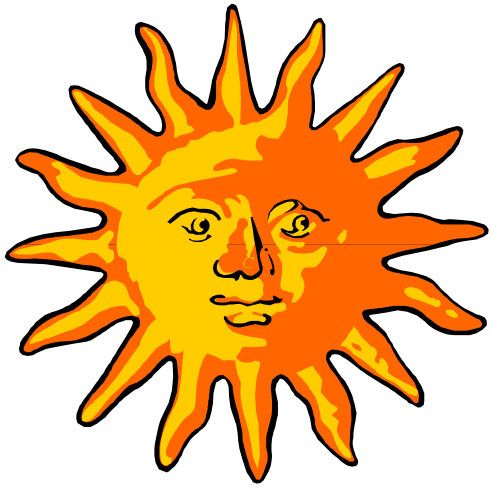
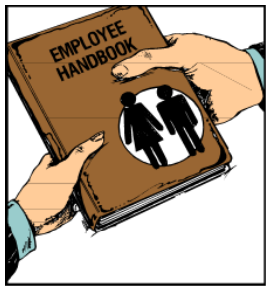
# *Regional Employees Association of Professionals September 2016 News*



## COULD THE VOTERS "CANCEL" YOUR RETIREMENT?

In 2011, residents of both San Diego and San Jose voted *overwhelmingly* to gut their employees' pay and benefits packages. The changes were huge: changing the retirement plan from a defined benefit to a 401(k) plan, cutting City contributions to retirement, lowering employee leave "pay-outs" at retirement, freezing base salaries, and half-a-dozen other takeaways. All of this flew in the face of both the employees' contracts and their lifelong investments in their jobs.

Despite the tax-payers' enthusiasm, litigation stopped and, ultimately overturned these pension reforms. The decision said that voters cannot reform Public employees' compensation plans because these are part of a negotiated Contract. **Voters cannot override your MOU.** This would be a violation of both the state bargaining law and the contracts clause of our Constitution.




The state of the law *in California* is solid. However, similar voter initiatives are springing up all over the country. And, although "taxpayer" groups can't circumvent the bargaining process, they *can* elect legislators – and legislators can change the law. This is, of course, what happened a few years ago in Wisconsin: new law effectively *eliminates* collective bargaining for public employees.

### An Ominous Sign

Even if the law is solid in California, and even if our legislature is predominantly pro-employee, these taxpayer initiatives are an ominous sign. ***They tell us that the majority of citizens would probably gut your retirement plan, too, if they could.***

So, here is the big question: what could your local legislators do to interfere with YOUR wage-and-benefits package? Could the residents in *your* community pass a law to change *your* retirement plan? The answer for employees at most local agencies in California is NO: unless your union negotiates a change, the pension plan that is in place for you now, must be there when you retire.

There are several reasons for this. First are the big differences between your situation and the employees in San Diego and San Jose. These cities have their own, local retirement systems. They are vulnerable; they are not in CalPERS, nor any large county-wide system. Unlike those systems ***CalPERS is, literally, out of reach of the voters.***

CalPERS is a state agency. State law, not your employer, decides who is eligible for membership, what programs they may use, how much money will be collected, and how it will be paid out. Originally established as a program for State employees, CalPERS is now the largest retirement fund in the country.

**Only the State legislature can modify PERS Law.** Cities, counties, and "special districts" contract with PERS to handle their employees' retirement funds.

Those contracts are outside the direct control of the voters.

## The State Legislature HAS Modified PERS Law

In 2013 the Public Employment Pension Reform Act (PEPRA) went into effect and created new formulas for new employees who are entering the PERS system: for Miscellaneous (i.e. non-sworn) employees, 2%@62; and for police and fire employees, 2.7%@57. Employees in PERS before PEPRA went into effect maintained their current formulas as "Classic Members." They may move from agency to agency without loss of that status, as long as there is no more than six-months' break in service.

(However, other provisions changed the status quo a lot: the right to purchase service credit was eliminated, and the law cracked down, big time, on pension spiking, "double-dipping," and retroactive pension enhancements. These were mostly good changes; the biggest abusers were mostly top managers who were the highest-paid PERS recipients. The new law also says that people who commit felonies on the job can lose their pensions completely.)

Employees hired after 2012 come into a pension program that will, ultimately, not pay enough for most people to retire. ***However, most "classic" members have a plan that went up 20% to 40% in the previous two decades.*** This was due, once again, to a liberal legislature, a booming stock market, and the huge size of the investment pool. All of this is "untouchable" by your local County Board.

## What Part of Your Benefits Package Does the County Control?

Although they cannot change this without contract negotiations, your Board is the ultimate "decider" of the contents of your compensation package. MOU negotiations can cover anything from pay, to medical benefits, to work boots. While the County can't change any aspect of the retirement program for current employees, it CAN change what you pay for this program. It is NOT true that the 2013 Pension Reform Act required all employees to begin paying for their own benefit, but it IS true, that most cities accomplished this goal, over the last few years, via negotiations. It is even legal for employers to negotiate that you pay part of *their* PERS contribution. Hopefully, you can negotiate a pay increase in exchange if your employer tries to do this.

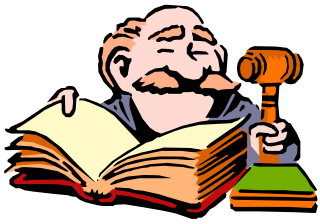
## CONTRACTS RULE!

**But none of these benefit cuts changes can be accomplished by a vote of the public.** The state of the law is clear: the "will of the voters" cannot override the Contracts Clause of the U.S. Constitution. Despite this, however, there have been a number of challenges brought by disgruntled taxpayers' advocacy groups which you should know about:

## PERB May Grant Injunction if Voters Attempt to Interfere With a Contract

In a crucial decision about the role of the Public Employment Relations Board, the California Appeals Court agreed that a union may file with PERB for an injunction if the voters try to overturn their contract. This case came from San Diego, where the City Council *never* approached the San Diego Employees Association to negotiate changes in the pension plan, but went instead to the ballot box.

The Association asked PERB for an injunction to stop the June election, ***and PERB granted one***. However, the City went to court, arguing (1) that PERB was "biased" and, (2) that PERB could not interfere with a "properly filed" voter initiative. The Court agreed with the City, allowing the election to move forward. The union appealed – and won. The end result is an important precedent: **if the voters in your community try to change your compensation package without proper negotiations, you may get an injunction at PERB to stop the election!**



## Post-Election Legal Challenges

Further, even if the voters prevail in an election to change your "wages, benefits, or conditions of

employment," there are ways to challenge the decision. In San Jose, for example, the Police Officers and Firefighters Unions filed multiple claims charging that the City failed to meet and confer, that the Mayor knowingly made false statements about the pension plan's liabilities, that the voters' actions were both an unconstitutional taking of property and were a violation of the California Pension Protection Act.

While the Court did not grant an injunction *before* the election, it did agree that if the voters approved the retirement "takeaways," it would allow the Unions to litigate the alleged violations (which they did, and won…)

## BUSINESS AS USUAL?

Of course, the people who voted for these changes are probably not happy with this state of affairs. (After all, many of them no longer have any retirement plans at all), so, it is likely that we will see further challenges to the state of the law on your compensation package. ***While all these various lawsuits unfold, the status quo remains in effect.*** Vested post-retirement benefits for current employees do not and *cannot* change

These anti-employee organizations are spending millions on litigation and political activity, in their effort to bend - or rewrite - the law. This seems to be defeating their goal which, supposedly, was to save their agencies' money.

## *New Legal Decision: Corruption, Conflict of Interest, or Free Speech?*

**The California Supreme Court has ruled (in City of Montebello vs. Vasquez, et al.) that all votes by elected officials are considered free speech, and thereby "protected" by the First Amendment. This ruling arose from a conflict of interest lawsuit filed by the City of Montebello against three former council members and a city administrator who received large contributions from a trash collection company, and then voted in favor of an outrageously expensive ($150 million) 15-year contract between the City and the trash company. The contract was so bad that the Mayor refused to sign it, and the citizens recalled (or voted out) the offending Council people and then changed the local law by (now) requiring all trash contracts to go through open bidding.**

**On top of this, a judge even voided the trash contract, by finding it a violation of Proposition 218, which restricts a city's ability to impose taxes or fees on individuals based on property ownership. (Basically, the judge decided that the trash collection deal amounted to an extra tax on every person who owned property in Montebello.)**

**However, the Court made it clear that even though the Council members and administrator received these funds from the trash company, their votes were protected as free speech – meaning that they cannot be sued for making this "sweetheart" deal – and that there was no formal conflict of interest. This is not too different from the 2010 federal Supreme Court decision, *Citizens United,* where the Justices ruled that corporations can spend unlimited money on political activities -- *because spending money is an act of free speech.* So, while the "bad guys" were caught in Montebello, they could not be "punished" for violating any law! The line of precedent which says that spending money (and voting based on that spending) is free speech protected them. It appears that as long as *Citizens United* is controlling law, money may reign as "free speech" at any level of government. This may have far-reaching consequences making it even more difficult than before for local residents to take a stand against corruption.**

# Tax Sheltering Leave Payoffs at Retirement

By law, when you leave your public employer, you have a right to be paid in full for all accrued vacation and "comp time." You might also, if your union has negotiated it, have the right to be paid for all or part of your unused sick leave. These are nice benefits, *but they are taxed.* In fact, these "payoffs" may be so large that, added to your final paycheck, they can temporarily push you into a higher tax bracket.

One solution to this problem is for your Association to negotiate a tax-shelter vehicle, which enables you to receive the full amount of these retirement payoffs without taking a tax loss. This financial vehicle, called a 401(a) account, enables you to put all or part of your leave payoffs into this tax deferred account, which, literally, defers the tax liability until you take the money out

There is little direct cost either to the employer or the employee, to set up a 401(a). Money assigned to this account may be channeled wherever you want it to go: an existing retirement account, IRA, Roth or 401(k). There is no "cap" on the amount that can be transferred; you will essentially be moving your money from one tax deferred account to another. When you do take the money out of this account, it then becomes taxable. But, presumably, by then, you will be retired, and your income – and tax bill – will be much lower.

# EMPLOYERS HAVE A LEGAL OBLIGATION TO PROVIDE A SAFE WORKPLACE

Twenty percent of all violent crime in the United States occurs in the workplace. An estimated 1.7 million employees are injured each year because of workplace assaults. A recent survey of employers by the Department of Labor disclosed that more than 50% of all employees had experienced at least one incident of workplace violence during the preceding year. One out of three reported that he or she has been bullied on the job.

Employers recognize they have a legal obligation to provide their employees with a safe environment in which to work. In most people's minds, this means minimizing employees' exposure to dangerous work-related processes, machinery, or environmental risks in the field. However, the legal obligation to provide a safe work environment also includes minimizing the risk that employees will be victims of workplace violence.

One way to do this is to make everyone aware of the "early indicators" of a potentially violent co-worker.

## Precursors to Violence…

People develop a propensity for violent behavior for many different reasons. Pressures at work, family conflicts, financial adversity, or other pressures can play a role in pushing someone over the edge. Discipline or termination can make someone, who already believes that he or she is being mistreated, potentially violent or prone to self-harm. We have all heard about the employee in Costa Mesa who killed himself by jumping off City Hall after he received a layoff notice.

Because we spend so much time at work, co-workers

are often the first people to notice changes in behavior which could be precursors to violence. These include:

- Direct or implied verbal threats about co-workers, management, customers, or family members
- Escalating irritable or threatening behavior or gestures
- Comments about weapons, fascination with weapons, bringing weapons to the workplace
- Paranoid-sounding comments or over-reaction to coaching, discipline, or criticism
- Apparent depression, delusional behavior, and/or talk about suicide
- Talk about past violent behavior
- Lack of concern for normal safety precautions, dangerous driving, or "road rage"
- Unreasonable, romantic, or obsessive interest in another employee; stalking behavior

If you believe that a co-worker is making comments or demonstrating behaviors such as these, it is legal and appropriate to report this to Management. We are living in difficult times. It is better to be overly cautious than not cautious – and not caring – enough.

## *Here's A Good Question...*

## SHOULD I FOLLOW MY BOSS'S ORDER TO BEND THE RULES?

**Question: I work in a facility where we have rules for difficult patrons. My manager repeatedly asks me to ignore the policy and allow exceptions for some people who are not following the rules. Instead of insisting these difficult people follow the rules, I am being told to let them do what they want to do to avoid a hassle. I don't agree with this and have told him so. My question is: should I follow the County policy or should I ignore the policy because my manager tells me to do so?**

**Answer: You should follow your manager's direction.** If you're concerned about the consequence of bending the rules, send an email to your manager, identifying those rules and his direction to make exceptions, saying that you will comply. It would not be a good idea to be argumentative in this communication. You've already expressed your opinion.

An employee who refuses to follow a directive may be disciplined for insubordination. The only time you may legitimately refuse an order is when there is a "clear and present physical danger" to yourself, co-workers, or members of the public.

# WHY IS MY ASSOCIATION DEFENDING THAT JERK?

**By Rich Anderson, CEA Staff**

One of my early lessons as a Union Rep came in an elevator at a City Hall. One of the members of our Association recognized me and said, "I know you. You're the one who got that jerk in my office back to work!" He went on to tell me how he resented the fact that his union used his money to represent "bad" employees – while he, the good worker, would probably never need my help.

I was stunned, but the truth is, he was right: I *did* get "that jerk" back on the job. And, this hard-

working member of his union will probably never need my help. ***But, then again he might.*** Why? Because every once in a while, a perfectly innocent person is falsely accused. And this is what legal due process is about. A descendent of American jurisprudence, the *"Skelly"* process (your right to a fair hearing if you are a public employee in California) considers you innocent until proven guilty.

## EVEN IF YOU NEVER NEED A HEARING…

To get to the crux of the matter, though, even if this particular member may never need a union rep's help, I disagree that his association is not of urgent service to him. Let me explain:

It is true that unions spend a large portion of their members' resources defending people who are threatened with discipline. In fact, it's even true that most employees being disciplined have done *something* wrong. **But it's NOT true that the punishment is always appropriate!** Some managers are excessive in their discipline. Some carry grudges. Some are covertly racist or misogynist. Some arrive at judgments before they have complete information.

## Discipline isn't always equitable; Management isn't always fair.

This is where your Association comes in. Its goal is not to enable guilty people to avoid discipline; it's to try to bring some justice to a potentially uneven system. This might mean asking Management to more fully investigate the facts before acting; or insisting that they go through the negotiated discipline system, even if they know the party is guilty. The theory is that people, who have made an error on the job, should be given the opportunity to learn from and correct their behavior. They should not be branded as disciplinary problems for the rest of their careers.

## DEFENDING THE SYSTEM OF JUSTICE

When your Association defends a member in trouble, it's also defending the justice system. Much as you might resent spending your membership dues on an apparent "jerk," you should be thankful that his right to appeal is available. Once an employee has permanent status in a public agency, the government (his employer) can't fire him, demote him, or reduce his pay without "due process" – without proving that he is guilty. He has what the courts call a "vested property interest" in his job.

Vested public employees actually have the right to TWO levels of appeal for major discipline: the first, which must be provided *before* the discipline is imposed, is an informal meeting with someone in Management with the authority to modify the discipline. The second is a "full evidentiary hearing" before a "reasonably impartial" third party.

The employee must be given a chance to review all evidence, confront his accuser, and tell his side of the story. If the employer refuses to provide a fair process (which happens much less often than it used to) and the employee asks for the Associations' help, the Association has the obligation to take legal action to *compel* a fair hearing.

All this effort may be costly and time consuming, but it is **the process** that the Association is defending. And it isn't outside the realm of possibility that YOU might need that process someday. Why: because the public workplace today is an increasingly unstable workplace. There ARE bad managers; there ARE employers trying to cut corners by violating employees' rights. Sometimes people really ARE falsely accused or blamed for someone else's error. Sometimes somebody with authority ***just doesn't like you,*** so it's worth considering that your Association, by actively defending "that jerk," is

making everyone's life safer and more stable in the workplace.

## PROGRESSIVE DISCIPLINE OFTEN WORKS!

A few more thoughts about "that jerk." Sometimes people with problems on the job truly have not learned yet about appropriate performance or behavior. Sometimes they may be having difficulties outside of their control. Health problems, especially mental health problems, sometimes explain the behavior. The appeals procedure is often the place where these problems are identified.

Similarly, employees' alcohol or drug problems often manifest in the workplace and can lead to major discipline. And sometimes a union rep can convince the hearing officer to recommend a Last Chance Agreement, enabling a good employee to be saved through some rehabilitation. Sometimes "Progressive discipline" can be truly constructive!

## THE UNION IS NOT CONDONING BAD BEHAVIOR

We are not suggesting that Association members should be tolerant of co-workers' bad behavior. After all, it's the good employee who is often picking up the slack for a bad one! But if you are working next to someone who's fudging, cheating, or otherwise not carrying his/her share of the load, rest assured that he probably will get caught. No matter how skilled your union staff may be at defending "the jerk," he will still get his just rewards. Reps can't prevent discipline, they can just make sure that it is fair and warranted.

## IT'S ALWAYS OK TO REPORT A CHEATER

Further, it is absolutely permissible for you to complain about an unbalanced workload, or report someone whose illegal/inappropriate behavior threatens the County's interests. You should just make sure that you see the whole picture and that your facts are completely correct.

## YOUR UNION HAS THE LEGAL "DUTY OF FAIR REPRESENTATION"

Speaking of the whole picture you should know that your Association has some legal responsibility to represent members, even when they deserve to be punished. This is called the Duty of Fair Representation. It means the Association is obligated to assist your members through the negotiated appeals procedure, *and can be sued for its failure to do this.* There are some exceptions to this, however. For instance, if your Board has a legal analysis indicating that a case lacks merit, you need not proceed to the top step. But since problem employees, especially *terminated* problem employees, are frequently litigious, it's sometimes best for your organization to err on the side of providing full service, rather than rejecting their case.

## THE BOTTOM LINE

The bottom line is that it's true: since public employees began forming unions in the '60s a portion of their time and money has been devoted to defending the apparent "jerks." But it's also true that for most of that time, ***the vast majority of law in our field was also devoted to this subject!***

**In the last few decades, however, this has changed a LOT, and your ability to *positively* represent *ALL* members is much more viable.** This is not only because of key court decisions and legislation (such as the FMLA, ADA, union security rights, etc.) but also because of the role of the Public Employment Relations Board. In 2001, when local agencies came under PERB's jurisdiction, your Association gained the ability to enforce your Contract without the need to go to Court. The

average member didn't see this change, but it has translated into an ability to protect *everyone's* wages and benefits, even during the worst of times. ***In truth it is no longer the case that the majority of your Association's resources go to defending "the jerks."*** In fact, it's likely that the majority of your Association's resources go to collective bargaining; both securing a fair contract for all members, and ensuring that this agreement is enforced accordingly.

## EEOC Calls on Employers to 'Reboot' Harassment Prevention Efforts

**After 18 months of work examining the complex issues associated with harassment in the workplace, the Equal Employment Opportunity Commission released an 88-page report. The report stresses the importance of a workplace culture in which harassment is not tolerated. It advises employers to offer harassment prevention training "on a dynamic and repeated basis to all employees."**

**The EEOC's Task Force made detailed recommendations for harassment prevention, including a chart of risk factors that may permit harassment to occur, effective policies and procedures for reducing harassment, and a "toolkit" of compliance aids for employers. The recommendations explain that harassment prevention should not be limited to the subject of sexual harassment, and should be tailored to the specific employer. Further, it should educate employees about their rights on the job, should clarify what is not harassment, and "should be conducted by qualified, live, and interactive trainers" who can answer participants' questions. The report noted that, "when trained correctly, middle-managers and first-line supervisors can be an employer's most valuable resource…"**

# *Your Right to Be Paid for ALL Time Worked!*

Over the last decade, almost all public agencies in California have gone through "the Great Downsizing." This means that many employees are still working in understaffed conditions, suffering a range of petty abuses such as excessive (often unpaid) work hours, skipped lunches and breaks, coming to work sick, difficulty scheduling vacation time, unreasonable amounts of work (and unreasonable pressure to finish unreasonable workloads,) anxiety-related illnesses, out-of-class assignments, etc. **In truth, many of these conditions are NOT petty.** In

combination, *especially over time,* they can make your job intolerable. Further, they are mostly "actionable:" violations which can be "acted upon" through the grievance procedure.

One of the easiest problems to fix involves work hours, breaks, and lunches. These issues are controlled by LAW! Unless you're exempt under the Fair Labor Standards Act, you must be PAID time-and-one-half for ANY time worked over 40 hours a week. You should also get at least ½ hour unpaid time for lunch in the approximate middle of your shift.

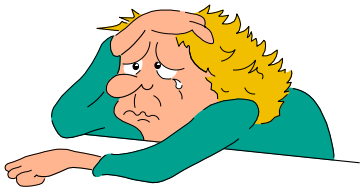
One of the consequences of the "Great Downsizing" is that you and your co-workers may be working more than 40 hours, working through lunch, or working at home, without overtime. You also may have been told to flex your schedule to avoid receiving overtime pay or to just take comp time, for the same reason. You also might be *voluntarily* looking the other way at the excessive workload because you think that this is YOUR problem – or that you're about to catch up any day now.

## Your Time is What You are "Selling…"

Here's an important consideration, though: **your TIME is what your employer has hired you for.** The more you "give away," the more you'll be *expected* to give away. A recent study conducted by Career Builders, Inc. found that the **majority** of employees believe that the 9:00 to 5:00 workday is a thing of the past. Largely thanks to technology, 45% of people surveyed said that they complete work outside their normal hours; 49% said that they check email after they have left work for the day. 50% of the professional employees, overall, say that they keep in touch with their jobs 24 hours a day, and some occupations seem almost built around round-the-clock contact. 68% of IT employees, for example, say that they conduct work outside of normal hours.

**Even if you are a professional employee (exempt per the FLSA) you are not a slave!** Unless it's specifically written into your job description that you must be available 24-hours a day, you need not be. Unless you are in Standby status (i.e. being PAID) you do not need to respond to work calls or emails. (Although if your employer *reaches you* during non-work hours, they can require you to work.)

## Excessive Work Hours: You DO Have a Choice



Your status quo may be just fine. Some people like to work long hours and collect a lot of overtime pay. Some people work long hours, *without ever asking* for overtime. Some people (especially supervisors and professionals) assume that long work hours are part of the job. *You don't have to change anything*.

Keep in mind, though, that you DO have a choice. Many abusive work conditions are grievable. If you work overtime, you can't be forced to take it as comp time of "flextime." You have the right to work a normal week, and to be paid for ALL hours. You even the right to take negotiated time off when you are sick – or need a vacation!

# Working with the Public Isn't Easy (Here are Some Ideas for Coping)

Working with the public has ALWAYS been a challenge. But today, when temperatures are high and lines are long and many offices are understaffed, it's almost a formula for disaster. All too often, you, the well-intended public servant, are doing your best to meet your residents' needs, but they are often disgruntled about circumstances outside *anyone's* control. This means YOU become the object of their frustration, which often takes the form of nasty words or behavior. You know that this is unjustified (in fact, *they* often know it) but **there is no escape**. Dealing with unhappy customers is just part of the job. If you can't handle it, professionally and diplomatically, your employer can discipline you.

## So what can you do? Here are some suggestions:

1. **Try to be Pro-Active; "Touch" Everyone.** If you work in a setting where people must wait for long periods for your assistance, see if you can give them a sense of how long the wait will be. NS: If possible, see if there are people who DON'T need to be there, who can solve their problems online, or see someone else in another department, or simply leave documents with you.

2. **Provide Comfort.** Literally. If someone is agitated see who might need a glass of water or a chair. If YOU are not the person who can provide this assistance, see if someone else can.

3. **Empathize.** If you are dealing with someone who is frustrated at trying to work her way through a maze of County regulations or appointments, consider how you might feel in the same circumstance. Nothing defuses anger as well as telling the angry person how well you understand her pain. (Even if you don't understand, this is a great technique.)

4. **Breathe deeply.** It's hard to not react when you're under attack. But if you can practice some deep breathing and pull your emotions out of the situation, it will pass, and then you can try to be your usual, helpful self.

5. **Place a mirror behind your work area if you can.** Really. People tend to calm down when they can see themselves losing their cool.

6. **Focus on your long-term goal.** Your goal is to help this resident resolve a problem - where she "isn't thinking clearly." Think of yourself as a nurse or a Red Cross worker in a disaster. Consider it a bit of an acting job; you're the rescuer.

**When Customers Say "I Could Have You Fired"** **All** of the anti-employee animus in the media has left large swatches of the public with *terrible* attitudes toward their public servants. Your silly rules and regulations not only infringe on their "freedom," but then you steal their tax money for

your exorbitant salary and benefits!

These people don't have an understanding of the function of local government and probably never will. **There is nothing more difficult than trying to be nice to people who are demeaning you.** Speaking of acting jobs, you could consider this one practice for the Academy Awards. Try channeling Mother Theresa. Be entertained (or challenged) by how effectively you can manage this jerk. If you're religious, remember: "the meek shall inherit the earth." If you're not, try feeling sorry for the pitiful person whose perspective on the world is so petty and distorted.

**Make it a challenge to keep your cool and solve their problem**. But if someone's behavior crosses the line from 'rude' to 'abusive', know that you are protected – leave the desk and call a supervisor for help.

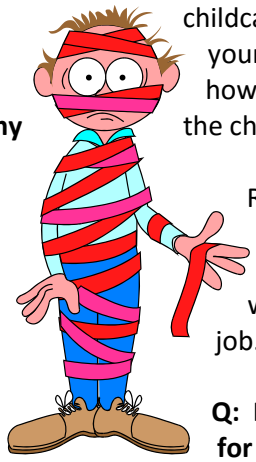
# *Questions & Answers:*
# *Your Rights on the Job*


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

**Q: I've recently been promoted to supervisor and my Manager just told me that he needs to send me to a work location/assignment that I REALLY DON'T WANT TO DO.**

**I'm a single parent and this job is very far from my home. It can also involve standby work, which might mean leaving the house nights and weekends. Do I have the right to refuse?**

**If not, do I have the right to demote down into my previous job?**



A: Generally, you don't have the right to refuse a work assignment. If the duties of the new assignment are included on your job spec, there's an assumption that you can, and will, perform them.

(But, if the majority of the duties are NOT on the spec, you may have a legitimate grievance, and might be in a position to object.)

If the new worksite or hours would result in serious childcare difficulties, you have every right to talk to your management about the impact of this transfer; however, there is no LEGAL basis for refusing (unless the child has ongoing medical issues).

Regarding demotion, it's up to your Management to allow this, but most will, especially if there's a vacant position or a person in that position who is interested and able to promote to *your* job.

**Q: I'm a white male, as is my boss. It's not unusual for him to make racial or sexist comments in front of me, which are often pretty offensive.**

**Could this be considered harassment? I've never complained about this, but am thinking about it.**

A: Racial or sexual comments that make you uncomfortable should be reported. Your gender or race is not an issue; you don't need to be a member of a "protected class" to be offended. This type of reporting is typically covered under your employer's harassment policy and/or hostile work environment policy.

It's a good idea to ask your supervisor to curb the comments before reporting him. He may not know that you are uncomfortable with the behavior.

**Q: I was off the job with a complicated pregnancy and miscarried. My doctor reported this to HR on my FMLA form.**

**When I came back to work, everyone seemed to know about my loss. Isn't this a violation of my privacy rights?**

A: YES! If your co-workers learned about this from Human Resources, this is a violation of your privacy rights. You should feel free to communicate this violation to the HR Director.

**Q: Several of us filed a sexual harassment complaint against the Mayor and, for obvious reasons, the City doesn't seem to be doing anything about it.**

**The guy continues to cruise the halls making offensive remarks to anyone within earshot. Is there anything we can do about this?**

A: Yes. You and your co-workers may want to file a formal grievance to force this issue to resolution. The City has an obligation to investigate these claims and to take the necessary steps to ensure a workplace free of sexual harassment. An employer's failure to do this can be expensive.

**Q: Apparently our Public Information Officer wants to post pictures of the employees in each department on the County's website. Does the County have the right to *force me* to pose for a picture with my co-workers?**

A: Your employer has a right to take your picture for an identification card. It does NOT have the right to post your picture publicly if you object to this.

If the request makes you uncomfortable, you should ask not to be in the picture. Most employers would take the employees wishes into consideration.

If they insist, however, feel free to call your union staff for help with this.

**Q: My co-worker collapsed from heat stroke on the job last month. An ambulance was called and he was hospitalized.**

**Now he has received a bill for $1,400 from the paramedics! Shouldn't the County be paying this?**

A: **This <u>IS</u> ridiculous!** An employee who collapses from heat stroke while working will have a valid workers' comp claim.

The employer should pay for the ambulance. Your co-worker should give the bill to the County and call Association staff if he needs help with this.

**Q: My co-workers play a religious radio station very loudly all day at work. Can I do anything about it?**

**A**: Yes, a public workplace should not facilitate the output of any religious message.

Your first step would be to talk to the supervisor about this. If the supervisor is the person allowing the religious radio, you might talk to someone in HR.

If you'd rather have someone else present the problem, feel free to ask your Board rep or call staff at the CEA office. This should be a fairly easy problem to resolve.

**Q: I have a question regarding employee time sheets. If a change is made to an employee's time sheet without his knowledge, is the supervisor or payroll supposed to notify that employee?**

**A**: Any time your employer wants to change your time card, you must be notified for approval. There isn't any strict rule about WHO should do the notifying. If you believe your time card is being modified without your knowledge, you may want to contact your union rep for assistance.