

Attachment A

What is a job action?

A job action is a work slowdown, work stoppage, strike, sick-out, or any other interference with the work and statutory functions or obligations of the state.

Do state employees currently have the right to strike or engage in other types of job actions that interfere with the work of the state?

No. The unions agreed to labor contracts with “No-Strike” clauses that prohibit employees from engaging in any type of strike or job action, including a work slowdown, work stoppage, or any other interference with the work and statutory functions or obligations of the state.

Even if the labor contract has expired?

Yes. According to Government Code section 3517.8, the labor contract provisions remain in effect even though the labor contract between the state and the employee bargaining representatives has expired.

What about strikes of one or two days?

Any strike or job action that interferes with the business of the state is prohibited, regardless of its duration.

What are the consequences to an employee if he or she participates in any type of job action?

Employees may be regarded as Absent Without Leave (AWOL). Those who are regarded as AWOL will not be paid for any time in which they participated in a strike or job action. In addition, those employees may be subject to disciplinary or other appropriate administrative action. Each absence will be reviewed on a **case-by-case basis**. The Department of Fish and Wildlife’s Labor Relations Office and CalHR must be consulted prior to initiating disciplinary or other administrative action against an employee who participated in a strike or job action.

Does this include sick-outs?

Yes, sick-outs are prohibited by the No-Strike clauses in the labor contracts and the Government Code. Employees who participate in a sick-out may be regarded as AWOL.

What happens if an employee is legitimately absent and is not participating in a sick-out?

Each case should be carefully reviewed and leave should only be authorized if it is clearly legitimate. Supervisors should seek further guidance from their labor relations office and CalHR.

Some union representatives are informing employees that a strike or sick-out is protected activity and that employees who participate cannot be disciplined.

The state does not agree for the reasons outlined above. Employees who participate in a job action risk the disciplinary consequences described above.

Some union literature calls for meetings to discuss “strike options.” Is this allowed?

Unions are permitted to hold meetings with members to discuss the status of bargaining and the options available to secure an agreement. A meeting to discuss “strike options” is not necessarily a meeting to call a strike. Employees who participate in such meetings on their own time without disrupting state operations are **not** participating in a prohibited job action.

However, the labor contracts prohibit the union from condoning a strike or other types of job actions. Any direct evidence of union involvement in encouraging these prohibited actions should be brought to the attention of the labor relations office and CalHR.

Can employees participate in informational picketing and rallies called by the union?

Employees may participate on their own time (e.g., before or after work, vacation, CTO, annual leave, etc.) in lawful informational picketing or rallies so long as such activities do not interfere with work and statutory functions or obligations of the state. For concerns related to picketing activity, managers and supervisors should seek further guidance from their labor relations office and CalHR.

What activities are permitted in “lawful informational picketing”?

Employees may assemble in public places and carry pickets or distribute handbills, and may speak with the public or their fellow employees. These activities must be peaceful, and may not have the purpose or the effect of interfering with the work and statutory functions or obligations of the state. For concerns related to picketing activity, managers and supervisors should seek further guidance from their labor relations office and CalHR.

What activities are not permitted during picketing?

Picketers may not attempt to threaten or intimidate other employees to make them join in the picketing because every employee has a right to choose whether or not to join the picket line. Picketers may not block workplace entrances or exits. Picketers may not engage in any activity that threatens public safety, health, or order. For concerns related to picketing activity, managers and supervisors should seek further guidance from their labor relations office and CalHR.

Where are employees permitted to picket?

Employees are permitted to picket in public places, such as public sidewalks in front of their place of employment, or at public parks or other public spaces. They are not allowed to block workplace entrances or exits or to disrupt the state's ability to fulfill its statutory functions or obligations. For concerns related to picketing activity, managers and supervisors should seek further guidance from their labor relations office and CalHR.

May picketing employees encourage other employees to join the picket line?

Picketing employees may encourage others to join them; however, all employees have a right to choose whether or not to join a picket line. Anyone who attempts to harass or threaten a worker for not joining a picket line may be committing an unfair labor practice. Employees should report any abusive behavior by picketers. For concerns related to picketing activity, managers and supervisors should seek further guidance from their labor relations office and CalHR.

What direction should be given to employees in the event a job action results in the temporary closure of a worksite?

In compliance with any applicable procedures contained in the collective bargaining agreements, the following steps should be taken in the event of the temporary closure of a worksite. If feasible, managers and supervisors should temporarily relocate employees and work to alternative worksites. Alternatively, managers and supervisors may allow employees to perform work remotely pursuant to a telework policy. If the manager or supervisor has no other alternative, employees should be dismissed from the worksite on paid administrative time off (ATO.) Employees placed on ATO must be available and accessible to their supervisors, via phone, during the department's normal business hours.