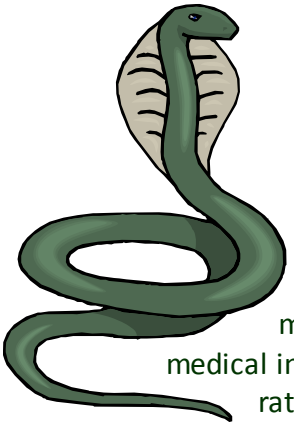
Please keep in mind, though, that the County does not have to employ you forever. It is wise to try to be as cooperative as possible, even when you're feeling your worst. Your union rep knows the local system, and can function as your liaison.

AB 2126 Would Improve Bargaining Rights for Unions in Cities, Counties & Special Districts

AB 2126, now making its way through the California assembly, would make some big changes to the Meyers-Milias-Brown Act (our collective bargaining law.) These include:

1. The right to mediation at the point of impasse at the request of either party:
The law could help equalize the balance of power for unions, when we "hit the wall" at the end of bargaining. Currently, mediation can be *requested* by either party in negotiations; but, unless that right is established in your local Employee Relations Resolution, the County may reject the request. (Most local rules make mediation optional, if they mention it at all…)

2. The right to fact-finding at the point of impasse over any mandatory subject of bargaining:
When it comes to fact-finding everyone agrees that you have this right when there's a declaration of impasse at the end of negotiations for an overall MOU. *But what about changes that the County wants to make in the middle of a contract?* Or what about "impact" negotiations, over a management right (such as severance pay or bumping rights at the point of layoffs? This proposed law would strengthen your Association's right to fact-finding in ANY of these situations…



What is COBRA & How is It Affected By the Affordable Care Act?

COBRA has nothing to do with snakes. It is an acronym for the Consolidated Omnibus Budget Reconciliation Act. Enacted in 1986, COBRA's require employers to continue to make your health plan available to you until you have another job or another source of medical insurance. The cost of your insurance under COBRA can be no more than 2% higher than the rate for active employees.

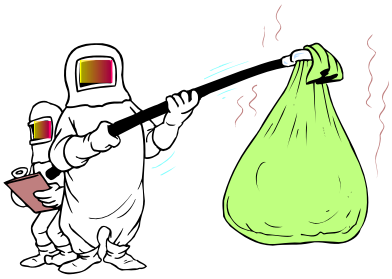
Before the Affordable Care Act, as medical costs were rising and fewer and fewer employers provided paid health care, COBRA could be a godsend. This was particularly true for people with pre-existing medical conditions who couldn't purchase insurance at all. However, COBRA is no panacea; it has definite limitations.

First of all, COBRA coverage lasts a maximum of eighteen months (although under some circumstances it can last longer). After that your former employer may charge a much higher rate for this insurance – and need not offer it to you at all. Second, COBRA only covers employers who provide **group** insurance, and only then if there were at least twenty people in the plan in the previous year. Thus, employers that no longer provide health care, or are seriously downsizing, may be able to avoid their obligation under COBRA. Third, COBRA insurance can be very expensive. Many employers provide excellent insurance, which is subsidized while you are working. When you are not working, the cost can be prohibitive. Now that people can purchase insurance on a sliding scale on the Exchange, reliance on COBRA is rapidly diminishing.

However, many people *really* don't want to change health plans and are willing to pay the cost of continuing the previous employer's plan. If you are a public employee and are laid off or terminated, if your employer is enrolled in the PERS Health Plan, you have the right to continue to use this plan (which means purchase it) under COBRA. If you retire, you have the right to continue to use it, at the same rate as active employees, for life. This is one of the unique conditions of PERS Health.

Here are some details you should know about COBRA:

1. Employers are obligated to provide terminating employees with information about their rights under COBRA *at the point of separation* – not later.
2. Former employees have up to 60 days following the last day of coverage to sign up for COBRA. But they must pay the full premium, back to the date of separation, in order to access the plan.
3. The cost of benefits under COBRA is legally limited to 102% of the active employees' rates.
4. People who plan to use their former employer's health program under COBRA must be enrolled in that plan when they separate from employment. If they had opted out of the plan, they may not be able to opt back in under COBRA.
5. Unless other arrangements are made, individuals are responsible for the full cost of the COBRA premiums.
6. If you miss a premium payment, even by a day, *the health provider can terminate coverage* and deny reinstatement.



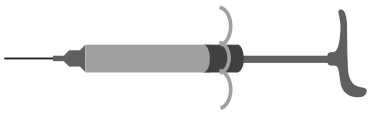
Who is Responsible for a Work-Related Injury? (and What Is a Third-Party Claim?)

If you are hurt on the job, your first recourse is the workers' compensation system. Your employer is responsible for your medical care and time lost from work.

But what if an outside company is partly to blame? What if you were using defective equipment or chemicals that weren't properly labeled? What if you were working alongside a sub-contractor, who caused the accident -- or sideswiped by a deliveryman?

This other party may ALSO be liable for your injuries; you may want to contact an attorney or call Association staff for a referral. If your injury is serious, workers' compensation won't really cover your losses. Most public agencies in California do not provide full pay while you're off the job. You may be due other compensation and may want to file a third-party claim…

Drugs, Alcohol & Your Public Job



In the late 1980's, during a fit of public hysteria over drunken oilrig crews and drug-addicted airline pilots, Congress passed the "Drug Free Workplace Act." Many employers used this law as the basis for enacting - or *attempting* to enact - random, unannounced drug testing. In reaction, a number of unions filed suit to defend their members' constitutional right of privacy. In California, the most important of these was *Glendale City Employees Association vs City of Glendale*, which established that public employees cannot be randomly tested *UNLESS* they hold "safety sensitive" jobs or top-secret national security clearances. The Court concluded that **"the collection and testing of urine infringes upon protected privacy interests . . . and the validity of a drug testing program must balance the privacy interests of the employee against the interests promoted by the search."**

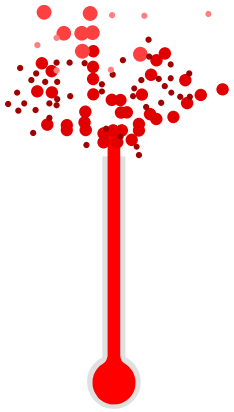
Thus the Court established that there must be a balancing test between privacy and safety. The principle, which persists today, is that the public's right to safety outweighs the individual employee's right to privacy, but this ONLY causes those jobs affecting public safety to surrender their privacy rights with regard to drug testing.

The Court did *not* agree that the City's concern with its public image superseded its employees' right to privacy. Nor did it agree that any *specific* job classes were safety sensitive. It suggested that employers could, if they wished, conduct a case-by-case review of all their job classes to determine which ones were so sensitive that danger of disastrous proportions could result if an employee on duty in such a job had an impairment of judgment. Absent such evidence, *or such a complete review*, public employers could not (and still cannot) randomly test their employees.

Negotiated Substance Testing Programs

The *Glendale* decision left public employers with the obligation to negotiate with their employees if they wanted to implement drug-testing programs for non-safety employees. So, during the '90s, many employers put the issue on the bargaining table, invoking the Drug Free Workplace Act -- and most labor groups quickly capitulated to something called "Reasonable

Suspicion" testing. Reasonable suspicion has no legal meaning in the workplace. Most of these policies simply state that an employee may be tested when a supervisor has a reasonable suspicion that an employee is under the influence, i.e., eyes look strange, or speech is slurred, or there is an emission of an unusual smell.



Defending Dopers

It was the '90s. Unions that opposed such foggy definitions of reasonable suspicion were accused of trying to defend dopers and felons. But with some good bargaining, many policies were improved so that "reasonable suspicion" must be corroborated by more than one person, or some other hard evidence, before an employee can be forcibly tested, although, involuntary testing can still be used by management as a form of humiliation and coercion.

The funny thing is that employees rarely ask what the Drug Free Workplace Act really says. It simply says that public agencies, which employ known drug-related felons, shall be in danger of losing federal grant money. Most counties don't use a lot of federal grant money, nor do they employ many known felons.

Random Testing Compelled by the DOT

Not long after the *Glendale* decision, the federal Department of Transportation **did** determine that some job classes are inherently safety sensitive. These are truck and bus drivers and mechanics. The DOT implemented firm guidelines for the random testing of people in these job classes. Although local agencies were required to cooperate with the broad strokes of this law, they were ALSO required *(per state **bargaining** law)* to negotiate with their employee associations prior to implementation. When the DOT rules change, as it did just a few years ago, the County is required to *renegotiate* the new policies with your union.

What the DOT Really Says

Basically, the Department of Transportation regulations identify which job classes are subject to random testing, how often the testing must occur; how it will be conducted (including the certification of testing companies and procedures,) how an employee who tests positive will be treated with regard to continued vehicle operation, etc. Over the years, the law has become more stringent. For example, it now insures that someone who tests positive may not drive a heavy vehicle again until he has completed a program recommended by a substance abuse professional.

The Law Does NOT Address Punishment

The DOT mandate leaves it up to an employer to decide what discipline will be meted out to someone who tests dirty. But over the years, common patterns have emerged in the way that most public agencies handle their offenders, hence the arrival of the "Last Chance Agreement."

An employee may be offered a "Last Chance" if he is found to have alcohol or drugs in his system but otherwise, has been a good employee, with no other violations in his work history. What this means is that he may be offered the opportunity to keep his job by agreeing to some pretty nasty conditions. In general this means that he 1) agrees to be randomly tested at any time, 2) agrees to go to expensive treatment and/or counseling programs (and waive his right to privacy in this medical treatment), and 3) agrees that, if he commits any infraction in the future, he accepts that he may be terminated without any right of appeal.

This complete waiver of the right to appeal has been found by several courts to be an unconstitutional violation of employee rights. However, it DOES seem to work! The vast majority of employees on Last Chance Agreements never do break the rules again. The DOT testing program is severe, and it *IS* an incursion on employee privacy, it seems also to have guaranteed that bus drivers and heavy equipment operators are almost always sober.

When No "Last Chance" is Offered

There are several circumstances under which the punishment for substance-related offenses will almost always be termination: a drug- or alcohol-related vehicle accident, on-the-job use or possession (even of marijuana) and, obviously, on-the-job selling of any illegal substance.

Speaking of marijuana, the decriminalization effort which is now sweeping the country had absolutely NO EFFECT on the Department of Transportation. The DOT couldn't care less whether people have prescriptions or whether it helps someone's back pain. It cares whether drivers under the influence may be impaired – and the current DOT position is an emphatic

"Yes."
In other words, the possession of a medical marijuana license is no protection against discipline for a dirty drug test.

So…What Does the Right to Privacy Really Mean?

Unless they are heavy vehicle drivers, most public employees cannot be compelled to participate in sudden or random substance testing. However, the subject is negotiable, and many employers have negotiated the right to test based on the vague concept of reasonable suspicion. Further, even where there is protection against involuntary testing, you have no protection against search and seizure in the work place. You CAN be compelled to cooperate with workplace inspections. Your desk, your locker, your computer can all be searched without your knowledge or agreement. You can be videotaped (except in restrooms and changing areas) without your knowledge. You can also be videotaped OFF the job. You do have the right to privacy of your purse, your pockets, your wallet and your car. Overall, however, the right to privacy is spotty at best in workplaces in California. **It would be best to err on the side of caution on the subject of substances in the public workplace.**

Here's a Good Question:

YOUR RIGHT TO TAKE TIME OFF FOR COURT

Question: I would like to know what Labor Code section requires an employer to either provide paid time off for employees to attend family law court hearings or at least prevents them from denying time off for this purpose. Does this law also cover attending court-provided clinics to assist people in filling out court documents?

Answer: Unfortunately, the law doesn't really cover either circumstance. California Labor Code Section 230 provides protection to employees who are required to testify or serve on jury duty, or are the victim of a crime and need to seek a restraining order. The language is below. It would not cover family law matters unless the employee is seeking a restraining order or needs to testify based on a domestic violence incident.

(a) An employer shall not discharge or in any manner discriminate against an employee for taking time off to serve as required by law on an inquest jury or trial jury, if the employee, prior to taking the time off, gives reasonable notice to the employer that the employee is required to serve.

(b) An employer shall not discharge or in any manner discriminate or retaliate against an employee, including, but not limited to, an employee who is a victim of a crime, for taking time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding.

(c) An employer shall not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off from work to obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child.

Nationwide Study Shows Long-Term Impact of Recession on Cities

A recently completed study by the Pew Charitable Trusts looked in depth at data from 30 of the country's largest cities to evaluate the long-term effects of the Great Recession. It found that most have NOT recovered and are still functioning with fewer staff and lower revenues than they had in 2008. Just as we experienced in California, the report found that most cities hit their lowest incomes in 2010 or 2011, well after their states hit their lowest points, in 2009. The reason for the lag has to do with property taxes, which are slow to respond to economic swings. Still-high property taxes, "delayed the early effects of the Great Recession for most cities," the report found. But as the Recession deepened the effects of declining property values "were compounded by increasingly unpredictable aid from state and federal governments." Today, more than two-thirds of the cities still have not recovered to their previous revenue peaks.

The Pew report looked at the factors that led to the reductions in city revenues during the recession, keying in on two leading causes: reductions in intergovernmental aid and in small revenue sources. Intergovernmental aid generally means money from the state or federal government. The American Recovery and Reinvestment Act pumped more than $9.3 billion into the 30 cities Pew researched. While the money served as a stopgap to declining revenue and a jumpstart for local economies, it ran out before most cities had large enough revenues to take up the slack.

"Small revenue sources" refer to income sources such as city investments, fees, charges, and local taxes. Drops in these funds were the cause of decline in about half the cities. Cities with large working-class populations, relying on sales and income tax, experienced the fastest and steepest fiscal decline. These revenue sources took hard hits early in the recession, as employees lost their jobs in large numbers. In New York City, for example, the drop in sales taxes represented a quarter of the city's loss of income in 2009. Among the cities studied, two-thirds were forced to increase their sales taxes during the Recession.

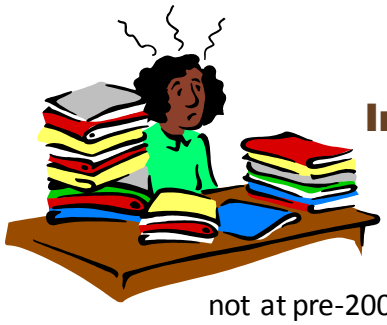
Weathering the Storm

The report also looked at how cities responded to dropping incomes. Since the decline in property taxes took a while to hit, most cities were able to stave off service cuts until 2010. The study found 29 of 30 cities dipped into reserve funds to keep basic services functioning. Most have not restored their reserve funds to pre-2009 levels.

As the Recession deepened, most cities began to cut what they considered noncore services, such as swimming pools and community centers. However, these cutbacks proved to be too little, too late, and all 30 cities cut core services by 2011. They cut spending on housing, economic development, parks, cultural activities, public works, and transportation. As revenue continued to drop and reserves dried up, nearly half of the cities began making cuts in essential services such as police, fire and emergency medical services.

Today

Today the study says fiscal austerity is a fact of life for most American cities. "Ongoing fiscal constraints suggest further contractions in federal and state aid to the nation's cities." In 2012, property tax revenue continued to decline, although there were significant increases in collections in 2013. The study shows 18 of the 30 cities still have smaller reserve funds than they had in 2007.

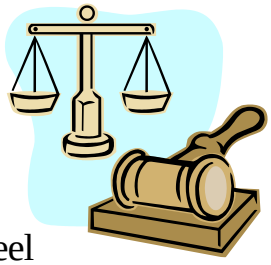


Impact on Employees

Almost all cities reduced staff during the recession, if not directly through layoffs, then through retirement enhancements and active attrition. Although many have begun restoring their workforces in the last two years, they are still not at pre-2008 levels. Additionally, most cities cut pay and benefits (or began subtracting the cost of the benefits from their employees' paychecks) starting in 2010. Many states and cities have radically altered their public retirement plans' benefit to reduce benefits for new employees, and at the end of 2013, "nearly half of the cities were not paying their full annual contributions" to their local retirement systems.

It appears as though most of the country has now rebounded from the Recession, but cities (or at least city *governments*) clearly have not. The study ends by pointing out that the growth of cities has, historically, been a key "economic driver" in the American economy. Young populations move to cities…. cities represent change. People who live in cities tend to like high levels of public services. In this historic era, however, cities may be the last part of the economy to recover…

Questions & Answers:



Your Rights as a Public Employee

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 or write to cea@cityemployees.net.

Question: I have a chronic medical condition (asthma) and I have just been assigned to work around chemicals (specifically, chlorine) that can trigger an attack. What should I do?

Answer: Is your supervisor aware that you have this condition and that you shouldn't be working with certain chemicals? If not, you need to make the County aware of the problem right away. This means bringing in some current medical documentation signed by your doctor. After this the County should accommodate you, by giving you assignments that don't require working with chlorine. If you've been performing your job all along without using contraindicated chemicals, it's reasonable to expect them to continue to allow you to do so.

If you have *already* brought the Department your medical information and they are ignoring it, you should talk to someone in HR or call your Association staff. Asthma is clearly covered by the Americans with Disabilities Act and this kind of accommodation isn't difficult for most employers. If there are other employees who can work with the chemicals without getting sick, you should be able to be assigned other tasks.

Question: Can I be fired for taking a week off to go to detox?

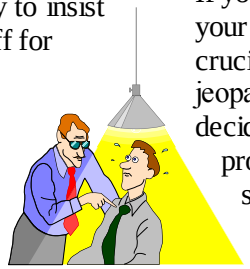
Answer: No, unless there are unusual circumstances you are not mentioning here. You may need to submit paperwork from your doctor that you are being treated for a condition covered under the Family Medical Leave Act (FMLA.) This will protect your job. If you have time on the books, and request time off per your rules, it should be approved. If you have no accrued time, the FMLA requires that you be allowed the time off in unpaid status.

Question: I just found out that Human Resources has assigned someone in the Department to monitor my e-mail. What can I do about this? Is there anything I should be concerned about?

Answer: Your employer can monitor your e-mail, but you have every right to ask why this is happening. They may or may not tell you. Since you know you are being monitored, though, it's probably a good idea to be very careful about how you use the e-mail and what you say. You don't want to give them any reason to charge you with violating any policy.

Question: Several months ago I was threatened by a resident who said "If you ever come on my property again, I'll kill you." I reported it to my supervisor who didn't seem to take it seriously. Now, I am being sent to the same house and being threatened with discipline if I refuse to go there. What should I do?

Answer: The County is required to investigate what you reported. If your Supervisor didn't take the threat seriously and it wasn't investigated, you should probably go directly to Human Resources and let them know your concern. Make sure that they know you reported this threat when it first occurred. The County shouldn't require you to go to that house again. If they try to insist that you do, you should contact your union staff for intervention.



Question: Nearly a year ago, I was forced to go to an interrogation and answer questions about some of my actions on the job. I forgot all about this, but have now been told I must sign a letter of discipline. I don't agree that I did anything wrong! Can I be forced to sign this letter?

Answer: You should sign the letter, but should feel free to write, "I don't agree with the contents of this letter and intend to appeal." Signing the letter is just an acknowledgement that you received it; you can be held insubordinate for refusing to sign. Although the County may have taken a year to act on this discipline, you will have narrow time limits in which to file an appeal. You'll probably find these rules in your MOU. It's not illegal for the County to give discipline many months after an alleged infraction, but it's certainly questionable. In your appeal, you or your rep should not only refute the false accusations, but should raise the issue of timeliness.

Question: In my previous job I worked from 7:30 to 5:00, with a full hour of lunch time. I never took any breaks. Now I'm in a different department where we take two 15-minute breaks and only a ½ hour lunch. My start time now is 8 and I leave at 5. I want to know if I might be due some money from when I was in the previous position.

Answer: It doesn't sound as if there is any violation here, except, perhaps that your previous supervisor didn't make sure that you took breaks. In both jobs, you worked an 8-hour day, with an unpaid lunch period. Breaks are rest periods on County time, so if you missed them, you are not owed any money.

Question: I have been on Jury Duty for more than a week and I am concerned about my work being left undone. My supervisor has not assigned it to anyone else although I have suggested it. Some important reports to the State may not be completed and I am worried about being blamed. What should I do?

Answer: Your concern is legitimate. It is always a good idea to put potential problems like this in writing, and with as much notice to Management as possible. Occasionally the County can *influence* your being excused from jury duty, for example, if you perform critical job functions.

If you have no choice but to perform jury service (or your employer encourages you to perform it) then it is crucial that you specifically document the work that is in jeopardy. If you do this, then it is Management's job to decide how it should be done and you should be protected from blame. It also wouldn't hurt to make sure one or two of your co-workers can cover some of your work in a pinch.

Question: I had an argument with a neighbor over the weekend and the Police were called. When I came into work this morning, I was told that an incident report was being put into my personnel file. Can they do this?

Answer: Unless you held yourself out to be a "Representative of the County" during the argument, the answer is **no**. The County cannot legally draw a connection between what you do on your own time and your job.

You should ask that the material be removed from your file. If the County will not comply, call your Association representative. Putting inappropriate materials in your personnel file is fully grievable.

Don't Forget!
You may view hundreds of articles about your rights on the job on CEA's website:
cityemployeesassociates.com