

Membership Representation Handbook



CALIFORNIA ASSOCIATION OF PROFESSIONAL EMPLOYEES

(CAPE, MEBA, AFL-CIO)

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A Message from the CAPE Board of Directors

Dear CAPE Members:

We are proud to provide this CAPE Representation Handbook for you. This comprehensive guide to your employee rights provides information on how CAPE represents you and the benefits of your union membership.

Please take some time to read this important handbook and keep it with you at your work station for reference purposes. Our goal in providing you with this information is to help you gain greater control over your own career and better inform you how to access CAPE's professional job representative services whenever you need them.

This handbook is a symbol of CAPE's commitment to provide the highest quality of professional job representation available to Los Angeles County employees.

We hope you find this handbook useful as you navigate your way to a successful career at Los Angeles County.

In Solidarity,

The CAPE Board of Directors

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CHAPTER 1

INTRODUCTION: ACCESSING CAPE'S PROFESSIONAL REPRESENTATION SERVICES

As a member of the California Association of Professional Employees (CAPE), you are provided many representation services to protect and improve your career both individually and as part of a group.

As part of a collective bargaining unit, your membership in CAPE enhances career protections and opportunities for all CAPE-represented employees.

This handbook is primarily intended to introduce you to your rights as an employee and to orient you with the professional representation CAPE offers to you as a member in protecting and exercising these rights. This guide will also describe how you may access CAPE's professional representation services as a member in each area discussed here.



This handbook is only intended as a brief introduction to your rights, the representation services CAPE provides you as a member and how you may access CAPE's services. The CAPE Board of Directors encourages you to keep this handbook as a ready source for your referral on problems that may arise in your employment. When faced with a specific employment problem, you are encouraged, upon referring to this guide, to immediately call the CAPE office to discuss your employment problem in detail with one of our experienced business agents.



Your CAPE business agent may be reached by calling the CAPE office's direct line (626) 243-0340.

CHAPTER 2

YOUR RIGHT TO ENGAGE IN CERTAIN ACTIVITIES RELATED TO YOUR EMPLOYMENT WITHOUT EMPLOYER RETALIATION

As a member of CAPE, you have the right to engage in certain activities related to your employment without being subject to retaliation by your employer.

For instance:

- **You have the right to be involved in CAPE activities**, such as to serve as a volunteer CAPE Delegate, on a negotiating team, on a committee, or on the Board of Directors and not be subject to your employer's retaliation for doing so.
- **You have the right to exercise your contractual rights** under your unit's collective bargaining agreement, or memorandum of understanding (MOU), without being subject to retaliation. Some examples include — but are not limited to — your right to pursue a grievance for violations of the MOU; departmental policies or past practices; your right to file a request for a position classification study, to make a safety complaint, or file a mileage claim pursuant to the MOU. You have the right to pursue these without being subject to retaliation for doing so.
- **You have the right to pursue claims before other County agencies** without being subject to retaliation, or file an appeal to the County's Director of Personnel or Civil Service Commission as provided by the County's Civil Service Rules; or file a claim with the County's Employee Relations Commission as provided by the County's Employee Relations' Ordinance.

CHAPTER 2 (cont.)

YOUR RIGHT TO ENGAGE IN CERTAIN ACTIVITIES RELATED TO YOUR EMPLOYMENT WITHOUT EMPLOYER RETALIATION

Each type of retaliatory action has its own avenues available with specific rules and regulations that apply. These avenues provide you and your fellow members of your bargaining unit with specific opportunities to prevail over county department managers if your rights or provisions of our MOU have been infringed.



CAPE’s representation services staff have expertise in these rules and regulations to make sure your interests are protected.

If you feel you are being subjected to retaliation by your management as a result of engaging in such protected activities, call the CAPE office immediately for assistance.



There are a variety of different time limits for filing a remedial action depending on the activity in which you were engaged.

CHAPTER 3

YOUR RIGHTS AS AN INDIVIDUAL EMPLOYEE TO FILE GRIEVANCES

Filing a Grievance: You have the right to file and pursue grievances and to have representation for such grievances. You have the right to have CAPE represent you; or a coworker or outside counsel; or you have the right to represent yourself.

A grievance is the principal mechanism you can use to enforce your contract rights negotiated by CAPE with Los Angeles County. Your Memorandum of Understanding (MOU) contains language that identifies what standards are set for your wages, hours, and working conditions. When management violates these standards, the grievance procedure provides a process by which these matters can be corrected.

While grievances can be filed for a wide range of reasons, examples of some of the more common kinds of grievances are included below, but not limited to:

- Claiming an annual Performance Evaluation should be improved;
- Fighting minor discipline;
- Resolving reimbursement disputes;
- Fighting an involuntary transfer; or
- Denial of Additional Responsibilities Bonus/Out of Class request.



TIMELINESS IS VERY IMPORTANT: In order for grievances to be considered timely, they must be filed within ten (10) business days from the occurrence of the matter on which a complaint is based or within ten (10) business days of your knowledge of such an occurrence. Business days are Monday through Friday.

In order to provide the best possible professional analysis, advice, grievance language and representation, it is very important for you to contact CAPE and request to speak to a business agent as soon as possible.

CHAPTER 4

GROUP ADVOCACY

CAPE has the authority to raise to management the concerns of affected groups of CAPE-represented employees. Depending on the type of concern, there are two ways you may raise these group concerns.

1. Grievance-General in Character: This article of your MOU allows defined groups to raise a violation of a provision with management.

The time limits for filing a grievance apply here as they do for individual employees in the prior section. It is important for a member of the affected group to contact CAPE as soon as possible so that a Grievance-General in Character can be filed within ten (10) business days of the occurrence of the matter affecting the group, or within ten (10) business days of any knowledge of the occurrence of the matter.

2. Meetings to Consult or Confer with Management: When management decisions and actions affect a group of employees, CAPE has a right to “meet and consult” on the practical impact on concerned CAPE members. Furthermore, when employee wages, hours and conditions of employment are impacted, CAPE has the right to “demand to negotiate” on the subject.

Some examples of the kind of issues that CAPE consults with management include changes in classification specifications and policy changes that have an impact on CAPE-represented employees.

If you are part of a group of employees who believe they are adversely impacted by management actions, you should contact a business agent by calling the CAPE office.

CHAPTER 5

YOUR RIGHTS IN DEFENDING YOURSELF FROM ACCUSATIONS OF MISCONDUCT

As the “Subject” of an Investigation: The first time most employees become aware that they are being investigated for allegation(s) of misconduct is when they are contacted either by representatives of their department’s personnel division, the County’s Auditor-Controller’s Office, the County Equity Oversight Panel investigator, or when they are called into a manager’s office, normally someone above their immediate supervisor.

If you are in this position, you should ask what the subject of the meeting is and, if management starts asking questions, whether or not the questions they have for you may result in disciplinary action against you. You have the right to request representation by CAPE if you have reason to believe the meeting will involve you answering questions that may result in disciplinary action against you.

For example, if you ask, “Could any of my answers to your questions result in discipline?” and the interviewer responds something to the effect of “Well, depending on your answers you may or may not be disciplined,” or “I just want to clarify a few things and it may not result in discipline,” or anything but “No,” you have the right to request representation by CAPE. This right is known as your **Weingarten Rights**.

Management is under no obligation to advise you of your right to have such representation being present at the meeting. Therefore, **you must inform management that you are exercising your right to request union representation.**



After you inform management, you should contact CAPE as soon as possible by calling the CAPE office.

CHAPTER 5 (cont.)

The importance of you carefully exercising your right to have a CAPE representative present at such meetings cannot be overstated. Management has taken advantage of members who did not exercise their right to have a CAPE representative present at such meetings by manipulating them into making statements that exposed them to serious discipline, as well as civil liability and even criminal prosecution. You can minimize your exposure to such risk by exercising your Weingarten Rights early and carefully upon being asked to participate in an investigation. Please visit the CAPE website for additional information of your Weingarten Rights at capeunion.org/weingartenrights.

Call your CAPE business agent for any representation matters or questions about your rights before answering any of management's questions.

Do not under any circumstances comply with a request by management to write out a statement as to circumstances you may have been involved in before you contact and discuss the matter with a CAPE business agent.

Additionally, if you find out you are under investigation, **do not** discuss the investigation or the circumstances for which you believe you are being investigated with anyone who is a county employee or anyone involved with the incidents being investigated. Your discussions may lead investigators to claim you engaged in misconduct by compromising the integrity of the investigation or tampered with a potential witness. Such a charge could subject you to further disciplinary action.

YOUR WEINGARTEN RIGHTS

If a supervisor and/or management asks questions that could lead to disciplinary action, CAPE members have the right to stop the meeting and ask for a union representative to be present.

You may read the below statement, pursuant to the U.S. Supreme Court Case *NLRB v. Weingarten, Inc.* 420 U.S. 251 (1975).

"If this discussion could in any way lead to my being disciplined or terminated, I request that my CAPE representative be present at the meeting. Without representation, I choose not to answer any questions."

CHAPTER 5 (cont.)

Upon Receiving a Notice of Disciplinary Action: You will receive either a written Notice of Discipline or a Notice of Intent to Discipline depending on the level of severity of the discipline if management chooses to attempt to implement disciplinary action against you.

To access CAPE representation and/or to get advice on your options for challenging the discipline, contact the CAPE office immediately upon receiving either type of notice to ensure you respond within applicable time limits. There may be different avenues available to you to challenge the disciplinary action.

For instance, if management intends to discharge you, reduce you in rank or impose a suspension of more than five (5) days, you would receive a notice (ie: Notice of Intent to Discharge). You would be entitled to have a pre-disciplinary meeting, also known as a “Skelly” meeting, in which you may exercise your right to due process. You are entitled to have a representative present in this meeting to assist you in persuading a representative from management to recommend that the proposed disciplinary action should not be imposed or it should be reduced.

Normally, the notice gives you the option of either responding in writing or scheduling a meeting and having a representative present at this meeting to discuss the proposed disciplinary action.

CAPE **strongly recommends** you request a CAPE business agent schedule a face-to-face meeting with the designated management representative to discuss the proposed disciplinary action, rather than submit a written response. CAPE has experienced professional staff who can make effective presentations that are persuasive and increase your chances of either management not taking the proposed disciplinary action against you or substantially reducing the proposed disciplinary action. It has been our experience that submitting a written response has not been persuasive in having management reconsider the proposed disciplinary action.

CHAPTER 5 (cont.)

Furthermore, if you pursue a Civil Service Appeal, your case could be severely hurt by management's cross-examination of you at the hearing if there are any inconsistencies or gaps between your testimony and your prior written statement.

CAPE Representation Benefit Covering Civil Service Representation in Disciplinary Appeals: Upon your request as a benefit of membership, CAPE provides to members in good standing representation in appealing such discipline before the Civil Service Commission. **Fee Payers and non-members do not have this benefit.**



To access Civil Service representation you must meet a strict time deadline. You must call the CAPE office requesting our representation and provide us a copy of the letter of disciplinary action **within five (5) business days** of receipt of the letter or the postmark date if it is sent to your home (whichever comes first).

CAPE Representation in Grievable Disciplinary Actions: If management chooses to impose a written warning, a written reprimand, or a suspension of five (5) days or less, you will receive a "Notice of Disciplinary Action" letter. This is considered minor discipline, and you may challenge this level of discipline by filing a grievance.



You only have ten (10) business days from the date of receipt of the Notice to file a timely grievance according to your MOU's grievance procedure.



For CAPE representation, call your business agent at the CAPE office as soon as you receive such a notice so that we may assist you in filing a timely grievance.

CHAPTER 6.

REPRESENTATION SERVICES OFFERED TO MEMBERS FOR MATTERS OTHER THAN SEVERE DISCIPLINE WITHIN THE JURISDICTION OF THE CIVIL SERVICE COMMISSION

CAPE provides representation services upon your request as a benefit of your membership in three (3) subject matters outside of severe discipline (covered in previous chapter) that are within the jurisdiction of the County's Civil Service Commission. These are:

- Probationary reductions
- Claims of discrimination
- Challenges to promotional exams



You must contact a CAPE business agent requesting representation **within two (2) business days** of receipt of any information regarding management's action to reduce you during the probationary period after a promotion or to challenge an aspect of a promotional exam for advice. Due to the very short time period, the Civil Service Rules provide only **ten (10) business days** for you to timely file the relevant initial document. Claims of unlawful discrimination may also have certain time sensitivity. Therefore, **do not wait until you have all your information together before calling CAPE for representation on these subject matters.**



Call (626) 243-0340 and ask to speak with your business agent.

CHAPTER 7

ADDITIONAL MEMBER-ONLY REPRESENTATION SERVICES

CAPE provides representation upon your request in three (3) other subject areas:

- Career Counseling
- Interactive Processes
- Automotive Safety Committee Reviews

These value added benefits of membership significantly aid many members facing difficult employment problems.

Career Counseling: Many members contact CAPE with concerns about reaching their career goals. CAPE has more than 50 years of experience in providing effective advice and sometimes directly creating opportunities for our members to achieve their career goals.



CAPE has also assisted members who have found themselves on the verge of discharge due to what management labeled as “poor” performance. CAPE has been helpful in providing guidance in navigating the difficult terrain of a “Plan for Improvement.” CAPE represents members in working with management to develop reasonable terms for such a plan. In these cases, we’ve also provided guidance to members on the tools they need to develop in meeting the plan’s requirements.

Regardless of the kind of career counseling needed, please contact a business agent at the CAPE office to receive such assistance.

Interactive Process: Members who suffer from a medical condition that makes them unable to perform all of the duties of their position may request an Interactive Process meeting with CAPE representation to discuss reasonable accommodations to allow them to continue meeting the duties of their position.

CHAPTER 7 (cont.)

When a member needs accommodations, their department assesses the operational feasibility of making such accommodations after the member's participation in an Interactive Process meeting. CAPE plays an important role in negotiating potential accommodation scenarios for the member.

In order to access CAPE representation in an Interactive Process, a member needs only to contact the CAPE office and request to speak to a business agent upon learning that they will need to be accommodated at work.

Automotive Safety Committee Review:

When employees have accidents driving county vehicles, they are generally required to attend a meeting with the Automotive Safety Committee. Fortunately for CAPE members, you do not have to attend this meeting alone.



The committee's duty is to assess whether you had any fault in an accident in which you were driving a county vehicle. Discipline may result from these meetings. It is valuable to have a CAPE representative present who is well aware of the pitfalls.



In order to access representation at an Automotive Safety Committee meeting, contact your business agent at the CAPE office as soon as possible upon receiving a request to appear.

ADDITIONAL RESOURCES

In all cases in which you might require CAPE's professional representation services, it is better to be safe than sorry. Please call CAPE immediately if you believe your rights have been violated. Our trained professionals are here to serve you.

CAPE office: (626) 243-0340

Contact a business agent, request representation, ask general questions, or access additional benefits information.

CAPE fax: (626) 243-0368

CAPE eFax: (626) 243-0987

Send member applications, inquiries, announcements, important documents or requests here.

CAPE general email: info@capeunion.org

You can e-mail us your comments, concerns or requests, however in the case of an urgent matter, call the main office number.

CAPE website: www.capeunion.org

Get the latest news about CAPE, learn about the Board and the Staff and look up negotiations information and financial reports for CAPE.

CAPE Benefits Trust: (800) 487-3092

For questions about your CAPE/Blue Shield coverage and additional benefits.

LACERA Retirement Services: (800) 786-6464

For questions regarding your pension plan.

HORIZONS/L.A. County Service Center: (800) 947-0845

For information about the County's supplemental retirement plan with a matching benefit.

UNION PRIVILEGE PROGRAM: www.unionplus.org

Programs (mortgage, credit card, AT&T), deals and discounts for union members only.



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