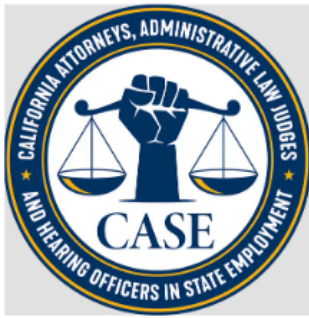




# Strike + Picket Line

# FAQ



## FREQUENTLY ASKED QUESTIONS

### 1. Why should I honor SEIU Local 1000's picket lines?

CASE members honoring SEIU Local 1000's picket lines will amplify the message that all state employees deserve to be respected by CalHR, earn better pay and have better telework opportunities. A rising tide lifts all boats!

### 2. How do strikes work? What would a strike look like?

SEIU Local 1000 members are voting to authorize their leadership to decide if and when to call for a strike. Should SEIU's leadership determine a strike is needed to protest unfair practices committed by the State and/or to reach an agreement with the State, SEIU will let CASE leadership know in advance so that CASE can provide its members with advance notice and instructions for how they can support SEIU's strike and join SEIU's picket lines.

Strikes resemble rallies and informational pickets. The larger the picket line of striking employees, the more likely the State will agree to SEIU 1000's demands. SEIU will provide food and water. Family members, the community, and all supporters will be invited to participate in and support the strike.

### 3. How long does CASE expect SEIU 1000 to strike?

SEIU has publicly stated that it will last one to three days. Also, SEIU will provide the State with 10 days advance notice. As soon as SEIU 1000 gives formal notice, CASE will share that information with you.

### 4. How can BU2 members support SEIU 1000?

The most important form of support BU2 members can provide to SEIU 1000 is to withhold their labor by walking off the job and joining SEIU 1000's picket lines. This applies to ALL BU2 members, including those who are not dues paying members. Nonetheless, non-CASE members should become members to send a message to the State! The State tracks our membership to assess our strength and resolve.

### 5. What does it mean to honor a picket line?

It means that you do not cross the picket line and work, but instead, that you refuse to work, in solidarity with the striking union. To the extent you are able, we strongly encourage you to join the picket line to further show your support.

### 6. What is my right to honor a picket line?

Under California law, public-sector employees have the right to withhold their labor in support of other workers unless that right is prohibited by applicable contract language.

The contract between CASE and the State does not clearly and unmistakably waive your right to honor a picket line.

The Public Employment Relations Board (PERB) has stated explicitly that “employees can demonstrate their solidarity with fellow employees and thereby build a stronger labor movement” through honoring picket lines and other acts of solidarity. ([\*City and County of San Francisco\* \(2017\) PERB Decision No. 2536-M](#), p. 20.)

This means it is illegal for the State to retaliate or discriminate against a worker for refusing to cross the picket line or for engaging in other acts of solidarity. The State cannot interfere with members’ rights to withhold their labor, attend rallies or picket lines, speak out in support of SEIU Local 1000, or take other peaceful action to support SEIU. It also cannot discipline or terminate CASE members, give them unfavorable assignments, reduce their hours, or take other adverse action because they engaged in actions to support SEIU.

## **7. Does our MOU prohibit honoring picket lines?**

During the term of our MOU, CASE cannot strike in support of its own disputes with the State. Rather, CASE can pursue grievances and unfair practice charges. HOWEVER, because our MOU does not clearly and unmistakably waive our right to honor ANOTHER union’s lawful, protected picket line, we may do so consistent with our guidance in this FAQ.

## **8. Do I have to be confronted with a picket line to honor it, or can I withhold my labor by joining a picket line at another worksite? What if I am a remote worker or my scheduled remote work day falls on the day of a strike? What if I take my laptop home with me every day when I leave the office?**

Even if there is no SEIU picket line at a particular worksite, CASE members could still exercise their individual right to honor the SEIU Local 1000’s strike by withholding their own labor, because they would be demonstrating their solidarity and acting in concert with SEIU-represented workers by doing so. (*City and County of San Francisco* (2017) PERB Decision No. 2536-M, pp. 21, 29 [workers have the right to “honor the picket line or engage in other acts of solidarity with other employees” who are on strike, and this is an individual right] [*emphasis added*]). Employees working remotely can still refuse to work, in solidarity with SEIU Local 1000, and can find a picket line to join in person. (*Id.* at pp. 21, 29).

In practice, this means that if your worksite does not have a picket line, but there is a picket line at a neighboring worksite, you can join that picket line. If you are working from home on the day of the strike, you can withhold your labor and stay home, or travel to a picket line of your choosing and join that picket line. Even if you bring your computer home every day, you can still honor picket lines. What it means to not cross a picket line is to not work for the State, even if you could work from another location.

## **9. Do I have to notify my supervisor that I am honoring SEIU Local 1000’s picket line and refusing to work?**

There is no legal need to give notice or call in your intent to honor a picket line to your manager or direct supervisor. You have the right not to be intimidated or interrogated about whether you plan to exercise your right to stand with coworkers in their fight for better working conditions.

However, if you decide to honor a picket line, we recommend that you send your supervisor an email notifying them that you will be honoring SEIU's picket lines. See **Attachment A** for an email template you can use.

If you need to ask your supervisor to handle some work for you, please let them know in advance.

## **10. Can my supervisor tell me not to honor a picket line?**

No. Employers are prohibited from interfering with or retaliating against employees for exercising their protected right to honor a lawful picket line. Interference and retaliation are considered unfair labor practices. Please report any such conduct to CASE right away at [case@calattorneys.org](mailto:case@calattorneys.org)

## **11. Can I be forced to report to work?**

The State may claim that an employee is "essential" and cannot strike because it would threaten public health and safety. This is limited to primarily emergency or vital public services. If this happens to you, please contact CASE at [case@calattorneys.org](mailto:case@calattorneys.org).

## **12. I'm worried about the California State Bar disciplining me. How do I satisfy my ethical obligations to my client(s) if I am to honor a picket line?**

As PERB recently held in [\*SEIU Local 521 v. Kern County\* \(PERB Decision No. 2975-M](#), pp. 41-48), striking attorneys only "overstep[ their] ethical boundaries if the attorney[s] violate actual disciplinary rules, most particularly rules pertaining to the attorney's duty to represent the client faithfully, competently, and confidentially." This means you "must use professional judgment to assure compliance with professional codes," including, for example, "reasonable delays that will not harm the client or patient more than standard delays in the industry [like vacation, sick leave, the press of work] might" and identifying supervisors, managers, or non-striking employees who can handle the work in your absence. This means you should plan for a strike the same way you plan for vacation or a scheduled medical appointment to ensure that your ethical obligations are met.

## **13. If I cross a picket line and do some work in the office, can I still join the picket line and withhold my labor for the rest of the day?**

Yes. If you **have to** perform some work—either essential work or work you must complete to comply with your ethical obligations—for example, to finalize a filing due that day or to prepare a motion for a temporary restraining order, you can do so, and then join the picket line and withhold your labor. However, CASE advises against seeking pay if you withhold your labor, in solidarity with SEIU, before or after you finish your work for the State.

## **14. I'm worried about retaliation. Can the State discipline me for honoring a picket line? What if I am a term-limited or probationary employee?**

It is illegal for an employer to threaten, intimidate, discriminate, or terminate any employee for exercising their right to engage in a protected strike. ALL union-represented public employees, including temporary, provisional and probationary employees, have the right to strike under California law.

SEIU has publicly stated that their strike will last 1-3 days. The State can only invoke the absence without leave (AWOL) statute when an employee has been absent without leave

for five consecutive working days. Engaging in a protected activity, even for 5 or more days, does not constitute AWOL. Any charges of AWOL or disciplinary action are retaliation. CASE will prosecute legitimate retaliation complaints at PERB and CASE will continue to represent members before the State Personnel Board.

### **15. Will I be paid if I choose to honor the picket line?**

No, you will not be paid for any hours or days that you do not report to work.

### **16. Can I call in sick or use sick leave if I honor the picket line?**

No, you should expect that all sick leave will be denied for the day(s) of the strike. You should expect to lose your wages for the day(s) that you do not work. If you are legitimately ill, and not calling out sick because of the strike, it is likely that the State will require documentation that you are using sick leave as intended.

Similarly, if you are on family medical or parental leave, you are welcome to join the picket lines if doing so is not inconsistent with your basis for being on leave from work.

### **17. Can I use vacation, annual, or voluntary leave if I honor the picket line?**

You may do so; however, it is not encouraged because honoring a lawful picket line is a right you do not request permission to exercise, and the purpose of exercising this right is to show the state you are willing to withhold your labor in solidarity with SEIU. If you do decide to use vacation, annual, or voluntary leave, the State may deny your request and assume that you did not report to work and are refusing to cross the picket line.

If you happen to be on vacation when a strike begins or during the strike, the State may attempt to cancel all pre-scheduled vacations, though this is unlikely. If the State does not cancel pre-scheduled vacation, you are welcome to join the picket line while you are on vacation and receiving vacation, annual, or voluntary leave.

### **18. What about my health insurance? Can the State cancel my health insurance if I honor a picket line?**

No. This is prohibited, and even if the State wanted to, it can only cancel health insurance for 11 days of an unaccounted-for absence in a pay period, which is one month for most state employees. SEIU has publicly stated that its strike will only last for 1-3 days.

### **19. Where do I go to access up-to-date strike information from CASE?**

CASE will disseminate information through email, social media accounts, local reps and engaged members.

Here are links to CASE's social media accounts: [Reddit](#); [Facebook](#); and [Instagram](#). Here is a list of each agency and department's local rep.

You should also feel free to check SEIU's website and social media accounts as they will have more real time coverage of events.

### **20. Even if I am obligated to work (i.e. essential worker, deadlines), is there something I can do to show support for the SEIU Local 1000?**

Here are some ways you can still support SEIU:

- You may add a quote to signature block stating that you support SEIU's strike;
- Use a supportive background for your Teams or Zoom meetings at work;
- Use any break you may have to join a picket line for the duration of your break;
- Provide food and non-alcoholic beverages to those on the picket lines;
- Wear your CASE t-shirt or button; and
- Wear an SEIU t-shirt or button.

## Attachment A

### Suggested text for email to supervisor:

Dear, [insert supervisor's name here].

I will be honoring the picket line at [insert worksite here] as I have the right to do so under Cal. Gov't Code § 3515, *Oxnard Harbor District* (2004) PERB Dec. No. 1580-M, *Regents of the University of California* (2004) PERB Dec. No. 1638-H, and *City and County of San Francisco* (2017) PERB Decision No. 2536-M. If you believe my work is essential in nature (*i.e.* necessary for public health or safety, please contact me at [insert phone number here].

[ONLY IF APPLICABLE TO YOU] I have taken the following actions to ensure that I have met my ethical obligations: [for example, I filed my brief a day early, I obtained an extension, I rescheduled my witness meetings, etc.]

Thank you for your understanding.

[insert signature block here]