

*State of California*

**M E M O R A N D U M**

**REVISED**

**TO:** PERSONNEL MANAGEMENT LIAISONS      **DATE:** September 16, 2004  
**REFERENCE CODE:** 2004-048

**THIS MEMORANDUM SHOULD BE DISTRIBUTED TO:**

Employee Relations Officers  
Personnel Officers  
Training Officers

**FROM:** Department of Personnel Administration  
Labor Relations Division

**SUBJECT:** Correction to PML Memorandum 2004-048 (Bona Fide Associations -  
Access to State Facilities)

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PML Memorandum 2004-048 incorrectly identified "Motor Vehicle Code Section 1851" and "Motor Vehicle Code Section 1855" as the regulations covering permits for commercial activities on State property.

The correct citations for permits regarding commercial activities on State property are: California Code of Regulations, Title 13, Division 2, Chapter 11, Article 1, Section 1851 and Article 2, Section 1855.

A number of State departments have recently been approached by bona fide associations requesting access to State office facilities. This memorandum clarifies the purpose and rights of bona fide associations under the law.

Please share this memorandum with your agency's field offices and facilities.

### Bona Fide Association Defined

Government Code Section 1150(d) defines "bona fide association" as an organization of employees and former employees of an agency of the State and the California State University, and which does not have as one of its purposes representing these employees in their employer-employee relations.

Department of Personnel Administration (DPA) Rule 599.866 further defines bona fide association as an organization of employees and former employees of the State including affirmative action advocacy groups and professional organizations which do not have as one of their purposes the representing of employees in their relations with the State.

### Registration with the Department of Personnel Administration (DPA)

Bona fide associations are required to register with DPA on or about July 1 of each calendar year.

Registration as a bona fide association means ONLY that the organization has filed the appropriate paperwork and that DPA has determined that the organization's constitution and bylaws satisfy the legal requirements for registration as a bona fide association.

Registration as a bona fide association does NOT mean that DPA is in support of the organization or its goals or that the organization is authorized to offer benefits in DPA's name or on its behalf.

### Access to State Facilities

Registration as a bona fide association does NOT authorize the organization access to State-owned or State-leased property.

Facility management is responsible for ensuring facility security and the continuity of State operations. Accordingly, facility management retains full authority over the control of organizational access and organizational activities at the office or facility location.

As a rule of thumb, DPA recommends that bona fide associations be allowed the same access to the facility as the general public and charitable organizations. Generally, access is appropriate for non-commercial purposes (e.g., membership recruitment) in public areas, such as cafeterias and break rooms. Access to office work areas is inappropriate and disruptive to office operations.

Commercial Activities

Registration as a bona fide association does NOT authorize the organization to conduct sales or other commercial activities on State-owned or State-leased property. A permit issued by the California Highway Patrol (CHP) is required to conduct commercial activity on State property (California Code of Regulations, Title 13, Division 2, Chapter 11, Section 1855).

Commercial activity is defined in California Code of Regulations, Section 1851 as "any activity or action, undertaken in whole or in part by one or more business entities and/or individuals, whose purpose in whole or in part, directly or indirectly, is to derive or realize a present or future financial gain for the individual(s) or business entity or entities."

At least one registered bona fide association has been able to circumvent the commercial activity permit requirement by conducting "membership drives" at state facilities and offering AFLAC insurance as a benefit available only through membership in the association. If facility management determines that the purpose of the organization on site is "to derive or realize a present or future financial gain for the individual(s) or business entity or entities", the organization should be denied access or removed from the site unless they have a commercial activity permit issued by the CHP.

Questions regarding this PML may be directed to me at (916) 324-0476 or CALNET 454-0476.

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