

Greetings Members,

We hope that your school year has started off well. While there have been many challenges in recent years, you continue to make a difference in the lives of your students each day. Students are thriving in spite of severe cuts to your districts' budgets and that is because of your hard work and dedication. While you continue to ensure that your students receive the best education possible, remember also to take care of yourself. We hope that you will keep this issue handy as it has information that you may need at some point. This is not legal advice, but information that may prove helpful.

In Solidarity,
Sandra Goins
Executive Director - South Bay United Teachers

Workplace Injuries

Before an injury happens, complete a Personal Physician Designation form and give it to the Human Resources office as soon as possible. Keep a time/date stamped copy of the form. There's a form on the www.sbut.org website under "Resources".

If you have an incident at work that may result in an injury, even if you don't initially think you are hurt, there are some steps you should take immediately:

1. Report your injury or illness to your supervisor right away. Ask for an "Employee's Claim for Worker's Compensation Benefits" form.
2. Fill out the "employee" section of the form accurately and return it to your supervisor immediately.
3. Keep a copy of the completed claim form. Ask for a copy of the form with the "employer" section completed. By law, the employer has 24 hours to return the form to you.
4. Tell your supervisor immediately if you need medical care. Either see your predesignated doctor, or request to see the District's doctor. Treatment must be provided within 24 hours of filing the claim.
5. Accurately describe how the injury occurred to the doctor. Be sure to tell her/him all of the parts of your body that have been effected.
6. Attend all medical appointments. Keep copies of all documents related to your treatment including days off work, mileage for medical treatment and prescription costs.
7. Document all facts about any injury or illness suffered at work.
8. Review the facts of any work related injury or illness as soon as possible with an attorney who specializes in Workers' Compensation law. See the SBUT website for the name of such a law firm.
9. Do not abuse the Workers' Compensation system. If the injury or illness is not work-related, filing a Workers' Compensation claim could have serious consequences.

What Rights Do You Have?

Keep this information where it can be easily accessed. While it is not legal advice, it may be useful to have readily available. Teachers have the right to:

- ◆ Suspend students from class for two days (Ed Code 48910)
- ◆ Be informed of students' violent, criminal, harassing, or threatening conduct (Ed Code 49079)
- ◆ Make the final decision as to student grades (Ed Code 49066)
- ◆ Be notified within a reasonable time before a parent visits your classroom. (EC 49091.10)

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Be sure to keep accurate and on-going records of student discipline. In meetings with administrators, our bargaining unit members have a right to:

- ◆ Ask what a meeting's purpose is before attending
- ◆ Be represented in meetings that might lead to discipline
- ◆ Request unusual directives in writing before complying
- ◆ Give no explanations until after consulting with a staff representative
- ◆ Refuse to submit a written statement until after consulting with a staff representative
- ◆ Remain silent and consult a lawyer if accused of conduct that could lead to criminal prosecution

In matters concerning parents:

- ◆ Parents are liable for willful misconduct of minor children that cause injury (Ed Code 48904)
- ◆ A parent who disrupts a class or school activity is guilty of a misdemeanor (Ed Code 44811)
- ◆ If a parent meeting becomes unpleasant, immediately stop and demand the attendance of a union representative or administrator.

Be sure to keep a record of all parent and administrator meetings on file at home.

- ◆ Teachers have a right to know specific details about complaints made about them including the identity of those who make complaints against them. See your contract at our website www.sbut.org. In the CVSTA contract, the complaint process is in Article 20. In MBUTA's it's Article 10. In PVFA's contract, complaints are covered in Article 17 and in RBTA's contract, complaint language is in Article 9.

In addition to these rights, your school district has responsibilities to its employees:

- ◆ Districts must notify law enforcement (Ed Code 44014) when a school employee is attacked, assaulted or threatened by a pupil
- ◆ Districts must establish and enforce a discipline policy (5 Cal. Code Reg. § 5551)
- ◆ Administration must implement fire, earthquake and lockdown drills and they should be practiced regularly (Ed Code 32001)
- ◆ The District must develop a School Safety Plan (Ed Code 32280-32289)
- ◆ The school district must maintain cleaned and stocked restrooms (Ed Code 35292.5)
- ◆ The State Legislature has made it a goal to have a working telephone in every classroom
- ◆ A school district must establish, implement and maintain an Injury Prevention Program (Labor Code 6401.7)
- ◆ Under Ed Code 49079, a school district must inform the teacher of a pupil who has engaged in, or is reasonably suspected to have engaged in any acts described in Ed Code 48900 (these include, but are not limited to the sale, possession or being under the influence of drugs and/or alcohol or other controlled substance, possession of a knife, or fire-arm.) This information shall be provided in confidence and for occurrences within the last three years
- ◆ The school district must not allow any parent, guardian or other person to materially disrupt classwork or extracurricular activities—individuals engaging in such behavior are guilty of a misdemeanor (Ed Code 44811)

For more on classroom disruptions, see Ed Code 32210, 32211 and Ed Code 44810. Also see Pen Code 627.2 and 626.7.

CTA SCHOLARSHIPS

The California Teachers Association will award five \$3,000 scholarships to CTA members and thirty-four \$5,000 scholarships to dependent children of CTA members. Applications are available from the SBUT office (310-921-2500) or from the SBUT website: www.sbut.org, "current news" link. The deadline for submission to CTA is February 3, 2012. Transcripts and letters of recommendation are required, so start early.

2012 CTA César Chávez Art Competition

This program is designed to provide recognition for teams of students and teachers who demonstrate an understanding of the vision and guiding principles by which Cesar Chavez lived his life.

For the current school year, eligible projects must fit into the category of **Visual Arts**. **The top prize winners will receive recognition plus \$550 for both students and CTA members.** Group entries will share the award.

Applications and projects must be postmarked by January 13, 2012.

TO RECEIVE AN INFORMATION PACKET, CONTACT THE SBUT OFFICE or check the SBUT website at www.sbut.org, "current news" link.

CLASSIFICATION IN A NUTSHELL

By Dale Brodsky, CTA Group Legal Services Attorney

There are only four classifications of certificated, public school employees: permanent, probationary, temporary, and substitute. Your classification will dictate what rights you have under the Education Code. To determine if you have been properly classified, first review your written contract.

Permanent

In general, “permanent” employees are those who passed their two years of probation and are re-elected to serve a third year. To be a permanent certificated employee, the person must hold either a preliminary or clear credential.

Under the Education Code, permanent employees can only be terminated for just cause or if you are a part of a layoff. If notified that the termination is for cause, they must be afforded the opportunity to have a full evidentiary hearing before a three-person panel that is independent of the school district or governing board.

If a permanent employee is laid off because of a reduction in services, she has a 39-month preferential right to rehire. Probationary employees must be laid off before permanent employees, even if the probationary employee has more seniority.

Probationary

An individual who is hired as a probationary employee (“Probe”) usually must serve in that capacity for two consecutive, complete school years (at least 75% of the number of school days) before being eligible for permanent status. Probationary employees may be non-re-elected for the next school year without a

hearing for any or no lawful reason, at any time up to March 15 of their second year. After March 15 of her second year, a “Probe 2” cannot be terminated without a full evidentiary hearing, and she is deemed to be permanent on the first day of the following school year.

During the school year, a Probe cannot be summarily dismissed unless the District proves at an administrative hearing that there is just cause for the dismissal. However, in these hearings, the governing board, and not an independent panel, has the final say. If a probationary employee is laid off because of a reduction in services, she has a 24-month preferential right to rehire.

A person who is hired into a “categorically-funded” position and remains in a categorically-funded position can never attain permanent status. In other words, he will be probationary forever, unless he is subsequently placed in a regularly-funded, probationary position and serves in it for at least one school year. The preceding, complete year he served in the categorically-funded position will count toward permanent status. If an employee was initially hired to fill a regularly-funded, probationary position and is subsequently reassigned to a categorically-funded position, service in both positions will count toward attaining permanent classification. And, a permanent employee doesn’t lose her permanent status by accepting a categorically-funded assignment.

A person who holds a provisional credential, such as a Short Term Staff Permit (“STSP”) or Provisional Intern Permit (“PIP”), which replaced emergency permits, must be classified as probationary unless she is correctly classified as a Temporary or Substitute (see below). However, she will not be eligible for permanent status until she obtains

a preliminary or clear credential and serves in a probationary position for two years. A person holding an Intern credential is treated a bit differently: a year as an intern will count toward permanent status if the employee obtains a regular credential and subsequently is reemployed in a probationary position.

An employee’s seniority date is determined by the first date of paid, probationary employment. Ironically, this means that an employee who was first hired with less than a preliminary or clear credential and served for several years in that capacity may actually have more seniority than a fully-credentialed employee who became permanent after serving only two probationary years. Similarly, an employee who is probationary because she has always served in a categorically-funded position might have more seniority date than a permanent employee. None of this matters, however, in a lay off situation, because a probationary employee must be laid off before a permanent employee with the same certification and qualifications.

If a person doesn’t receive any employment contract or receives a contract after her first paid day of the school year, then she is deemed to be probationary.

Temporary

In general, school districts may hire employees with a temporary classification (“Temps”) to replace regular employees on leaves of absence or to fill in for regular employees who have been given categorically funded positions, like TSA’s, department heads, and class size reduction. The Temp doesn’t actually have to replace a particular person; but the number of certificated employees on leave through

out the district cannot exceed the number of temporary employees.

Temps are at-will employees who serve on contracts for one school year or shorter periods of time. This means the District can release them at any time during the first 75% of the school year, with or without cause and without a hearing. If they receive a release notice from the District, Temps don't have an automatic right to reemployment the next year, but under certain circumstances, they must be given some preference if there are vacancies. A person may be a temporary employee for many years. But, if she is rehired into a probationary position for the next school year, then the one previous year in a temporary position will count toward permanent status.

In the event of a layoff, Temps don't receive layoff notices

and do not have the same guaranteed rehire rights as Probes or Permanent employees because their contracts simply terminate at the end of the school year. Because Temps have fewer rights, it is especially important to verify the accuracy of the temporary classification.

Substitute

To be hired as a substitute employee ("Sub"), a person does not have to possess any kind of regular teaching credential, but only a 30-day Substitute permit. A Sub permit issued by the Commission on Teacher Credentialing requires only a bachelor's degree and passage of CBEST. Even a sub hired for a long-term assignment during the school year may be released at any time, with or without cause, and without a hearing. Subs are paid for each day actually worked, and they usually do not receive benefits.

Some tips on e-mail usage:

- ◆ Know your district's employee computer use policy.
- ◆ Districts can monitor not only your e-mail conversations, but also the Web sites you visit.
- ◆ Electronic transmissions can be a convenient way to communicate with parents and students, but it must be done in a professional way. If the contact "is too personal or frequent, it may look like there is an improper relationship forming."
- ◆ Once an e-mail is sent it cannot be retracted. Deleting it from your account will not delete it from the district's computer system.
- ◆ Avoid irony, sarcasm and humor; they rarely work well in an electronic transmission.
- ◆ Remember to log off your account when finished. You are responsible for messages sent under your name, whether you are the author or not.
- ◆ Be sure to review and edit before sending — that includes double-checking your recipients.
- ◆ Never discuss student records via e-mail, especially those of students with IEPs.

12-MONTH PAY

This issue comes up occasionally when contract negotiations begin since many teachers like the idea of getting 12 paychecks. Bargaining and legal issues aside, you may do this yourself by setting up a summer savings account, with money automatically deducted from your check, and a little interest earned in the process.

The CTA-endorsed credit union, **First Financial**, offers a Summer Saver Account with a minimum opening balance of \$50. Check it out at http://www.ffcuc.org/rates/rates_shares.htm#save or give them a call at 1-800-537-8491.

GUARANTEE ISSUE DISABILITY AND LIFE INSURANCE

If you're a CTA member, you can enroll in CTA's **Voluntary Disability and/or Life plans** for up to \$200,000 from The Standard without completing the health questionnaire **during your first 120 days of employment**. Check out the programs available at

<https://connection.standard.com/deliver/ctaenrollment/index.html>

Any member may apply for coverage at any time, but applications will be subject to health evidence underwriting and insurance company approval.

You may get an enrollment brochure from the SBUT office or visit The Standard website <https://connection.standard.com/deliver/ctaenrollment/index.html>