



INTEROFFICE MEMO

TO: Department Heads

FROM: Beth Bandy, Director of Personnel Services
Kevin B. Briggs, County Counsel

DATE: July 30, 2012

RE: Certified Employee Organization Access to Members

Beth Bandy
Kevin B. Briggs

The June 26, 2012, letter to all Certified and Registered Employee Organizations clarifies the respective rights under the Ordinance Code and the applicable MOUs, of Certified Employee Organizations (those who currently represent one or more bargaining units) and Registered Employee Organizations (those who do not currently represent any bargaining unit but may be seeking to do so at some point in the future).

One right held by a Certified Employee Organization is that of access to employees in the bargaining units it represents during non-work times and in non-work locations as designated by the appropriate department head or designee. The following information is provided to further clarify this right:

1. A department may require non-employee union representatives to sign in and identify themselves and to obtain permission before accessing work areas or meeting with employees during work time. A department may also take reasonable steps to ensure the confidentiality of consumer and patient information as required by law.
2. A department may not require a union representative to obtain prior permission to access employees in non-work areas and during non-work time.
3. An employer cannot restrict access to non-work areas such as break rooms due to concerns that some employees may not want to speak to union reps where employees are free to leave the area.

4. A work area may be deemed a non-work area during a break period if all employees are on break at the same time. If only some of the employees are on break and others are working, the area remains a work area.
5. An area that is only sometimes used for work but is generally used for non-work purposes (lunch, breaks, etc.) is considered a non-work area.
6. Non-employee union representatives must be allowed to use public passageways to access non-work areas even if those passageways are also used for work purposes.
7. "Non-working time" is defined as time outside work hours, before and after work, during lunch or rest periods, when an employee can do what he wants without unreasonable restraint even though he is on company property. While a County employee may or may not be granted a break on any given day, if granted, the break would be considered "non-working time". Employees remain subject to recall from their break as set forth in the Salary Resolution and applicable MOUs.

This information applies only to the Certified Employee Organization for each bargaining unit as listed below. A Certified Employee Organization does not have this same presumptive right of access to members of a different bargaining unit. Instead, a Certified Employee Organization may request and be granted a meeting place in County facilities to meet with other County employees consistent with Ordinance Code section 3.12.370(A) and its MOU. A Registered Employee Organization has only the same ability to access or use County facilities as may be granted to the general public.

FDSA: Unit 1

SEIU: Units 2, 3, 4, 12, 22 and 36

CNA: Unit 7

DA Investigators: Unit 10

Deputy Probation Officers: Unit 11

Stationary Engineers Local 39: Units 13, 39 and 43

FSSA: Unit 14

Professional Association of Employees: Unit 19

Engineering Techs: Unit 25

Prosecutors' Association: Unit 30

PACE: Unit 31

Sheriff Lieutenants: Unit 35

Correctional Sergeants: Unit 37

Sheriff Captains: Unit 38

Probation Services Managers: Unit 40

Probation Division Directors: Unit 41