

Subject: LABOR RELATIONS

REFERENCES	SECTIONS
DGS Department Manual http://inside.dgs.ca.gov/osprr/DGSManual/TOC.aspx	1100-1111
Law & Regulation http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml	GC 3512 et.al.; GC 3525 et.al
Memo of Understanding (MOU) http://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx	Applicable BU
Responsible Control Agency and Program CA Human Resources Dept. (CalHR): http://www.calhr.ca.gov/Pages/home.aspx Public Employment Relations Board (PERB): http://www.allgov.com/usa/ca/departments/independent-agencies/public_employment_relations_board?agencyid=230	
SPB/DPA Policy Memos http://www.calhr.ca.gov/state-hr-professionals/Pages/policy-memos.aspx	PMLs – too many to list
Other:	
DGS Intranet http://www.dgs.ca.gov/ohr/Programs/LaborRelations.aspx	

Subject: Labor Relations

Definition/Explanation:

The Dills Act, formerly known as the State Employer-Employee Relations Act (SEERA) established a process for the state to develop labor contracts with its employees for wages, hours, and other terms and conditions of employment. Two entities administer the Dills Act:

1. Public Employment Relations Board (PERB) placed employees in 21 different bargaining units and has ongoing oversight, and
2. Department of California Human Resources (CalHR) performs negotiations with the employee unions and with “non-unit” (often referred to as “excluded”) managers, supervisors and confidentials.

Policy:

It is DGS policy to ensure customer service needs are met by providing efficient and timely labor relations services and facilitating a cooperative relationship between management, employees, and the unions.

Procedure:

Classification & Pay (C&P) Personnel Analyst (PA)

The C&P PA may be the first line of contact for clients seeking advice and/or assistance on the following:

Performance Issues: Refer client to the Training and Performance Enhancement Section (TPES).

Layoff Process: Refer to the Layoff Procedure Section in this manual.

Contract Language Interpretation: Refer client to the Labor Relations Office (LRO).

Grievances: The C&P PA will respond to an out-of-class grievance filed by a rank and file employee. The LRO may be contacted for assistance.

Complaints: See explanation under “Grievances.”

Labor Relations Office

The LRO

- represents the DGS Director on various bargaining teams (many teams include CalHR, DGS, and other agencies);
- assists in policy development for matters that affect employee working conditions;
- advises DGS management on how to interpret labor contracts, and
- investigates and responds to grievances and unfair labor practices.

The following is a list of services and subjects under LRO purview:

1. Contract Language Interpretation Memorandum of Understanding (MOU)

- Contact the LRO for interpretation of contract language.

2. Contract Negotiations Process/Procedures

- The CalHR, the chief negotiator, represents the Governor.
- The DGS Offices have input, through the LRO, in developing or modifying contract terms. This process is initiated by the CalHR's "harvest memo."

3. Dills Act

- The statute, originally enacted in July 1978, was formerly known as the State Employer-Employee Relations Act (SEERA).
- Authorizes processes for determining the wages, hours, and terms and conditions of employment for rank-and-file and supervisory employees in the California State Civil Service.
- Establishes the Public Employment Relations Board to oversee and administer the provisions of the Act.

3. Employee Grievances/Complaints

- A grievance is a dispute between the State and the Union, or one or more employees, involving the interpretation, application, or enforcement of the express terms of their agreement.
- An out-of-class grievance is a complaint by an employee that they are performing the majority of duties of a different classification or level.
- A complaint is a dispute involving the application or interpretation of a written rule or policy not covered by an agreement and not under the jurisdiction of the SPB.
- A health and safety grievance is an expedited procedure to resolve a belief by the employee that they are being required to work where a clear and present danger exists.
- The supervisor is the first level of review except for out-of-class grievances (these grievances go directly to the LRO).
- The Office Chief, or his/her designee is the first level of review for all issues except out-of-class.
- The LRO investigates and prepares the second level response on behalf of the Deputy Director.
- In most cases, the CalHR is the third level of review; however, this varies by bargaining unit.
- Arbitration is the last step in the grievance procedure:
 - a. A third party determines if the State's actions complied with the specific language in the MOU or followed past practices.
 - b. Arbitration is binding on both parties.
 - c. The costs are paid by the DGS Office where the issue originated.

5. Employee Representation Rights

- Employee has the right of representation to file grievances, and when they meet with supervisors for performance discussions that may lead to disciplinary action.
- Employee does not have the right to representation for routine performance evaluations/discussions if adverse action is not being considered.

6. Employee Time Off for Union Business

- Employee shall be entitled to reasonable time off to confer with a Union representative on representational matters.
- Employee must have supervisor's prior approval.

7. Layoff

- Notifies Union and offers to meet and discuss/confer regarding impact of layoff once DGS determines layoff is necessary.

8. Management Rights

- Management determines the Department's mission and takes all necessary and reasonable action to carry out the program mission.
- Management has the right to hire, promote, transfer, or discipline employees subject to Departmental policies and MOU provisions.
- Changes to policy and programs that affect the wages, hours or other terms and conditions of employment may require advance notice to the Union and meet and discuss/confer responsibilities prior to implementation (contact the LRO prior to implementation).

9. Paid Union Leave

- Paid Union leave requires advance approval by management and the LRO. The Union reimburses the Department for the employee's time while on union leave.

10. Past Practices

- A past practice is defined as a course of action knowingly followed by the Union and the employer over an extended period of time which both parties have come to regard as the **accepted** practice.
- A past practice may take precedence over a written policy if the practice is (1) consistent, (2) uniform, and (3) long term.
- To change a past practice, contact the LRO for advice prior to implementation.

11. Policy/Procedure Changes

- Prior to implementation, check with the LRO on notice and meet and confer requirements for new policies and procedures or when making changes to existing policies or procedures.

12. Steward/Union Representative Time Off

- An employee shall be granted a reasonable amount of time to represent another employee in a grievance/complaint, discipline case, matter before the SPB, State Board of Control, Public Employee Relations Board (PERB) or on any matter regarding the administration of the MOU. Time off must have supervisor's prior approval.
- Check with the LRO with questions concerning who a steward/union representative may represent on state time.
- Union representatives may receive time off for involvement in contract negotiations, subject to negotiating ground rules.
- See "Paid Union Leave."

13. Strike Contingency Plan (Job Actions)

- It is the State's position that it is illegal for California State employees to go on strike.
- Each Office must have a current strike contingency plan to be utilized in case of a job action.
- Contact the LRO immediately if a job action occurs, or if you have information that one may be planned.

14. Unfair Labor Practices

- Unfair labor practices are violations of the Dills Act.
- The State and the union may file unfair labor practice charges against the other party.
- The PERB has final authority over resolving unfair labor practice charges.
- The costs of litigation for unfair labor practice charges are billed to the office where the issue arose.

15. Union Access

- Requires advance approval by management.
- Limited to pursuing representation issues, i.e., grievance representation, posting material on specified bulletin boards, etc.
- See "Access," "Use of State Facilities," "Use of State Equipment," and "Distribution of Union Information" sections in the MOU.

16. Union Contracts

- The LRO represents the Director and DGS management on all labor relations issues.
- The offices are to coordinate with the LRO on all labor relations matters.

17. Union Literature Distribution

- The employees, union steward, or union staff may distribute literature in non-work areas during non-work hours, but may not disrupt the work of others.
- The union may post materials relating to union business on existing employee organization bulletin boards.
- The union may not distribute literature in employee mailboxes or via email.

18. Union Rights (Exclusive Representative)

- The union has the right to represent rank and file employees on issues related to wages, hours, and other terms and conditions of employment.

19. Use of State Facilities and Equipment

- See "Access."
- Union stewards shall be permitted reasonable use of State phones to make calls for Union representation, provided that such use shall not incur extra charges to the State or interfere with program operations.
- The use of State meeting facilities is provided subject to operational needs.

20. Work Scheduling

- The Office Chief, or his/her designee, sets the work schedules.
- The employee must receive advance notice (see MOU) of any change in hours or work days.

Attachments: None