

Legal Rights in the Workplace

“Public employees have certain rights that employees in the private sector do not have,” explained labor lawyer Linda Paquette in a workshop sponsored by the Council of Classified Employees at the CFT Convention. Chief among these are Skelly Rights, which guarantee due process to government employees before they are demoted, suspended for a week or more, or fired. “Due process,” which is guaranteed by the U.S. Constitution, includes the right to hear and respond

to charges against you and the right to appeal. Public employees also have Weingarten Rights, which give them the right to have a union representative present at an investigatory hearing about them; and constitutional protection from arbitrary drug testing in the workplace.

Another issue discussed by Paquette was sexual harassment, with which she has had personal experience. “It’s easier said than done” to say NO to an authority figure, she said. Many women deal with harassment by trying to ignore it, but that can adversely affect the quality of one’s work and ultimately give employers grounds for dismissal. Paquette strongly recommends that unions put a clause against sexual

harassment in their contracts, so that employees can file a grievance when they feel they are being sexually harassed, rather than relying on “underfunded, understaffed” state and federal agencies to enforce workers’ rights.

Vern Goldschmid, a Worker’s Comp lawyer, enumerated the different types of injuries covered by Worker’s Compensation Insurance, an employer-funded program. He defined a work-related injury as *anything* that happens to an employee on school property—for example, twisting one’s back while getting out of the car in the parking lot. Also covered, but more difficult to get employers to pay for, are conditions caused by years of repetitive activity (for example, bending over a lot), or existing conditions aggravated on the job (for example, a heart condition aggravated by stress).

Moderator Scotty Ross echoed Goldschmid’s recommendation that employees leave a “paper trail” that can help them later if they have to prove long-term stress or harassment on the job. Documents such as past grievances filed, letters to a supervisor with copies in the personnel file, medical records, and even a diary can be very helpful in proving a case in court.

“You should go take a look at your personnel file a couple of times a year to see if your ‘paper trail’ does exist,” Ross said. “And you should have the right to do that written in your contract.” □



Labor lawyer Linda Paquette makes a point at the CCE workshop on “Workers’ Rights Under the Law.” Looking on is Workers’ Comp lawyer Vern Goldschmid, co-presenter of the workshop.

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