

CHAPTER 1

EMPLOYEE RELATIONS WITHIN THE CALIFORNIA HIGHWAY PATROL

TABLE OF CONTENTS

DEPARTMENT'S EMPLOYEE RELATIONS PROGRAM..... 1-3
EMPLOYEE RELATIONS POLICY 1-3
 Communication..... 1-3
 Employee Relations Responsibilities 1-3
CONTRACT ADMINISTRATION..... 1-4
 Administration of the Contracts..... 1-4
 Adherence to Contract Provisions 1-5
 Bargaining Units within California Highway Patrol 1-5
 Uniform Application..... 1-5
 Contact Source for Questions..... 1-5
CHANGES IN WORKING CONDITIONS..... 1-5
ACCESSING BARGAINING UNIT CONTRACTS 1-5
 Destruction of Outdated Contracts..... 1-5
CONTRACT INTERPRETATION 1-6
GLOSSARY OF EMPLOYEE RELATIONS TERMS 1-6

ANNEXES

A – CONTRACT INTERPRETATION..... 1-7
B – GLOSSARY OF EMPLOYEE RELATIONS TERMS..... 1-9

THIS PAGE INTENTIONALLY LEFT BLANK

CHAPTER 1

EMPLOYEE RELATIONS WITHIN THE CALIFORNIA HIGHWAY PATROL

1. DEPARTMENT'S EMPLOYEE RELATIONS PROGRAM.

- a. The purpose of the Employee Relations Program is to encourage harmonious relations between the Department and its employees, and establish procedures for the equitable and peaceful resolution of differences on employee relations matters.
- b. Another goal of the Department's Employee Relations Program is to increase management's and employees' understanding of the rights, responsibilities, and obligations of management, employees and employee organizations.

2. EMPLOYEE RELATIONS POLICY.

a. Communication.

(1) The development of open lines of communication is the key to increased employee job satisfaction, motivation, efficiency and morale. It also promotes a healthy work environment wherein everyday issues and concerns can be considered from different perspectives. This type of open dialogue promotes a better understanding by all parties and fosters positive employee relations.

(2) The Commissioner's philosophy is that commanders establish and maintain positive lines of open communication with employees and employee representatives. Commanders are to openly discuss changes with employees and labor representatives since such issues are then better understood by all parties. While there will not always be agreement on all issues, all involved parties should develop the ability to discuss them in a professional manner.

b. Employee Relations Responsibilities.

(1) Management Team. Managers and supervisors are responsible for seeing that the employee relations policies of the California Highway Patrol (CHP) are properly administered.

(2) Office of Employee Relations. The Office of Employee Relations (OER) is responsible for developing, coordinating and administering employee relations policies and procedures for the Office of the Commissioner. The following duties have been delegated to OER:

- (a) Providing advice and assistance to managers and supervisors on matters relating to wages, hours and other terms and conditions of employment for all departmental employees, in addition to interpreting the negotiated contracts.
- (b) Maintaining a liaison with the California Department of Human Resources (CalHR) and employee organizations on representational matters.
- (c) Reviewing grievances/complaints processed at all levels and investigating grievances/complaints at the Commissioner's level of appeal.
- (d) Representing the Department in negotiations for various bargaining units, including Units 4 (Office and Allied), 5 (Highway Patrol), 7 (Protective Services and Public Safety), and 12 (Crafts and Maintenance).
- (e) Training managers and supervisors to enhance their understanding and develop their expertise in the principles and concepts of public sector employee relations.
- (f) Representing the Department in arbitration, unfair labor practice charges and non-merit statutory appeal hearings.
- (g) Serving as the departmental authority for the administration of the Management Relations Program.

3. CONTRACT ADMINISTRATION.

a. Administration of the Contracts. The state employer and the exclusive representatives of state employees in the 21 bargaining units have agreed upon Memoranda of Understanding (MOU) that cover the wages, hours and other terms and conditions of state employment. There are several other terms used to refer to MOU such as agreements, labor agreements, or contracts. To simplify the terminology, the term "contract" will be utilized throughout this manual. After negotiations, both parties agree to abide by the terms of each contract. Although neither party may have been successful at achieving all of its proposed amendments to the contract, the Entire Agreement clause contained within each contract states that the contract is complete and each party waives its right to bargain for the remainder of the contract term unless there is a mutual agreement to reopen negotiations.

b. Adherence to Contract Provisions. Administering the contracts is not a matter of determining what is right/wrong or fair/unfair. It involves strict adherence to the provisions which have been negotiated between the exclusive representatives and the State of California. Misapplication or failure to enforce the terms of each contract could result in violations which are subject to the grievance and arbitration procedures.

c. Bargaining Units within California Highway Patrol. California Highway Patrol management administers contracts in 12 of the 21 bargaining units (refer to Chapter 4, Employee Organizations, of this manual) and shall apply and enforce the terms of these contracts.

d. Uniform Application. Sound contract administration requires that the provisions within the contracts be applied in an equitable, nondiscriminatory, and reasonably uniform manner to conform with the stated intent. Proper administration of the contracts will minimize problems in the day-to-day application of the contract language. A misapplication of a negotiated provision because of inconsistency and/or misunderstanding may result in an alleged violation of the agreement in the form of a grievance.

e. Contact Source for Questions. Questions from the management team regarding the correct management interpretations of a contract provision may be directed to OER.

4. CHANGES IN WORKING CONDITIONS. The provisions of the contracts cannot be changed, except by mutual agreement between the employer and the exclusive representative(s); however, as a matter of operational necessity, other changes affecting working conditions may occur at any or all levels of command within the Department. Such changes, which are consistent and in accordance with existing contracts, may be implemented if the guidelines in Chapter 11, Obligation to Meet and Confer, of this manual are followed.

5. ACCESSING BARGAINING UNIT CONTRACTS.

a. A link to all contracts is posted on the CHP intranet under the OER Web page. Each bargaining unit contract is also available at CalHR's Web site: www.calhr.ca.gov/state-hr-professionals/pages/bargaining-contracts.aspx.

b. Destruction of Outdated Contracts. Commanders shall ensure all outdated contracts are destroyed to preclude a misapplication of the current contract.

6. CONTRACT INTERPRETATION.

a. The provisions negotiated within the contracts define the contractual rights and responsibilities of the employer, employee and the exclusive representative. To facilitate the consistent interpretation and implementation of a particular contract provision, supplemental guidelines may be published by OER as contract interpretations (CI), which are management's interpretations of the contract.

b. Contract Interpretations are departmental specific communications available on the CHP Intranet on the OER Web page to all managers and supervisors. The sequentially numbered memoranda are the source documentation for interpreting specific provisions within a particular bargaining unit contract (Annex A).

c. Because some of these interpretations do not pertain to all contracts, it is essential to refer to the applicable contract and the related CIs when researching the intent of a contract provision.

d. Commanders shall ensure that all applicable managers and supervisors, as well as first-line supervisors designated "represented" under the Dills Act, are informed of the content of the published CIs.

e. Each headquarters and Field command should maintain a library of all current CIs, filed adjacent to the contracts. The CIs should be referenced to ensure the consistent interpretation and application of the negotiated language.

7. GLOSSARY OF EMPLOYEE RELATIONS TERMS. Annex B contains a compilation of terms developed to meet the needs of managers and supervisors dealing with employee relations matters. Some of the words have generally understood meanings outside of their usage in the field of employee relations; however, only those meanings which are unique to employee relations are included.

ANNEX A

CONTRACT INTERPRETATION

REFERENCE CODE: 06-002
EFFECTIVE DATE: July 3, 2006
EXPIRATION DATE: Until Rescinded
DATE OF ISSUE:

TO: ALL UNIT 5 MANAGERS AND SUPERVISORS
SUBJECT: REQUIRED USE OF COMPENSATING TIME OFF
CONTRACT: UNIT 5

ISSUE: Effective with the 2006-2010 Bargaining Unit 5 MOU, the Department now has the right to require an employee who has accrued Compensating Time Off (CTO) to the maximum cap of 480 hours to burn off up to 24 hours of CTO, provided the Department gives the employee at least 24 hours' notice of the days the employee will be required to take as CTO days. The "notice" should be in the form of an e-mail or memorandum to the employee.

INTERPRETATION: This provision is not intended to be used by the Department on an "across-the-board" basis for all employees at the 480 hour cap at any time. Rather, this provision can be implemented when the Department can articulate an upcoming need for employees to be available to work overtime and the overtime earned is required to be CTO. For example, if an employee within a command is at the 480 hour cap and the command is aware of the multi-day public affairs event (CTO only) for which several volunteers are needed and does not anticipate having enough available employees who are below the cap available to volunteer to work the event, the commander may require employees to use 24 hours of CTO in order to make them available for the event. However, it should be noted that in such a case, CTO can only be required if the employee volunteers to work the event. In any case when an employer requires an employee to work overtime, the employee always has a right to paid overtime. The only exception to this is for the required travel which is not connected with enforcement duties.

Upcoming required travel not connected with enforcement duties would be another example of a situation in which the Department can require an employee to burn down CTO, i.e. when the employee is at the cap and it is anticipated the employee will have upcoming travel which is not connected to enforcement duties and for which CTO is the only form of compensation. In such a case, the Department can require the employee to burn off enough CTO to cover the time needed for travel.

Also, if the Department can demonstrate an employee who is at the cap has regularly accrued CTO each month for the past several months, the Department can require the employee to burn 24 hours of CTO.

The Department can require the employee to burn off more than 24 hours of CTO if the anticipated need for a particular employee to work overtime exceeds 24 hours. In such a case, the Department may require the employee to burn off time commensurate with the anticipated need. Again, an example might be a public affairs officer who regularly accrues CTO for various public affairs events.

OFFICE OF THE COMMISSIONER

ANNEX B

GLOSSARY OF EMPLOYEE RELATIONS TERMS

AGENCY SHOP
(FAIR SHARE FEE)

A provision in a contract requiring employees covered by such contract who do not desire, for whatever reason, to join the exclusive bargaining organization, to pay a service fee to the organization. This provision is intended to compensate the organization which, by law, must give full and equal protection to all members of the bargaining unit it represents, regardless of membership status.

AGREEMENT, CONTRACT
OR MEMORANDUM OF
UNDERSTANDING (MOU)

A written agreement between the state and a labor organization, usually for a definite term, defining conditions of employment, rights of employees and the labor organization, and procedures to be followed in settling disputes or handling issues that arise during the life of the contract.

BARGAINING UNIT

A grouping of state employees for the purpose of bargaining, based on the criteria shown in Government Code Section 3521. In brief, the criteria relates to occupational factors common among employees or classifications of employees, and the effect of the grouping on the meet-and-confer relationship, effective representation, and the efficient operations of the employer.

DECERTIFICATION

Withdrawal of an association's status as exclusive representative upon vote by the employees in the unit that they no longer wish to be represented by a particular exclusive representative.

DUES CHECK-OFF

A practice by which the employer regularly withholds organizational dues from employees' salary payments and sends these funds to the organization.

ANNEX B

GLOSSARY OF EMPLOYEE RELATIONS TERMS (*continued*)

EMPLOYEE ORGANIZATION ACTIVITIES	Includes membership meetings, leaflet distribution, legislative activities, and other activities that further the development of an employee organization.
EMPLOYEE ORGANIZATION REPRESENTATIVE	An elected officer, a job steward or representative, or a staff member of the employee organization.
EMPLOYEE RELATIONS ACTIVITIES	Activities such as formal meet-and-confer sessions, informal discussions with employee organization representatives, grievance/complaint meetings, and other joint labor-management employee relations activities.
EXCLUDED EMPLOYEE	Excluded employee means all managerial, confidential and supervisory employees and all civil service employees of the California Department of Human Resources, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than the auditing staff, professional employees in the Personnel/Payroll Services Division of the Controller's Office engaged in technical or analytical duties in support of the state's personnel and payroll systems other than the training staff, employees of the Legislative Counsel Bureau, employees of the Public Employment Relations Board, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, and intermittent athletic inspectors who are employees of the State Athletic Commission.
EXCLUSIVE REPRESENTATIVE	An employee organization which has been recognized by the state as the exclusive bargaining agent of the employees in a bargaining unit.

ANNEX B

GLOSSARY OF EMPLOYEE RELATIONS TERMS (*continued*)

GOOD FAITH BARGAINING	The act of negotiating between an employer and the exclusive representative. The parties are required by law to meet at reasonable times and locations and consider in good faith matters within the scope of bargaining. Neither party, however, is required to agree to a proposal or to make a concession.
IMPASSE	Parties to a dispute over matters within the scope of bargaining have reached a point at which their differences in positions are so substantial or prolonged that future meetings would be futile.
INJUNCTION	A restraining order issued by a court for a temporary period without a preliminary hearing requiring one of the parties to perform or cease a specified activity. Usually, it is on the grounds that the complaining party will otherwise suffer irreparable injury from unlawful actions of the other party.
MAINTENANCE OF MEMBERSHIP	A provision found in some contracts which requires all employees who are members of an employee organization to remain members for the duration of the contract. This provision only permits an employee to withdraw from the employee organization within the 30 days prior to the expiration of the contract by sending a signed withdrawal letter to the employee organization and a copy to the State Controller's Office.
MANAGEMENT PREROGATIVES	The right of management to make certain decisions and take certain actions without notification to, consultation with, or negotiation with the employees or exclusive representative.

ANNEX B

GLOSSARY OF EMPLOYEE RELATIONS TERMS (*continued*)

MEET-AND-CONFER IN
GOOD FAITH

This term is used in the Government Code to describe negotiations. The Governor or designated representative(s) and representatives of exclusive bargaining units have the obligation to negotiate promptly upon request by either party. They must continue for a reasonable period of time freely exchanging information, opinions, and proposals, endeavoring to reach agreement on matters within the scope of representation. These negotiations begin prior to the expiration of an existing contract.

MEET-AND-CONFER OVER
IMPACT

Required by departmental policy when changes are made within departmental policy which significantly affect the terms and conditions of employment. Only the impact of the change is subject to discussion. This is not negotiating over whether the change will be made.

MEET AND DISCUSS

A meeting between management and an employee organization representative not required by law or departmental policy to discuss employee relations issues.

MEET-AND-CONFER—
SUPERVISORY EMPLOYEES

A formal process through which the Governor or designated representative[s] meet with employee organizations representing supervisory employees, upon request, to consider [as fully as the Governor or designated representative(s) deems reasonable] such presentations as are made by the employee organization on behalf of its members before arriving at a determination of policy or course of action.

ANNEX B

GLOSSARY OF EMPLOYEE RELATIONS TERMS (*continued*)

PAST PRACTICE	Past practice may take precedence over a written policy if the practice is: (1) consistent - management consistently applies the practice in contract to or in the absence of a written policy; (2) uniform - the majority of management actively supports the practice; (3) long term - the practice is so dominant that in fact policy should be rewritten to reflect the accepted practice; and (4) accepted by both parties - management and the exclusive representative.
PUBLIC EMPLOYMENT RELATIONS BOARD	A five-person board appointed by the Governor, responsible for administering and enforcing the Dills Act.
RATIFICATION	Formal approval of a newly negotiated contract by vote of the organization members who are affected. Ratification procedures are provided for in the labor organization's constitution.
RELEASE TIME BANK	A bank of hours negotiated in a contract for use by representatives for organizational activities which do not qualify for state release time.
REPRISAL	Direct or indirect use of threats to use official authority or influence in any manner which tends to discourage use of the grievance procedure or other exercise of protected rights.
SCOPE OF REPRESENTATION— REPRESENTED EMPLOYEES	Limited to wages, hours, and other terms and conditions of employment. The scope of representation shall not include consideration of merits, necessity, or organization of any service or activity provided by law or executive order.
STATE EMPLOYER OR EMPLOYER	For employee relations purposes, the California Department of Human Resources.

ANNEX B

GLOSSARY OF EMPLOYEE RELATIONS TERMS (*continued*)

STATE RELEASE TIME

Time an employee or a designated representative is released from all or a part of the work shift as permitted by the contract and/or departmental policy.

SUNSHINE PROVISION

A public disclosure clause which requires all initial bargaining proposals and counterproposals be presented at a public meeting for public comment and to be made public record.