

Message from President Mark Foley

Dear Sisters and Brothers,

As some of you are aware, I was recently elected Director of BART District 2 (Contra Costa County). The time commitment that is necessary to be a successful and effective Director means that I will not seek re-election as President of AFSCME Local 2019 when my term expires in June 2019. I am eternally grateful for the support I've received over my many years as President...It has been an honor...We've done great things at EBMUD!

But now it's time for someone else to take the reins. This is especially true as our membership transitions from classic employees (old retirement system) to PEPRAs (Public Employee Pension Reform Act of 2013). I imagine that when we sit down to negotiate our next contract in early 2021, that a majority of our membership will be under PEPRAs. **This means that we really need our newest folks to step up and start getting active in leadership!** Run for office, join a committee, help maintain our social media accounts, attend your membership meetings...there are plenty of opportunities to get involved. The future is yours!

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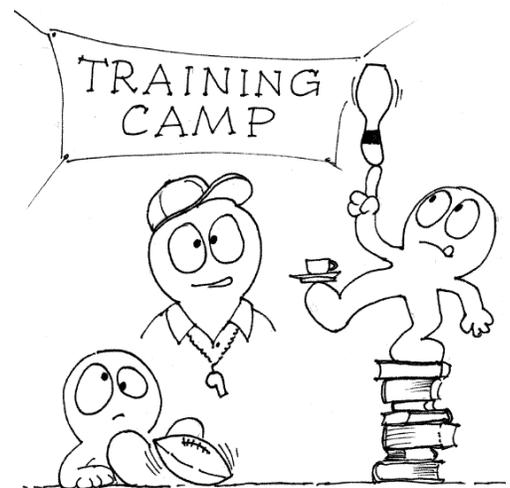
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We're Here To Help!

Needing information about:

- AFSCME Benefits & Discounts.
- Becoming Active in Local 2019.
- Participating on a Local 2019 committee.
- What are my rights as a union member?
- How can I become involved?
- Have a question or concern, etc.

Contact Local 2019 Membership Secretary Susan Bell at susan.bell@ebmud.com or 510-287-1308 for questions and information.



NOW... CAN ANYONE SEE THE DIFFERENCE IN THE RELATIVE STABILITY OF THESE TWO FOUNDATIONS ?

Message from President Mark Foley

Continued, from pg. 1

Use your Birthday Holiday (MOU Article 16.2.10)

Your floating holiday expires on December 22, but don't wait to use it. Each year someone forgets and forfeits this benefit. So why not use it for your first day off in 2019?

Review your Employee Personnel File (MOU Article 22.1 and 26.4.1)

Identify any stale dated documents to be removed. Counseling Memos over one year old and Warning Letters/Accident Reports over three years old should be purged from your Personnel and Supervisor's files.

Complete your "Predesignation of Personal Physician" form (MOU Article 16.3.3)

This allows you to use YOUR doctor in the event you need treatment for a work-related injury or illness.

The form is available on the Launchpad (Forms -> Eforms -> PE-026)

Attend your General Membership Meetings (3rd Tuesday of the month – AB Large TRC – Starting at 4:30pm)

Exercise your rights, show up and speak up at the Membership meetings!

Our MOU is available at afscme2019.org (under Membership Resources).

In solidarity,

Mark J. Foley

President – AFSCME Local 2019

LABOR ARBITRATION INSTITUTE

Conference Reporter Discipline & Social Media

At the conference in Tampa, a nationally-known labor arbitrator gave a lecture on social media. Here are four take-aways.

You posted it, you live with it

This aphorism refers to the following doctrine: reasonable expectation of privacy. The Supreme Court created this doctrine as a way to draw the line on what the law will protect when it comes to the privacy of the individual. The trend in court decisions today is that the person who posts does not have a reasonable expectation of privacy.

Employees have argued that they intended to keep information posted on Facebook, Instagram, *etc*, private and shared only with their friends, and not their employer. These employees want the judge or arbitrator to protect their postings.

However, the trend in the courts and among arbitrators is going the other way. The privacy argument is not controlling. If the employer can show that the information is relevant, the arbitrator will admit the postings. In a sense, these decision-makers are saying: you posted it, you live with it.

Employer-owned equipment: employer has access

This trend follows the first one. The Supreme Court suggested in one of the early cases that employees who are using the employer's device (cellphone, laptop, *etc.*) do not have an expectation of privacy. The employer has a built-in business reason to look into such a device.

But this should never become controversial or litigated. Wise employers have a policy which protects the employer's interest. And employees understand from reading the policy what the employer has access to, including whenever the employee may have used the equipment off-site or after-hours.

Privacy is not dead

There are two laws which apply: the Stored Communications Act and the Electronic Communications Privacy Act. There are also state laws. The federal laws are extensions of the wiretap laws. They are intended to protect the privacy of individual communications.

For example, employees were using a group chat to air their complaints. One of the employees had a supervisor who wanted the password in order to read, and possibly discipline, for what was said. And the supervisor pressured the employee to disclose the password which the employee did. That employer was found guilty of violating the two aforementioned federal laws.

The take away: if there's evidence that an employer gained access to a social message site and did so using nefarious or deceitful means, there is a valid basis for the arbitrator to not admit such evidence.

Vulgar messages in today's culture

Arbitrators recognize the changes which have taken place in both the words used and the mediums. The younger generation uses the internet as an extension of their life. And some will write as they talk: vulgar or sophomoric.

In a case involving both romantic and boorish email messages to a woman, the arbitrator reinstated the employee who sent the questionable emails over the employer's server. That employee: 1) got his work done and 2) did not send any emails that were pornographic or unwelcome. In short, the grievant was sending adolescent emails to his lover. The employer jumped to discharge and should have used progressive discipline.

Reprinted with permission from the Labor Arbitration Institute <https://www.laborarb.com/>

Alina Maria Moiceanu, Resting in Peace

Alina M. Moiceanu
Assistant Engineer



Born December 3, 1964 in Bucharest Romania, she passed peacefully after a long illness on March 30, 2019. Alina immigrated to the USA from her native Romania in 1988 and made the bay area her home. She worked as a civil engineer for EBMUD for 25 years, retiring in 2019. Her childhood friend which she met in high school in 1979 Stefan came to the USA in 1991 when they got married. She is survived by her husband of 28 years Stefan and their children, Silvana 23 and Sabin 18. May her soul rest in peace and the universe keep her happy and peaceful. She will always be with us protecting and caring for us.

Love you always from Silvana, Sabin and Stefan.

Nominations for Vacancies

Brothers and Sisters,

Local 2019 is requesting nominations for the following vacancies:

Open Seats	Officer Title	Term
1	President	June 2019 - June 2021
1	1 st Vice President	June 2019 - June 2021
1	2 nd Vice President	June 2019 - June 2021
1	Recording Secretary	June 2019 - June 2021
1	Treasurer	June 2019 - June 2021
1	Membership Secretary	June 2019 - June 2021
1	Chief Steward	June 2019 - June 2021
2	Executive Board	June 2019 - June 2021
10	Stewards	June 2019 - June 2021
1	Trustee	June 2019 - June 2022
5	Council 57 Delegates	June 2019 - June 2021
11	Alameda Central Labor Council Delegates	June 2019 - June 2021

If you are interested in strengthening your union, you are encouraged to participate by submitting nominations for the vacancies listed above. You may also self-nominate.

Nominations will open and close at the **April 16, 2019 General Membership Meeting** to be held at the **Oakland Administrative Building (Training Resource Center)** beginning at **4:30 PM**.

The election will be held by mail, ballots to be sent out April 30, 2019 and must be returned by May 30, 2019.

Your Weingarten Rights

Over thirty years ago a counter clerk who worked for a J. Weingarten store in Houston, Texas was questioned by her Employer for alleged theft. Although she was cleared in the investigation, she had been denied, after several requests, the presence of her Shop Steward during the questioning. The Union representing her filed an unfair labor practice after the incident and, in 1975, the Supreme Court ruled in the Union's favor. An important new right for workers emerged from this decision:

An employee may be represented by the union at an investigatory interview with his/her employer when the employee reasonably believes that the interview may lead to disciplinary action

Q: Can I have a Shop Steward present at any meeting I have with Management?

A: No, only when you have a reasonable belief that discipline will result from an investigatory meeting.

Q: What is an investigatory interview?

A: An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an employee to defend his or her conduct.

Q: Is Management obligated to remind me of my Weingarten rights prior to an investigatory meeting?

A: No, you must request a Steward's presence. Management has no obligation to remind you of your right.

Q: What if I'm told to be in my Supervisor's office at 10AM but I don't know the nature of the meeting?

A: You have the right to know beforehand what the subject of the discussion will be. And, you have the right to consult (caucus) with your Steward before and during the meeting.

Q: What if a routine work meeting is taking place between my Supervisor and me, but the nature of the meeting suddenly changes?

A: You have the right to stop the meeting and call in a Steward at the point you believe you are being asked questions which could result in discipline. You cannot be punished for requesting a Steward's presence.

Q: If I request a Steward, does the Employer have to comply?

A: The Employer must choose from among three options:

1. Grant the request and delay question until the Steward arrives and has a chance to consult privately with the employee;
2. Deny the request and end the interview immediately; or
3. Give the employee a choice of having the interview without representation.

Q: What is the role of a Steward in an investigatory meeting?

- A:
1. When a Steward arrives, the Supervisor must inform him/her of the subject matter of the interview, i.e. the type of action/misconduct for which discipline is being considered.
 2. The Steward must be allowed a private pre-interview conference before the questioning begins.
 3. The Steward must be allowed to speak during the interview.
 4. The Steward can give advice on how the employee should answer questions.

Q: What if a Supervisor denies my request for a Steward?

A: If you are denied a steward's presence and are still asked questions, the Employer commits an unfair labor practice and the employee has a right to refuse to answer. The supervisor cannot discipline the employee for such a refusal.

KNOW AND EXERCISE YOUR WEINGARTEN RIGHTS!!

Ed. Note: The Weingarten rights information first appeared in the August 2009 On Tap.

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AFSCME

In the Public Service.

Visit us on the web at
WWW.AFSCME2019.ORG

Our Mission

To promote the welfare of the membership and to provide a voice in the determination of the terms and conditions of employment. We are committed to the process of collective bargaining as the most desirable, democratic, and effective method to achieve this. Both as union members and as citizens, we shall employ available legislative and political action.

To unite the Clerical, Technical, Service and Inspection, and Professional employees of EBMUD into a single cohesive labor union.

To promote career service, job growth and development of the membership during their employment at EBMUD.

DISCLAIMER: Any opinion expressed by a contributor about a controversial subject is to be considered his/her own personal opinion, not the opinion of Local 2019 as a whole and should not be considered as an endorsement.

Prepared by: Local 2019 Newsletter Committee, Chair Susan Bell
(susan.bell@ebmud.com or 510-287-1308 for questions and information).

Upcoming Events

- **L2019 Officer & Executive Board Nomination Deadline April 16th**
(Nominations will open and close at General Membership meeting on April 16th at 4:30 p.m.)
- **General Membership meeting April 16th at 4:30 p.m.**
- **L2019 Voting Ballots Mailed Out April 30th**
(Review ballots and vote!)
- **Local 2019 Labor-Union Event May 1st**
(Event held at Adeline from 7:00 – 8:00 a.m.; Admin. Building from 12:00 – 1:00 p.m.)
- **Executive Board meeting May 7th at 4:00 p.m.**
- **Return L2019 Ballots by: May 30th**
(DON'T FORGET TO VOTE!)