

General Manager

From: P.O.C. Public Information Officer [pio@peaceofficers.org]
Sent: Tuesday, July 07, 2009 10:26 AM
To: 'swornofficers@peaceofficers.org'
Subject: FW: PERB Judge Ruling: "CSLEA Unlawfully Interfered with Employee Rights"
Attachments: Edelen Lewis PERB.pdf



PEACE OFFICERS OF CALIFORNIA e - MEMO

To : All Sworn Peace Officers Eligible to Form Their Own Peace Officer Only Bargaining Unit (BU 22)

From : The **P.O.C.** Public Information Officer of behalf of the **P.O.C.** Board of Directors

Subject : **PERB Judge Ruling: "CSLEA Unlawfully Interfered with Employee Rights"**

Date : Thursday 2nd July 2009

PERB Judge Ruling: "CSLEA unlawfully interfered with employee rights"

On June 25, 2009, in two separate rulings, the Public Employment Relations Board (PERB) ruled that CSLEA violated the Dills Act by prohibiting union members from withdrawing their union membership.

The first case started when former CSLEA members Chris Lewis and Scott Edelen requested to withdraw their union membership, a request denied by CSLEA. Lewis and Edelen were later expelled from CSLEA in disciplinary hearings. Lewis and Edelen filed unfair labor practice claims with PERB, arguing that, since there is no Memorandum of Understanding (MOU) in effect between CSLEA and the state, the restrictions on withdrawal from the union were not in effect. Following an unsuccessful settlement conference and a formal hearing each side submitted briefs to PERB. Chris Lewis, President of **P.O.C.** and a Department of Corporations Investigator, submitted the brief on behalf of himself and Edelen. Kasey Clark, CSLEA Chief Legal Counsel, and Larry Friedman, CSLEA Senior Legal Counsel, submitted the brief on behalf of CSLEA.

In the ruling Bernard McMonigle, Chief Administrative Law Judge for PERB, found that "CSLEA unlawfully interfered with employee rights when it refused to honor valid requests to withdraw from membership, in violation of Dills Act sections 3513(i), 3515 and 3519.5(b). It is appropriate that CSLEA be ordered to cease and desist from refusing to honor valid requests to withdraw from membership." The judge found fault with all of CSLEA's arguments, citing previous PERB cases as precedents, including one from 1993 that involved CAUSE, the previous incarnation of CSLEA.

As remedies for their illegal actions, the Judge found that CSLEA must:

- Accept any valid requests for withdrawal from membership;
- Reimburse those who were improperly denied withdrawal for any money wrongfully taken from their paychecks, with 7% interest;
- Expunge the union dismissal records of anyone who had a withdrawal request improperly denied;

- Post notices in all workplaces that contain CSLEA members, stating that CSLEA has acted in an unlawful matter and will cease and desist from that activity.

The second case involved another Unit 7 Peace Officer who was not disciplined or expelled by CSLEA, and who merely wished to withdraw membership. The decision was identical to the Edelen / Lewis case with the exception of the requirement to expunge dismissal records. CSLEA has 20 days from June 25 to appeal the decision.

Governor Announces Third Furlough Day

On July 1 the Governor made good on his threat with the implementation of a third furlough day. This brings to 15% the cut in take-home pay for many state employees with the notable exception of officers with the California Highway Patrol, whose contract prohibits furloughs.

Many union members have been asking what CSLEA is doing to fight these furloughs. CSLEA is on record as having been aware of the administration's plans to implement furloughs since January - President Barcelona is even quoted in a Sacramento Bee blog as knowing about 3rd and 4th furlough days since before the May special election.

In 2005 the Barcelona administration bargained away our right to contest furloughs (Section 9.22 of the CSLEA Contract), and agreed that new employees would go through a two year vesting period for full medical coverage (Section 10.1 A2). These were takeaways that will be very difficult to get back. Even though they gave away some of our rights CSLEA should have developed some kind of strategy to fight against the furlough implementation by now - they certainly had enough time to do so. Unfortunately, as with so many issues, CSLEA has no cohesive strategy. They are always reactive, never proactive.

For more than 15 years the Barcelona administration has been at the helm of CSLEA and things have gone from bad to worse, in good economic times and bad. At what point does a leader become responsible - how many second chances does he get? The structure of the union prevents members from holding Barcelona accountable in democratic elections, and those who have questioned his direction have been purged from the ranks by Barcelona's hand-picked juries.

When will the peace officers on the CSLEA board realize that Barcelona's cabal, the executive board and the paid consultants, have a financial interest in keeping Barcelona in power - no matter the negative effect on the members? Where is the independent research on the issue of a peace officer only union - have any of the CSLEA peace officer board members looked at this issue from any other perspective than the one supplied by Barcelona and his crew?

CSLEA: where absolute loyalty in defiance of common sense trumps all. No wonder they aren't giving any answers about the furloughs - they gave up on that topic four years ago.

MORE INFO:

[PERB Ruling](#)

[Alan Barcelona knew about potential additional furloughs in early May](#)

[Not all State Workers get Furloughed](#)

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