



COURT GAZETTE

San Diego County Court Employees Association

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SDCCEA

Board of Directors 2005

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Hello to All,

I have been on vacation these past two weeks on a very lovely Caribbean cruise and I have just returned.

I just want to remind all of you to please let us know when you have changed addresses so that we can keep your newsletters and other important information coming to you during negotiations. If you know of a fellow member that does not receive our information, please have them contact us to update their information. Thank you as always for your continued support!



Kay Elbik



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2005 Membership Drive....

The Association's first membership drive is going strong. At every site visit we are adding new members to our Association. As you know, if you sign up a new member on one of our new forms and list yourself as the sponsor you will be awarded \$25 per new member that lists you. At our next annual meeting in October the member who recruits the most new members will receive the grand prize (yet to be determined). So please keep up the good work. The closer we get to 100% membership the stronger our voice will be at the bargaining table!

LABOR RELATIONS MANAGERS REPORT... by Jeff Carr

Full Contract Negotiations Just Around the Corner

Your 2005 Bargaining Team has been meeting since the beginning of February. Your Team is representative of all of the bargaining units that SDCCEA represents. The members of your Bargaining Team are; Amy Shillingburg, Ken Holland, Adrienne Aron, Joann Pickrell, Sylvia Casillas-Housman, Warren Smith, Kay Elbik, Lance Brown, Carol Albrecht, Richard Constantinou, Dick Castle, SDCCEA's legal council and myself. The team has been discussing the many questionnaires that you returned. From those questionnaires we are beginning to draft our initial bargaining proposal to the Court. In addition, within the last two months we have made lunch time site visits to all Court locations in order to get further input from our members in the field. Believe me we have received some great feed back from our field visits and that equates to a proposal that will really reflect your collective issues and the need for improvements in many areas. We do not at this writing have a first meeting with the Court established however we do expect that it will be in the latter part of April. Remember our goal is to reach an agreement before the June 30th expiration of the current Five year agreement. Please feel free to contact me at the Association office if you have special issues which you believe should be included in the proposal. Once we start negotiations there is no guarantee that we would be able to somehow sneak your issue onto the table so if you think of anything let us know now.



SDCCEA Represents the Probate Services Unit

The Association is pleased to announce that the members of the Probate Services Bargaining Unit have, based on their almost 100% petition, elected to become part of SDCCEA. We are growing stronger in numbers everyday. The Probate Unit as you know is a specialized unit and as such has some unique issues. We welcome them to our SDCCEA Family.

Assembly Constitutional Amendment 5

ACA 5 has been introduced as legislation in Sacramento by Assemblyman Keith Richman. This is the bill that the Governor is proposing to take to 'his people' in the special November election. This is due to the fact that the Democratic majority in Sacramento will not deal with it because ACA 5 would basically modify all California Public Employee Pension Systems as we know them today! As you might have seen in the paper the County Board of Supervisors (a conservative group) is not endorsing the Governors plan nor is any Public Employee Union or group that I am aware of. This initiative, if successful, would jeopardize secure retirements for everyone including current retirees and current employees by creating a two tiered system with huge start up costs, ongoing costs to manage each system, and have crippling effects on the current system as fewer employees participate. Effective in 2007 it would mandate individual risk accounts for all new employees...the same plans that lost 40% of their value in the recent stock market crash. Your Board will be keeping you up to date on this major threat by the Governor who is planning to use Public Employees to assist him in balancing the states budget.

THINK TWICE BEFORE YOU SIGN A PETITION!!

Currently you are being inundated with petitions. Every K-Mart, Vons, and Stater Brothers has PAID petition gatherers out there seeking your signatures on one measure or another. Your Governor is currently paying up to \$1.50 per signature on his special petitions and he needs about 900,000 signatures to qualify for the ballot. Your Association is most concerned with the petition that is out there asking the voters to put a measure on the ballot in November that would completely change the retirement system for every public employee. We encourage you to NOT sign this petition that would give all voters in the state the ability to decide on what your retirement benefit looks like in the future. If the Governors effort to collect signatures fails then it won't be on the ballot. Be sure you know what you're signing when you go out to do your grocery shopping. The consequences of signing the Public Employees Retirement Petition could be very serious to every SDCCEA member.



Can they ask why I am calling in sick?

By Bob Blough, Labor Relations Representative, San Bernardino Public Employees Association

The Courts are taking a fresh look at employer's rights to inquire about the reasons you called in sick. Recently there have been decisions that clarify what can, and what cannot be asked....

Questions that are permitted include the following:

- ❖ Asking generally about an employees well being (for example; "How are you?")
- ❖ Asking an employee who looks tired or ill if he/she is ok
- ❖ Asking an employee who is sneezing or coughing whether he/she has a cold or allergies
- ❖ Asking how an employee is doing following the death of a loved one or the end of a marriage/relationship
- ❖ Asking an employee about non-disability related impairments (for example, "How did you break your leg?")
- ❖ Asking an employee whether he/she can perform job functions
- ❖ Asking an employee how she is feeling when her baby is due and,
- ❖ Asking an employee to provide the name and telephone number of a person to contact in case of a medical emergency, such as mother, brother, friend or spouse preference and information, not the name of your doctor.

However, employers must take care to ensure that their requests are not overly broad and are closely related to a "business necessity." The following questions are considered disability-related inquiries and cannot be asked unless it is job related and there is a legitimate "business necessity".

- ❖ Asking an employee whether he/she has (or ever had) a disability or if he/she became disabled or inquiring about the nature or severity of an employee's disability.
- ❖ Asking an employee to provide medical documentation regarding his/her disability or medical condition
- ❖ Asking an employees co-worker, family member, doctor or another person about an employees disability
- ❖ Asking about an employees genetic information
- ❖ Asking about an employees prior workers compensation history
- ❖ Asking an employee whether he/she is taking any prescription drugs or medications, whether he/she has taken any such drugs or medications in the past, or monitoring an employee's taking of such drugs or medications and,
- ❖ Asking an employee a broad question about his/her impairments that are likely to elicit information about a disability (for example; "What medical conditions do you have?")

The Equal Employment Opportunity Commission's (EEOC) has said: "A question that is likely to elicit information about a disability...." violates the provision of the American's with Disabilities Act (ADA) relating to medical inquiries.

The issue came to the Courts when a policy was challenged which allows Supervisors to require employees returning from sick leave, of even one day, to provide a signed note from their doctor with a brief diagnosis of the condition treated, a statement that the employee was unable to work during the absence and a prognosis, including the date of return to work or continued absence until the next scheduled appointment date.

The courts held a policy requiring that an employee disclose his/her ailment to be on approved sick leave or to provide a "brief" diagnosis, whether general or specific, upon return would likely cause employees to reveal a disability or perceived disability and thus was prohibited by the ADA.

The exception was a "business necessity...ensuring that the workplace is safe and secure or cutting down on egregious absenteeism."

A one-day absence by itself, or instances sporadically throughout a career, is clearly not an egregious record of absenteeism. To rise to the level of an egregious record of absenteeism, the employer would have to demonstrate a pattern of absence, such as repeatedly calling in sick before or after days off, or corresponding to holidays or sporting events, or long term employee with virtually no sick time accrued, yet no event depleting his/her sick leave balance. If an employee has a record of abuse, the employer's business need and right to ask more probing questions grows proportionately.

There have been very few cases interpreting the employer's right to request medical information from employees. These recent rulings are a wake up call to employers to make sure that the medical information they seek from employees is truly necessary for business operations. One Court stated, "mere expediency" is not enough. Inquiries must be necessary, effective and narrowly tailored. In most instances the employer should not have a general policy requiring disclosure of medical information, but should instead, seek only information designed to determine whether the employee is able to safely perform their job.



SDCCEA
BOARD OF DIRECTORS MEETING
February 2, 2005

Present: Kay Elbik, Lance Brown, Jeff Carr, Adrienne Aron, Joann Pickrell, Amy Shillingburg, Cindy Schmidt, Doug Carlson, Pat Seavey, Alison Blackwell, Laura Llamas, Dick Castle, Irene Elguira

Excused: Carol Albrecht, Frances Mercer, Warren Smith

Report of Officers

Minutes of previous meeting – The previously e-mailed minutes of 2-2-05 prepared by Lance are approved as received.

Treasurer's report – Doug reviews the treasurer's report, which is filed as read.

Labor Rep written report discussion at end of meeting – The labor rep written reports are reviewed and discussed.

Report of Committees

Social Committee – Pat states that there are plans in the works for a late spring "contract party", once the negotiations for our new contract are over.

By-Laws Committee – Irene provides the Board with a copy of the completed by-laws table of contents, and states that work continues on the other revisions previously discussed.

Membership Committee – Adrienne discusses the progress on the new membership drive, that will continue until October, 2005. Jeff gives the board members a membership drive flyer to post at each court location.

Security Committee – Doug discusses security issues that he has addressed with his Superiors, and encourages everyone to be diligent in reporting any security issues at each location.

CIPELC report – Jeff gives an overview of recent CIPELC activities, and updates the board on the meeting held on 2-11-05 with the new CIPELC lobbyists regarding AOC issues, and establishing a position relative to the Brown Act applying to the courts. The upcoming CIPELC conference is discussed.

Promotional Item Committee – The new pens are handed out to Board members. Jeff states that the lanyards we ordered will be arriving soon.

Unfinished Business

Smith Barney Investment – After some discussion on the recent Smith Barney Investment presentation, the board decides to look into other options for investing the Association's funds, and board members will contact Doug if they have any other presentations for the board.

Southwestern Free miles card – Jeff provides the board with the terms and conditions of having a Southwestern Free Miles Visa card, and the Board decides not to pursue this at this time. Doug will investigate the possibility of having a Rapid Rewards card that would apply to the organization as a whole.

MEA contract – Kay reports that due to the manner in which our budget is set up, the Association owes MEA \$565 (\$113.00 monthly x 5 months) for a budget shortfall from August, 2004 to December, 2004. The Board approves the expenditure.

New Business

Liability for Board members – Dick gives an overview of liability issues that the Board may face. Each board member is not personally liable, as long as they are acting in the normal course and scope of their duties, acting in a prudent and responsible way. However, the corporation as a whole does have liability, and Dick recommends that the Association contact an insurance broker to get quotes for general liability insurance. Insurance covering representational issues ("Arizona Missions" insurance) may be too costly to pursue. Joann states that she will check for insurance quotes, and report back to the Board.

Kay discusses an email request from Jon Hayes regarding the need to make repairs to his servers. Pat makes a motion to advance Jon his salary for a period of seven months, at a discount of 5%, for a total amount of \$6,650. Doug seconds the motion. The motion carries unanimously.

Open Forum

Jeff gives the Board an update on the recent negotiating committee meetings, and the request to Karol Plaskon to begin the negotiation process. No date has been set for the commencement of negotiations at this time.

Joann raises concerns about having to use vacation time to attend SDCERA Estate Planning seminars. Jeff will investigate this.

Adjourn

Meeting is adjourned at 7:30 p.m. The next meeting is scheduled for Wednesday, April 6, 2005, at 6:00 p.m. at MEA headquarters.

