

CHAPTER 11
OBLIGATION TO MEET-AND-CONFER
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CHAPTER 11

OBLIGATION TO MEET-AND-CONFER

1. REPRESENTED EMPLOYEES.

a. The Ralph C. Dills Act. Management's actions toward employee organizations stem from the Ralph C. Dills Act (Dills Act) which governs state employer-employee labor relations. Under the Dills Act and the negotiated memorandums of understanding with the state bargaining units, management, and employee organizations are required to "meet-and-confer in good faith" on management actions affecting wages, hours, and other conditions of employment. To accomplish this, the state employer and the exclusive representative conduct negotiations to reach agreement on a contract.

On a departmental level, this process is handled through the Office of Employee Relations (OER) when it meets (along with California Department of Human Resources) with the various bargaining units to negotiate contracts, or when major departmental policy changes are being examined. While the Department has the right to determine the basic scope and direction of the organization and make fundamental policy decisions, it also has the obligation to notice union representatives on matters that have a significant impact on the terms and conditions of employment.

b. Notice to Employee Organizations - Non-Emergency. Except in cases of emergencies, the Department shall give reasonable written notice to each recognized employee organization affected by any law, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted. The Department shall give such recognized employee organizations the opportunity to meet-and-confer with the administrative officials or their delegated representatives as may be properly designated by law. (Government Code [GC] 3516.5)

c. Notice to Employee Organizations - Emergency. In cases of emergency when the Department determines that a law, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the administrative officials, or their delegated representatives as may be properly designated by law shall provide such notice and opportunity to meet-and-confer in good faith at the earliest practical time following the adoption of such law, rule, resolution, or regulation. (GC 3516.5)

d. Contract Provisions. The state employer and the exclusive representatives of state employees have agreed upon contracts which cover the terms and conditions of state employment; and as such, the contracts and their intent must be adhered

to. The provisions of the contracts cannot be changed, except by mutual agreement between the employer and the exclusive representatives.

However, as a matter of operational necessity, changes affecting working conditions may occur at any or all levels of command within the Department, if such changes are consistent and in accordance with the existing contracts.

2. WHEN IT IS NECESSARY TO MEET-AND-CONFER.

a. All Represented Employees. Changes due to the method of scheduling shifts and days off, amendments to Standard Operating Procedures, overtime sign-up revisions, logistical changes, or modifications to administrative processes that involve represented departmental employees are all examples of when a commander should meet-and-confer with the area representatives(s).

Unlike Bargaining Unit 5 employees, a local job steward for the nonuniformed bargaining units is not always located at each command and does not routinely have the authority to meet-and-confer on behalf of their union. That authority rests with a specified union business representative. A meet-and-confer for the nonuniformed bargaining units is conducted between the union business representative and either the Area commander or OER. With the commander's approval, a local job steward may be invited to attend a meet-and-confer at the union's request.

b. Bargaining Unit 5 Employees. In addition to the examples listed previously, specific to Bargaining Unit 5, a commander is obligated to meet-and-confer with a California Association of Highway Patrolmen (CAHP) representative over the findings of a citizen's complaint investigation or regarding any comment on performance documents (i.e., CHP 100s, Officer's Evaluation/Activity Summary form, Memorandums of Direction, Correction or Findings, Censurable Incident Report), **IF REQUESTED**. This provision has been memorialized as the Informal Dispute Resolution process. Annual evaluations (CHP 118s, Performance Appraisal) are excluded from this process. The purpose of such a meeting is to resolve disputes through an informal process at the lowest possible level.

This type of "meet and confer" involves a CAHP representative and the Area/Section/Division commander only. The officer involved may or may not participate at the commander's discretion.

3. COMMANDER'S RESPONSIBILITY.

a. Area/Section/Division Commanders. As a sound management practice, and in the interest of good labor management relations, commanders contemplating a change within existing policy, that has an impact on terms and conditions of employment, shall comply with the following procedures:

(1) Prior to the effective date of the change, except in emergency situations, a memorandum identifying the proposed change, the affected employees, and the planned implementation date shall be given to the designated employee representative, or their alternate. For changes affecting nonuniformed employees, the commander shall forward a memorandum to OER regardless of whether the location has a designated representative assigned. The OER will then be responsible for notification of the affected employee organization(s).

(2) The designated employee representative and/or organization shall receive notification as required by the specific bargaining unit agreement prior to the implementation date of the proposed change.

(3) The union may request a meet-and-confer to discuss the **impact** of the pending change.

(4) Comments, suggestions, and recommendations discussed during a meet-and-confer shall be thoroughly evaluated by the commander, and given appropriate consideration in the decision-making process.

(5) The employee representative, if one exists, and/or employee organization, and the affected employees, shall be advised of the final decision.

(6) Copies of the proposed change and notice shall be forwarded to OER, through the appropriate channels. Commanders shall retain comments, suggestions, etc., received from the employee representative and the affected employees, for a period of six months from the effective date of the proposed change.

(a) Questionable Meet-and-Confer Issues. If there is a question whether or not a proposed change is subject to the notice requirement and the meet-and-confer process, it shall be discussed with OER.

(b) Departmental Changes. When a Department-wide change, within existing policy, is proposed, written notice shall be given to the exclusive representative(s) by the commander of OER; and will be discussed with the appropriate representative, if requested. This will be done prior to implementation, except in emergency situations.

(c) Open Communication. Consistent with the Department's practice of open communications with labor representatives, commanders should meet to discuss employee relations issues which do not require a meet-and-confer. This type of open dialogue promotes a better understanding by all parties and fosters positive employee relations.

4. SUPERVISORY AND CONFIDENTIAL EMPLOYEES.

a. Government Code. Management's actions towards supervisory, confidential, and employees otherwise excepted from coverage under the Dills Act by subdivision (c) of Section 3513 are governed by GC Section 3525.

b. Representation. Recognized supervisory employee organizations shall have the right to represent their supervisory employee members in their employment relations, including grievances, with the employer. Nothing shall prohibit any employee from appearing on their own behalf or through their chosen representative in their employment relations and grievances with the public employer.

c. Scope of Representation. The scope of representation for excluded employees shall include all matters relating to employment conditions and employer-employee relations. This includes wages, hours, and other terms and conditions of employment.

d. Notice to Supervisory Organizations – Non-Emergency. Except in cases of emergencies, the Department, prior to arriving at a determination of policy or course of action directly impacting supervisory employees, shall provide reasonable advance notice and provide the verified supervisory employee organization an opportunity to meet-and-confer to discuss alternative means of achieving the objective. Advance notice may be written, oral, or electronic. (GC 3533)

e. Notice to Supervisory Organizations – Emergency. In cases of emergency when the Department determines that, due to an emergency or other immediate operational necessity, a law, resolution, or regulation must be adopted immediately without prior notice or meeting and conferring with the verified supervisory employee organization the employer shall provide notice and opportunity to meet and confer at the earliest practical time following the adoption of the law, rule, resolution, or regulation. (GC 3533)

f. Meet and Confer.

(1) Upon request, the state shall meet-and-confer with verified supervisory organizations representing supervisory employees on matters within the scope of representation. Meet-and-confer means that they shall consider as fully as

the employer deems reasonable such presentations as are made by the verified supervisory employee organization on behalf of its supervisory members prior to arriving at a determination of policy or course of action. The final determination of policy or course of action shall be the sole responsibility of the Department.

(2) The state employer shall allow a reasonable number of supervisory employee representatives of verified supervisory employee organizations reasonable time off without loss of compensation or other benefits when meeting and conferring with representatives of the state employer on matters within the scope of representation for supervisory employees.

5. COMMANDER'S RESPONSIBILITY.

a. Area/Section/Division Commanders. As a sound management practice, and in the interest of good labor management relations, commanders contemplating a change within existing policy that has an impact on terms and conditions of employment shall comply with the following procedures:

(1) Prior to the effective date of the change, except in emergency situations, a memorandum, electronic mail (e-mail), or telephone notification identifying the proposed change, affected supervisory employees and planned implementation date shall be given to the designated supervisory representative, or supervisory organization. A copy of the notice or a follow up e-mail shall also be provided to OER.

(2) The designated supervisory representative and/or supervisory organization shall receive reasonable advance notice prior to the implementation date of the proposed change.

(3) The designated supervisory representative and/or supervisory organization may request a meet-and-confer to discuss the **impact** of the pending change.

(4) During the meet-and-confer the employer shall consider, as fully as it deems reasonable, such presentations as are made by the verified supervisory representative, or supervisory organization on behalf of its supervisory members, prior to arriving at a determination of policy or course of action.

(5) The final determination of policy or course of action shall be the sole responsibility of the state employer.

(6) The supervisory representative or supervisory organization, and the affected supervisors, shall be advised of the final decision.

(7) Copies of the proposed change and notice shall be forwarded to OER, through the appropriate channels. Commanders shall retain comments, suggestions, etc., received from the supervisory representative and the affected supervisors, for a period of six months from the effective date of the proposed change.

(a) Questionable Meet-and-Confer Issues. If there is a question whether or not a proposed change is subject to the notice requirement and the meet-and-confer process, it shall be discussed with OER.

(b) Departmental Changes. When a Department-wide change, within existing policy, is proposed, written notice shall be given to the supervisory organization by the commander of OER and will be discussed with the appropriate supervisory representative, if requested. This will be done prior to implementation, except in emergency situations.