

State of California

M E M O R A N D U M

To: PERSONNEL MANAGEMENT LIAISONS

Date: August 3, 1988

Reference Code: 88-68

THIS MEMORANDUM SHOULD BE DISTRIBUTED TO:

Employee Relations Officers
Personnel Officers

From: Department of Personnel Administration

Subject: Strike Contingency Plans

Attached are guidelines regarding typical questions about job actions and strikes that you might receive from supervisors and employees. Please include these in your strike contingency plan. They are not to be released or distributed to supervisors or employees without prior Department of Personnel Administration (DPA) approval. If you have any questions please call your DPA Labor Relations Officer at 324-0476, ATSS 454-0476.

Rick McWilliam

Rick McWilliam
Chief of Labor Relations

Attachment

**TYPICAL QUESTIONS ASKED BY
SUPERVISORS DURING A JOB ACTION**

Supervisors may ask:

1. If the Union threatens your employees if they don't go on strike, what can I do?

Explain that employees have a right to work and assist them in so doing if they choose to work. Apprise your employee relations officer (ERO) of who said what to whom, when, etc., because it may constitute an unfair labor practice.

2. What do I, as a supervisor, say to employees who are at work during a job action?

Keep them informed. Explain their right to work and possible consequences of participating in a strike (including possible adverse action).

3. Can I cancel vacations or call back employees on vacation?

Yes. You should do so. Contact your ERO for guidance. If employees refuse you may put them on AWOL (non-paid) status.

4. Who has authority to settle/negotiate the job action?

Only the Department of Personnel Administration (DPA). Contact your ERO for details.

5. Procedurally what must happen first before a union can strike?

First the Public Employment Relations Board (PERB) must rule that the parties are at impasse and then the parties must participate in mediation. This process may last one day or several weeks. However, the union may choose not to follow this procedure.

6. Can I work an employee out of class (up or down) without advance approval to get the job done during a job action?

Yes. See your ERO for guidance.

7. If there is a disturbance can I call the police?

Yes. You should call the police if there is a disturbance and then inform your departmental ERO.

8. Where can people picket? Where can't they?

Call your ERO. In any case, pickets must be outside the workplace, not on State property, and not interfering with those employees electing to work.

9. Can I close the office for security reasons?

Call your ERO first, and yes, you can close the office if you believe there is a possibility of vandalism or sabotage. Consider reassigning employees desiring to work to other areas.

10. How do I handle a work slowdown or "work to rule"?

Document the problem, determine if it is an organized effort (v. wildcat). Inform your ERO. It may constitute an illegal job action or insubordination which may result in adverse action.

11. Can supervisors get overtime if we have to work extensive hours?

Yes. DPA Rule 599.711 allows Work Week Group 4A, 4B and 4C employees to be temporarily assigned to Work Week Group 1 with DPA approval. Contact your ERO for details.

12. What will we do if supervisors strike?

If supervisors participate in an illegal or unauthorized job action they will be subject to adverse action, including termination.

13. Are there different union access and representation release time provisions during a strike?

Deny all union access to working employees and representation release time during a strike.

14. What do I do about grievances if there is no contract?

Continue to communicate with your employees. Respond to grievances up to the third level. There is no arbitration.

15. What happens to union paid leave if there is no contract?

No contract - no union paid leave.

16. Can employees strike while a contract is in effect?

Not legally. This does not mean it may not happen.

17. Can supervisors hire replacement help? How?

Yes. Review your strike contingency plans. The most simple solution will probably be emergency appointments. See SPB Rule 302.1.

18. If the department hires replacement help, what happens when the striking employee(s) return?

Depending on the type and duration of the job action, you may not have to immediately terminate replacement help. Contact your departmental ERO or Personnel Officer for guidance.

19. What do you do with an employee who fears crossing a picket line for his/her safety?

Discuss arrangements that have been made for alternate pick-up points and/or transportation to assist employees in getting to work. Your department's strike contingency plan should address this.

20. During a job action/sick-out, can I deny a medical doctor's note?

Yes, you may deny sick leave to employees who produce a medical doctor's note at any time if you have reasonable cause, and if you believe the employee has participated in any kind of concerted activity, deny the excuse.

21. Can I require a medical doctor's note?

Yes, in all instances of requested sick leave during any job action.

22. Can I take away keys, cars or other State property?

In any situation where you believe that employees having possession of State property may contribute to a job action or adversely affect State operations, you should do so.

23. Can an employee be ordered to work overtime?

Yes. Be prepared to discuss operational necessity. Talk to your ERO if you are encountering coverage problems.

24. What benefits or rights do employees lose if their contract expires and there is no job action?

The State will continue current salary and benefits such as health, dental, vision and other terms and conditions of employment as long as the State and the union are negotiating.

**TYPICAL QUESTIONS ASKED BY
EMPLOYEES DURING A JOB ACTION**

Employees may ask:

1. If I go on strike, what can happen to me, i.e., what benefits or rights would I lose?

You will not be paid for any day you are on strike and potentially you could lose all benefits because participation in a concerted action could result in termination.

2. If the union orders a strike, does an employee have to participate?

No.

3. Can employees cross a picket line?

Absolutely.

4. If an employee works, will he/she get paid?

Absolutely.

5. Can I collect unemployment benefits if I strike?

No.

6. Can an employee get help crossing the picket line?

Yes. Your department's contingency plan should address how employees can be assisted in getting to work. If you have questions, contact your supervisor.

7. Can employees stop their union dues? How?

Yes, if there is no contract. Send a letter to the union and State Controller's Office requesting their union affiliation and dues deduction be terminated.