

THE CASE BRIEF

CASE Newsletter

DISCRIMINATORY ATTORNEY TELEWORK POLICY WITHDRAWN

Many CASE members telework one or more days per week, but some departments are more flexible than others. The CASE MOU guarantees that requests to telework shall not be denied except for operational needs, and this provision puts the onus on the department to justify restrictions on telework policies. CASE actively enforces this provision whenever members alert us to issues in their department.



Most recently, the Employment Development Department (EDD) attempted to impose a separate, highly-restrictive, teleworking policy for the attorneys, without notifying CASE or giving CASE the chance to meet-and-confer. Upon implementation of the policy, CASE promptly contacted EDD's Labor Relations Office and demanded that the policy be rescinded until CASE had the chance to properly meet-and-confer regarding the new policy, per the CASE MOU section 4.3B.

EDD Labor Relations

responded by saying that the new telework policy was not an actual policy change, but the new rules were just clarifying "guidelines" to an existing policy that EDD has had in place since 2010. CASE challenged EDD's assertion, because the "guidelines" were implemented only in the Legal Department, and made substantial changes to the existing policy.

The new guidelines that changed the policy included: a limitation to teleworking two days a month instead of once a week, requiring our members to telework for

a full eight hours instead of a partial day so they could attend personal appointments, requiring our members to submit a work log at the end of the telework day, and limiting the number of attorneys allowed in each section to telework on specific days, even though it would not impact their work.

Upon CASE notifying EDD that the attorneys have never been required to submit a telework agreement per EDD's general telework policy, and CASE's intent to file a grievance based on

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OPEN ENROLLMENT FOR INSURANCE BENEFITS

During the month of May, CASE will be holding open-enrollment for our Voting Members to sign up for our current insurance policies, as well as offering a new insurance benefit. During the open enrollment period there will be no medical screening for The Standard Long Term Disability Insurance and very limited medical screening for the new benefit.

The new benefit is a unique combination of Universal

Life Insurance paired with Long Term Care (LTC). This exceptional opportunity is only available to Voting Members and not Mandated Fee-Payers.

The statistics show that 70% of people over age 65 will eventually need LTC, and this new benefit is a policy that is not use it-or-lose-it. The full benefit of the life insurance amount can be paid for long term care to you for in-home care, adult day care, assisted living or

nursing home care. If you don't use it for LTC, the life insurance is paid to your beneficiaries at your death. Please see the "Help Solve the Long-Term Care Issue" article on the following page for more information.

Watch our email communications for more information on how to enroll. If you have any questions, please email Nancy Bond at nancy@nancybondinsurance.com.

CASE BOARD EXPANDS BARGAINING TEAM

The CASE Board of Directors is happy to announce several new ways for members to have a greater voice in their representation including offering members additional seats at the bargaining table. As part of our outreach and organizing efforts, we have begun holding union meetings in various departments around California and have added at least four more local representative trainings this year. While traveling around the state, we have received feedback from our members calling for more member involvement. In response, we are creating two new committees to represent you better.

The new committees are the

Judge's Committee and the Small Department Committee. The Judge's Committee is being created to advocate for issues particular to our judicial members, including assisting in the creation of a Worker's Compensation Judge II classification. The Small Department Committee is being created to give departments with fewer than 30 represented members a greater voice in our union. We have already been reaching out to our smaller departments for willing volunteers to become local representatives but have not had the response we hoped for. Serving on the Small Department Committee will give you a voice for the many departments where CASE

has a small number of members. If you are interested in joining one of the committees or would like to serve as a local rep., please reach out using the email address posted below.

In addition to their usual duties, each committee will vote on one member to represent them on the CASE bargaining team. Only Voting Members will be eligible to serve on the committees and bargaining team. If you would like to participate, please sign up as a member at www.calattorneys.org/sign-up then contact info@calattorneys.org expressing your interest in joining one of the committees.

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Help Solve the Long-Term Care Issue with Universal Life Insurance



The need for long-term care (LTC) services is one of the greatest risks people can face. Yet it can be a challenge to find protection against the rising costs of those services, in the event of an accident, illness or aging.

Not being prepared for the high costs of LTC may deplete retirement savings and may create financial hardships for surviving families.

For some, LTC insurance is an option, but may be expensive. In addition, most people don't think about buying it until they get older. By then, it may be more than they can afford.

Introducing an attractive alternative for obtaining long-term care

Trustmark Universal Life insurance is an easy way to buy LTC coverage that you may find affordable. It provides a long-term care benefit¹ that's funded by life insurance.

Universal Life Insurance with LTC

Fund your future LTC needs through a life insurance policy¹ and help to:

- Maintain independence and freedom of choice over how and where care services are provided (once an insured has met conditions of eligibility and has a plan of care)
- Protect your retirement assets
- Ensure that LTC needs may not create a financial burden on your family

It works like this: Say the life insurance benefit amount is \$100,000. Universal Life accelerates 4 percent of that – or \$4,000 a month – to help pay for care. Plus, Universal Life features an optional benefit rider² that makes the full life insurance benefit amount available at its original value, thus DOUBLING the policy value.

Monthly cash benefit

Some LTC policies limit benefits to a type of care or daily benefit. The Universal Life LTC rider pays benefits directly to you, and allows a choice of care facilities:

- Home Care
- Adult Day Care
- Assisted Living
- Nursing Home

Get coverage while you can

Some people may not have long-term care coverage because they either can't afford it or can't qualify for it when they realize they need it. That's why being a working adult is ideal. You're younger, healthier, and may qualify for coverage. You may find that premiums are more affordable and buying coverage at work gives you access to more favorable underwriting.

Plus, Universal Life gives you a way to increase coverage yearly without additional underwriting², just like many traditional LTC policies. If you elect EZ Value for an additional \$1 in weekly premium per year for 5 years, benefit increases are automatic, guaranteed and fully portable for both employees and spouses.

More than LTC

So what if you never use the policy benefit for long-term care? Universal Life solves that problem, too, in the form of a death benefit. Remember, Universal Life is life insurance. "Use it or lose it" doesn't exist -- life insurance proceeds can be left to beneficiaries even if the LTC benefit is never used.

Features you'll appreciate

- Convenient payroll deduction. No checks to write. No bills to mail.
- Full portability. You own the policy so you can keep the coverage when you leave a job or retire (as long as premiums are paid).
- One-on-one guidance – You'll get personalized benefit advice and assistance with the application process.

Quick Takes

Odds Are: The need for LTC

- 70% of people over age 65 will eventually need LTC.
- 40% of people currently receiving LTC are adults 18 to 64 years old.
- 92% of all LTC claims last for about three years.

Sticker Shock: The growing cost of care

- Care can cost \$200 to \$300 or more a day.
- About 75% of single people and 50% of all couples spend their entire savings within one year of entering a nursing home.
- LTC costs have risen 5% to 6% annually over the past 20 years.

National Clearinghouse for Long Term Care Information, U.S. Department of Health and Human Services. Date accessed, February 5, 2013

¹The LTC Benefit is an acceleration of the death benefit, which proportionately reduces it, and is not Long-Term Care Insurance. It begins to pay after 90 days of confinement or services, and to qualify you must meet conditions of eligibility for benefits. Pre-existing condition limitation and exclusions may apply. Living Benefits may not be available in all states or may be named differently. Please consult your policy for complete details.

²Additional charges may apply, not available in all states.]

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BOARD OF PAROLE HEARINGS INCOMPATIBLE ACTIVITY STATEMENT RESCINDED

CASE is pleased to announce a victory for our members at the Board of Parole Hearings at CDCR. CASE had filed two grievances regarding a new Incompatible Activity Statement (IAS) that was written specifically for the attorneys and administrative law judges employed at the Board of Parole Hearings (BPH). After a meet-and-confer that took place between BPH and CASE on September 26, 2017, BPH has decided to rescind the new Incompatible Activity Statement.

The original incompatible activity statement is found in the BPH General Office Expectations manual and is written for all employees of BPH. It states that employees may engage in outside employment of any kind, if it is not incompatible with CDCR employment, after receiving permission from the Chief Deputy.

The rescinded IAS, which was specifically written for attorneys and administrative law judges, forbade any and all employment outside of the State that included the practice of law. The IAS stated that attorneys and

administrative law judges at BPH could not conduct or be paid for any legal services that they may wish to provide outside of the State, regardless of whether it was compatible with BPH employment. The only exceptions being the practice of law for family matters or as a volunteer for an organization, and even those exceptions would have required prior approval by the BPH Executive Officer.

The exceptions offered were so narrow that the policy would have prohibited our members from offering pro-bono representation to undocumented children facing deportation. It also would have prohibited a member from assisting a kind, elderly neighbor in getting a TRO to prevent ongoing elder abuse inflicted by her wayward, drug-addicted nephew. Not only did BPH offer no justification for these restrictions, but BPH management acknowledged that their primary goal was to ensure that Unit 2 members would not have an opportunity to earn income outside of their BPH salary.

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MEMBERSHIP DRIVE UPDATE

The CASE Membership drive is off to a great start with over 50 new members who signed up during the months of January and February. Amy Alley of the Department of Justice was our February gift card drawing winner, and won a \$100 gift card to Amazon. Congratulations, Amy! Our next drawing will take place on April 13, so be sure to get your entries in now.



To gain an entry into the CASE Membership Drive, refer a colleague to sign up as a Voting Member at www.calattorneys.org/sign-up. Then, send an email to bavalos@calattorneys.org with the subject line, "Member Referral". You will receive a confirmation email back, and you will be entered in our bi-monthly \$100 gift card drawing. Your corresponding referral reward will be sent to you in the mail as well. To see the full list of referral rewards, please visit the membership drive article on our public information page at www.calattorneys.org/public-info.

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WHAT ARE MY RIGHTS AT AN INVESTIGATORY INTERVIEW?

Even the best attorneys can make mistakes or be faced with an unsupported accusation. That's why it is important to know your rights in case you ever get called for an investigatory interview. Investigatory interviews are conducted by the State of California when they suspect an employee of misconduct in the workplace.

If you get called for an investigatory interview, you have Weingarten Rights.



Weingarten Rights originate from a U.S. Supreme Court Case, *NLRB v. J. Weingarten, Inc.*, in which the Court ruled that employees have the right

to union representation at interviews that may lead to discipline. If you request union representation before or during the interview, your request cannot be denied. If the State were to deny your request and carry on with the interview, they would be committing an unfair labor practice.

If you are selected for an investigatory interview, please contact CASE for union representation at (800) 699-6533 or info@calattorneys.org

IMPROPERLY LAID OFF ALJS' RETIREMENT BENEFITS RESTORED

In June 2015, CASE secured a ruling from CalHR stating that they had improperly laid off a group of Administrative Law Judges (ALJs). These layoffs were illegal because CUIAB did not follow the procedures outlined in the CalHR Layoff Manual. The ALJs were reinstated with backpay, but CalPERS refused to award service credit, even though the employees' CalPERS deductions were withheld from the backpay warrants.

When CalHR ordered CUIAB to reinstate our improperly laid off members with nine and a half months

of backpay, CalPERS claimed that the backpay did not qualify for nine and a half months of PERS service. They argued that the time was not "compensation earnable" under Government Code section 20636, subdivision (g) (1). CASE appealed the decision for 11 improperly laid off members and CalPERS consolidated the matters for hearing.

After the evidentiary hearing, but prior to final briefing, CASE submitted a request for official notice of a recent CalPERS precedential decision which ruled on the same issue in the

employee's favor. Given that decision, the ALJ ruled in favor of our CASE members.

The ALJ's decision is set to be adopted by the CalPERS Board in April, after which our members will be awarded with the appropriate service credit they are due.

Even though it has taken several years to compel various state agencies to make our members whole for the illegal layoffs, CASE is committed to continuing the fight to ensure our members are properly compensated for all their damages as a result of the layoff.

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SENATE BILL 294 -- MILITARY SERVICE CREDIT

Senate Bill 294 was enacted on January 1, which amended Government Code Sections 20997, 21024 and 21029 of the Public Employees Retirement Law to require employers to notify new employees upon being hired, as well as current state employees returning from an approved military leave, of the right to purchase their past active duty military service credit at no member cost, under specific conditions. This military service credit can increase CASE members' pensions. The California Public Employee Retirement System (CalPERS) has developed a new member



publication entitled, A Guide to Your CalPERS Military Service Credit Option, PUB 15, which is available by clicking on the following link,

calpers.ca.gov/docs/forms-publications/military-service-credit-guide.pdf. The publication contains information regarding eligibility, how the cost is calculated, how the service credit amount is determined, how to complete the request form PERS-MSD-369A, and important information regarding purchasing service credit. To determine your eligibility to purchase this service credit, you must submit the request form with any required supporting documentation to CalPERS for review. CalPERS will determine your eligibility upon receiving the completed request form.

UNION BARGAINING POWER THREATENED BY U.S. SUPREME COURT LITIGATION

As demonstrated in this newsletter, CASE needs you. CASE is actively fighting, and will continue to pursue the improvement of your wages, retirement, and health benefits, but we need your help to maintain our bargaining power. Due to U.S. Supreme Court litigation (*Janus v. AFSCME*), we are expected to lose many of our fair-share members, representing almost half of our membership.

This would be detrimental to

our bargaining power and would hinder our ability to improve your salaries, benefits, and working conditions in the future. Become a Voting Member today, ensure your place in the union, and help us maintain and improve our clout so we can continue fighting for you. You can sign up by going to calattorneys.org/sign-up.

CASE encourages members to stay in-the-loop by following us online by going to our

website at calattorneys.org, and by following us on social media on Facebook at facebook.com/calattorneys, Twitter at twitter.com/cal_attorneys, and LinkedIn at linkedin.com/company/calatto rneys.

As always, your support of CASE and your colleagues in Bargaining Unit 2 is greatly appreciated.

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DEPARTMENT POLICY CHANGES REQUIRE MEET-AND-CONFER

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a violation of MOU section 4.3B, EDD withdrew the new EDD Legal Telework “Guidelines”. EDD attorneys’ requests to telework will now be reviewed and approved through the less restrictive general EDD telework policy.

CASE would like to thank the members who contacted us

about this matter so that we could resolve the issue promptly and effectively.

Feel free to contact CASE at (800) 699-6533 or info@calattorneys.org if you have concerns about the working conditions in your office. All inquiries are kept confidential.

REMINDER: PAID DEVELOPMENT DAYS AND CASHING OUT VACATION OR ANNUAL LEAVE

In accordance with MOU section 13.24, BU2 members are allotted five professional development days (PDD) per year. If you have not used your PDD for this fiscal year, you must use them before they expire on June 30. You must request PDD in the same manner you would request vacation or annual leave.

Additionally, in accordance with MOU section 9.23, you may cash out your vacation or annual leave time for up to 80 hours if your department has the funds available. Your department will notify you on May 1 if they are participating. Ask your supervisor for the proper paperwork to file to receive your payment.

BPH OUTSIDE EMPLOYMENT RESTORED

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Members at the Board of Parole Hearings may now practice law outside of the State after receiving permission from their supervisor to make sure it is compatible with their employment at BPH. CASE will now withdraw the two grievances previously filed on this matter. If a member has any questions or concerns regarding this issue, please

contact CASE Labor Relations Representative Monica Miner at mminer@calattorneys.org.

If you are not currently a Voting member, CASE encourages you to join and add your voice to our efforts to improve the working conditions and salaries of all members of Bargaining Unit 2. To sign up go to calattorneys.org/sign-up.

LOCAL REP TRAINING

CASE needs local reps to help our staff of five communicate throughout the State of California. We have scheduled four local rep trainings so far this year. The first took place in San Diego on March 22 and was a success, allowing us to add eight new local union representatives to our ranks.

The next three trainings take place in San Francisco on April 27, Riverside on June 1, and Sacramento on June 21. To attend a training, fill out an application at www.calattorneys.org/local-rep-app and then sign up for a training near you at www.calattorneys.org/local-rep-training.

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