LBAEE
April 2024 News

CHARTER AMENDMENT UPDATE – LETTER OF AGREEMENT

The City of Long Beach and AEE have met and conferred regarding the City's proposed charter and agreed that should the Charter Amendment pass in the November 24 election:

1. They shall meet and confer regarding the reasonable foreseeable impacts of the Charter Amendment after November 2024. This includes, but is not limited to, proposed revisions to the City's Civil Service rules regarding preferences for classified employees in promotional recruitments, and rules concerning the discretion of the Commission to have disciplinary appeals held by a hearing officer.

2. The City agreed that there shall be no changes to the current civil service system until after the meet and confer process regarding impacts is exhausted.

3. The City agreed that the Commission will be assisted by a designated staff member within the City Attorney's Office who shall be assigned the following duties: track and monitor requests for appeals of discipline and IDRs (Industrial Disability Retirement); send cases out to OAH (Office of Administrative Hearings); coordinate/schedule appeal hearings; schedule court reporter; order transcripts from court reporter when needed; take oaths at hearings; log exhibits received during hearings and maintain custody of them; prepare final judgements and minutes for Commission; schedule Commission meetings/prepare agenda; coordinate investigation of complaints initiated by the Commission.

What to Do About Burnout and Employee Wellness

The last few years have been challenging for most California public sector workers. First the pandemic, and more recently labor shortages, along with rapid advancements in technology, the ability to be always accessible, and an expectation to always be responsive, have undoubtedly led to greater burnout. The good news is that there has been a renewed emphasis on employee wellness in the last year or so, both from the occupational health community and from the broader medical profession. This month, we will look at burnout and what you can do to help improve employee wellness.

What Does Burnout Look Like? Burnout is not classified as a medical condition. It is an occupational phenomenon that can severely affect the mental and physical health of employees across all industries and roles. Burnout is defined as a syndrome resulting from chronic workplace stress that has not been successfully managed. It is often characterized by low energy or exhaustion, feelings of cynicism about one's job, and lower productivity. This is different from having a stressful job, a bad week at work, or a difficult boss. Burnout is a consistent and prolonged state of being. According to the World Health Organization, burnout arises where the job-related stressors are not effectively managed by the normal rest found in work breaks, weekends, and time off. It often starts with moderate stress and discouragement and can gradually escalate to physiological stress symptoms that can have long-term, negative effects on an employee's health.
For example, workplace burnout can impair short-term memory, attention, and other cognitive processes essential for daily work activities. It can also increase the risk of several medical conditions, including depression, Type 2 diabetes, and hypertension. Once an employee reaches burnout, they are likely to require medical care and not simply preventative support. The earlier burnout is diagnosed, the easier it is to resolve.

When unaddressed, the costs of burnout are significant, both for employers and workers. The financial burden of work-related stress and burnout in the U.S. is estimated to cause approximately $190 billion a year in additional health care expenses. If you add the cost of absenteeism, turnover, diminished productivity, and legal and insurance costs, the total is likely closer to $500 billion. Workers suffering from burnout are 63% more likely to use sick time, 23% more likely to go to the emergency room, 13% less confident in their performance, and 2.6 times more likely to look for a different job.

What Causes Burnout? Some of the top causes of employee burnout include unfair treatment at work, unmanageable workloads, lack of role clarity, lack of communication and support from managers, and unreasonable time pressure.

A survey at the end of 2020 identified some startling statistics. About 45% of people surveyed who had shifted to remote work said they were working more than they were before the shift to remote work. Nearly 70% said they were now working weekends. The volume of work persists even as the pandemic has waned. As a result, many workers now find themselves working well beyond their scheduled hours. Furthermore, as agencies have struggled with labor shortages and training new staff, workloads have quickly piled up and become unmanageable. This is not simply a generational shift in the workforce. Even high-performing employees report feeling hopeless as workloads become increasingly demanding and unsustainable.

More and more workers report that they do not know what is expected of them at work. Employees struggle to figure out what success looks like when accountability and expectations are moving targets. Employees can feel unsupported and aimless as a result. A lack of measurable goals, targets, or recognizable accomplishments can contribute to a feeling of disengagement, career stagnation, and eventually a desire to switch employers, quit work altogether, or retire.

Employees who feel supported by their management are overwhelmingly less likely to experience burnout. The flipside is also true. A manager who does not communicate effectively, or is negligent or confrontational, leads to staff feeling uninformed, alone, and defensive. In many agencies, managers – including middle managers – can also suffer from burnout and unmanageable workloads. Burnout makes it difficult for mid-management to connect directly with their staff and help them feel supported and engaged. Human Resources – which should be a positive outlet for staff, especially for those who do not feel comfortable speaking directly to their manager – may also have unmanageable workloads. Over the years, the role of HR has shifted more towards risk management and away from workforce development and support. The pendulum may be swinging back towards a proactive human resources model as more agencies struggle with understaffing and burnout.

Workers who feel like they have enough time to get their work done during their regular work schedule are far less likely to suffer from burnout. When employees feel pressured to get more done than time allows for, the quality of their work can deteriorate. This can erode fulfillment for those who take pride in the quality of their work. Although most public sector workers are no stranger to deadlines, burnout is more likely when this responsibility is dependent on a single employee versus shared with the whole team.

How Do You Improve Employee Wellness? Focusing on wellness does not require the presence of a disorder, or an immediate need for psychological intervention. A lack of well-being is enough. Too often, wellness programs focus on treatment rather than prevention. Placing a priority on employee wellness can help reduce the causes of burnout and create an environment where workers can get the support they need when they need it most. There are many ways to improve employee wellness. In general, organizations that maintain an empathetic culture and adopt a proactive approach to addressing the needs of each individual employee are better positioned to succeed. Each employee is different, and each organization is different. Some employees may want more engagement from colleagues, while others want less social interaction and more focus time. For some employees, a mental health day off-work can make a world of difference, whereas others need a longer time away from work to decompress.

Proactive solutions focused on prevention include:

- Health risk assessments.
- Flexible work arrangements, which can reduce commute times.
- An employer taking an active role in promoting career growth for employees.
- An employee recognition program.
- An employee appreciation event.
- A stipend to help cover costs of preventative health programs like gym memberships or equipment, smoking cessation, weight loss, meditation, and other stress management therapies.

What is EAP? Most employers have an Employee Assistance Program (EAP), which can provide critical resources and assistance. Through the EAP, an employee can talk to a psychologist or licensed family counselor about their situation. The service is generally

paid for by the employer (*e.g.* some free initial sessions), and low cost for extended services. Your HR will have the most current information, including contact numbers. An employee with a substance abuse problem, for example, might seek support and treatment options through the employer's EAP. Employees who are going through divorce or other outside non-work issues also might use EAP. In the case of burnout, if you are experiencing mood swings, anger, anxiety, depression, or other mental health issues, you should consider getting professional help such as seeing a therapist. If the psychological problems become severe or take on additional physical components (heart palpitations, insomnia, digestive problems, breathing problems, *etc.*) you should seek medical help. During the early phases, timely EAP support can help mitigate and alleviate burnout symptoms. Unless you are sent to EAP by your employer (for example, in cases of substance abuse, or workplace violence, usually to get help as an alternative to more serious discipline), your visits remain confidential. If you need more serious help, the EAP counselor can make valuable referrals.

Mental health issues often show up first in the workplace, where people spend most of their waking hours. Mental health issues are *not* rare, and support is available. An EAP can be a great place to start. Through EAP, an employee can learn more about the conditions that trigger stress at work, strategies to help cope, and proactive measures to reduce it. Consider reaching out to your EAP if you have any wellness, mental health, substance abuse, or workplace burnout concerns.

What About Medical Leave? The pandemic helped focus more attention on the fact that mental and emotional health is critical to overall wellness. Workers dealing with chronic stress, anxiety, depression, or other mental health issues often need leave from work to help manage their condition. In the early stages of burnout, extended medical leave may not be needed. Simply using accrued sick leave, or taking a long-overdue vacation, can help manage the conditions that cause burnout, particularly when combined with EAP or therapy. If a longer leave of absence is needed, medical leave can help protect your job while you get help. This may be in the form of block leave, or a leave of absence stretching over weeks or months. It may be in the form of intermittent leave, such as a day or partial day absence on a regularly recurring basis for therapy or other treatment options.

Workers can take medical leave for mental health conditions under the Federal Family and Medical Leave Act (FMLA) and the State California Family Rights Act (CFRA). Mental health issues qualify as a serious health condition. Workers can take up to 12 work weeks of job-protected unpaid leave in a 12-month period. Employees may be able to take leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time worked each day or week for a single qualifying reason. Intermittent leave is often needed when managing mental health conditions. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations. An employee must request leave 30 days in advance. If the need for leave is unforeseeable, an employee must request leave as soon as practicable.

Mental health may qualify as a serious medical condition if it requires (1) inpatient care or (2) continuing treatment by a health care provider. Inpatient care includes an overnight stay in a hospital or other medical care facility. Continuing treatment includes conditions that incapacitate an individual for more than three consecutive days and require ongoing medical treatment, either multiple appointments with a health care provider (such as a psychiatrist or clinical psychologist), or a single appointment and follow-up care (such as prescription medication, outpatient rehabilitation counseling, or behavioral therapy). Chronic conditions such as anxiety, depression, or dissociative disorders that cause occasional incapacitated periods and require treatment at least twice a year also qualify.

Conclusion – Hopefully, the days of promoting a work-until-you-drop mindset, and a lack of work-life balance, are on the way out. The pandemic reshuffled the priorities and expectations of workers on a global scale. Local public agencies in California are not immune from this shift. Employers must adapt or risk losing out on a productive workforce now and in the future. Your employee organization can play a role. If your employee organization is bargaining for a new MOU this year, consider advancing proposals that are designed to improve employee wellness. If you are suffering from burnout and need advice, contact your employee organization leaders or professional staff for help.

News Release - CPI Data!

The U.S. Department of Labor, Bureau of Labor Statistics, publishes monthly consumer price index figures that look back over a rolling 12-month period to measure inflation.

3.2% - CPI for All Urban Consumers (CPI-U) Nationally

3.2% - CPI-U for the West Region

3.4% - CPI-U for the Los Angeles Area

2.4% - CPI-U for San Francisco Bay Area

2.9% - CPI-U for the Riverside Area (from January)

3.8% - CPI-U for San Diego Area (from January)

Questions & Answers about Your 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, talk to your professional staff.

Question: What is Human Resources' responsibility to allow me to view my personnel employment records? What is the timeframe that they are required to follow? I have twice reached out to HR, and they are not being responsive.

Answer: Under Labor Code §1198.5, current employees are entitled to access and inspect their personnel files. Employers must make the files available to current employees for review within a reasonable time (within 30 days) upon request. If you have reached out twice without a response, your employer may be in violation if more than 30 days has passed since your initial request.

Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records, at a charge not to exceed the actual cost of reproduction, not later than 30 calendar days from the date the employer receives the request. This may be extended up to 35 days by mutual written agreement. Your employer is only required to maintain copies of your records for up to three years after the separation of your employment. If you make this request from your former employer, and you make the request within the three-year window, you have the same rights as current employees to inspect and copy your records.

Employees should be aware of a few limitations with respect to their right to access their personnel files. Your employer does not need to provide access outside of regular business hours or outside of regular business offices. The names of current or former non-supervisory colleagues referenced in your files may be redacted. If the files are not available at your regular jobsite, employees are entitled (during regular business hours), to review and copy the records at the available site without loss of compensation.

Check your MOU, too. Some labor contracts have provisions governing inspection and copying of records from your personnel file. The employer must comply with any negotiated language. If your employer is not responsive to your request, contact your employee association representative for help.

Question: My supervisor told me that I'm not allowed to leave the City facilities during my lunch break. This was never a problem before. I was told I'm completely relieved of duties during the break, but I must stay on site. Do they have to pay me for lunch periods if I'm not permitted to leave? Is there any way I can challenge this restriction?

Answer: Your employer can require you to remain at your jobsite during your lunch break. Regulations under the Federal Fair Labor Standards Act ("FLSA") say, "[i]t is not necessary that an employee be permitted to leave the premises if he is otherwise completely freed from duties during the meal period." (29 CFR §785.19(b)). However, if the employee "is required to perform any duties, whether active or inactive, while eating," the meal period must be paid. If it is true that you are completely relieved of duties, under the FLSA, the employer can require you to be on-site and not pay you for the lunch break.

However, state bargaining law – the Meyers Milias Brown Act (Gov't Code §3500) – requires the employer to negotiate with the employee organization over changes to terms and conditions of employment. In most agencies, there is a negotiated meal and rest break policy. This may be in the MOU, the Personnel Rules, or a separate policy. If those rules do not require an employee to remain on site during lunch periods, your supervisor may be committing an unfair labor practice by acting unilaterally in changing the terms and conditions governing lunch breaks.

Contact your employee organization leaders, who can contact Human Resources and request to negotiate over the new rule. At the very least, the employee organization can get an answer as to who this applies to, for how long, and what is the employer's justification for making the change.

Although it might not violate the FLSA, it seems unreasonably restrictive if employees have had no issues with leaving the job site during lunch break and returning in a timely manner. If you are not completely relieved of duties, and you are not paid for the lunch period, contact your professional staff for help.

Question: Does my official reason for separation from my employer need to be "retirement" to get my retiree medical benefits? Or is it sufficient that I'm "retired" from that employer for pension purposes? I was told for the pension system I have up until 120 days from my separation date to officially retire. But I do not know if doing so after my separation date from my employer will jeopardize any employer-specific retirement benefits I am entitled to. Can you clarify?

Answer: It is generally best to officially retire from the agency as of the separation date if you want to be sure you secure all the benefits that the agency offers to those who retire from the agency. Some employer-specific retirement benefits, such as sick leave cash-out or conversion, need to be secured before your final payout. For retiree medical benefits, if your retirement date is within 120 days of your separation date from your agency, you should be entitled to any retiree medical benefits you qualify for provided you meet the required reporting deadlines and eligibility requirements. Check your MOU or agency policies to see what the specific language says.

For example, if you are in CalPERS, you can file for retirement after your separation date. If your separation date and retirement date are more than 30 days apart, you will need to request to enroll into retiree health benefits within 60 days of the retirement date. If you wish to enroll in a CalPERS retiree medical plan, you must: (1) retire within 120 days from the date of separation from employment; (2) receive a monthly retirement allowance; (3) be eligible for health enrollment on the date of separation; and (4) retire from an agency that currently contracts with CalPERS for health benefits for your bargaining unit.

If you have specific questions, reach out to your HR and pension system well in advance of your planned retirement date to ensure you do not miss any important deadlines. Keep in mind, if you later un-retire (work full-time for another public agency in the same pension system or one that has reciprocity), you may lose retiree health benefits earned at your prior agency.

Question: Can my director put new vacation blackout dates on the vacation calendar without negotiating over those dates with the employee organization? I've been here 21 years, and this has never happened before. We have always requested and been considered for days we choose, with no restrictions. Some of the blackout dates are days I want to take off. Please advise.

Answer: Your employer cannot unilaterally change work conditions of bargaining unit employees without first notifying the employee organization and providing a reasonable opportunity to meet and confer prior to making the change. Contact your employee organization to see if this was something they were notified of or agreed to.

Also check the MOU to see what it says. If the vacation article specifically allows for this, then the employer does not have to re-negotiate over it. Also check the management's rights clause of the MOU to see if it sets forth specific language on the employer's right to set the terms for vacation usage. If you have a separate vacation policy or language in your personnel rules that are more specific than what the MOU provides for, that language will likely control. Policies typically allow for management discretion in approving or denying vacation requests. But in your situation, it sounds as though the director is establishing a new policy that *any* request for the blackout dates by *any* employee will be denied. This is not merely exercising discretion; it is changing the terms for how a negotiated benefit may be used.

Assuming the right to implement "blackout dates" on the vacation calendar is not already established in the MOU, Personnel Rules, or Policy, it is unlikely the employer can legally set this new policy unilaterally. The proposed change in working conditions triggers your employee organization's right to negotiate over the proposed change. Contact your employee organization. They can reach out to Human Resources to negotiate over this change in more

detail, or file a grievance or unfair labor practice charge over any violation.

Question: Do you get service credit as an intern? I was part-time for 7 years and became full-time in 2014 after the pension reform law. Am I under the classic formula since I was already employed as a part-time employee? Do part time years of service count toward CalPERS if I worked over 1,000 hours?

Answer: If you were truly an intern, and not an employee, you would not accrue service credit. However, your years as a part-time employee may count for service credit. This depends on whether your agency has an exemption for part-time employees. If so, you would not accrue service credit as a part-time employee, regardless of whether you met the 1,000-hour in a year threshold. If your agency does not have an exemption (many do not), then you should be enrolled into CalPERS in the year that you exceed 1,000 hours in a year. If that occurred before January 1, 2013, and you did not have a gap in service greater than 6-months, you would be considered a classic member. Once you cross 1,000 hours in a year, and you are enrolled into CalPERS, you continue to earn service credit that is pro-rated based on the number of hours worked, even if you do not reach 1,000 hours in any subsequent year. But the 1,000 hours is not cumulative over your employment; you must work 1,000 hours in a year before there is an obligation for the employer to enroll you in CalPERS.