



LAW UPDATE LABOR AND EMPLOYMENT

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HEALTH INSURANCE COVERAGE FOR STRIKING WORKERS

On October 9, 2021, Governor Newsom signed AB 237 adding sections 3140, 3141 and 3142 to the Government Code. The provisions make it an unfair practice for a public employer, including LEAs, to discontinue health insurance premium contributions for employees participating in an “authorized strike.” The new legislation provides that it is a statewide concern that employers not suspend health insurance premium payments for striking workers or their families because:

- Employers have threatened to suspend or actually suspended their health care insurance contributions for striking employees resulting in a denial of family member access to health care;
- A temporary lapse of health insurance coverage has a ripple effect on working families, surrounding communities and public health;
- Denial of access to health insurance coverage leads to a lack of care, reliance on other public health care safety net programs or uncompensated care;
- Covid-19 has strained public healthcare safety net programs; and,
- A temporary loss of health insurance coverage during a strike hurts not only the striking worker, but dependent family members, the surrounding community and the public safety net health care systems that are already burdened.

In a nutshell, AB 237 requires employers to treat employees who are engaged in an authorized strike as if they are active employees for purposes of any contributions toward health care or other medical coverage. Government Code section 3141(a) defines authorized strike as:

... a strike sanctioned by the central labor council or the membership of an employee organization that represents the striking employees, or one that is engaged in by unrepresented employees.

What is included in the definition of health insurance coverage? AB 237 defines “health care or other medical coverage” includes, medical, behavioral health, dental, vision, disability, accidental death, and dismemberment, life, and supplemental health insurance benefits provided through any governmental plan . . .

Government Code section 3142 makes it an unfair practice for an employer to fail to continue its health insurance premiums or collect and remit employee contributions during an authorized strike. PERB has jurisdiction over any alleged violations.

Fortunately, the districts I work with have not had any of their bargaining units engage in a strike for as long as I have been working with districts, going on 10 years now (knock on wood).

Please let me know if you have questions about AB 237.

- Timothy L. Salazar

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