

North Table Mountain Ecological Reserve,
Oroville, California

Fall 2019 Conference

September 25-27, 2019 • Santa Barbara, CA

CPAAC Board				
Vacant, <i>President</i>	Mary Hao <i>Vice President</i>	Shawn Atin <i>Treasurer</i>	Jill Abel <i>Secretary</i>	Marc Fox <i>Past President</i>

View the Ebook & Download the Binder at <https://hr.smcgov.org/documents/cpaac>

AGENDA

Wednesday, September 25

Noon **Officers Meeting and Lunch**

1:00 p.m. **General Session – Call to Order and Welcome**

Marc Fox, Past President, CPAAC

Approval of Agenda

Review of Spring 2019 Meeting Minutes and Treasurer’s Report

Officer Reports

President	(vacant)
Vice President	Mary Hao, County of Marin
Treasurer	Shawn Atin, County of Ventura
Secretary	Jill Abel, County of Yuba
Past President	Marc Fox, County of Solano

Nominating Committee Actions – 2020 Officers

Requests for Life Membership per Article IV, Section 4

- Request from Donna Vaillancourt
- Request from Allison Picard

Introductions

Recognition of New Members

Acknowledgements

Past and Retiring Officers: Pamela Knorr, County of Butte

CPAAC Committee Reports

[None]

1:15 p.m. **CSAC Legislative Update**

Geoff Neill; Legislative Representative, CSAC

2:45 p.m. **Regional Connection Break-Out Sessions**

Regions:

- **North** – Butte, Colusa, Del Norte, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity
- **Central Area** – Alpine, Amador, Calaveras, El Dorado, Nevada, Placer, Sacramento, San Joaquin, Stanislaus, Sutter, Yolo, Yuba
- **Bay Area** – Alameda, Contra Costa, Marin, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma
- **South Central** – Fresno, Kern, Kings, Madera, Mariposa, Merced, San Benito, Tulare, Tuolumne
- **South** – Imperial, Inyo, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Ventura

3:20 p.m. Modified Benefits Option
Diane Rundles; Director of Human Resources, County of San Bernardino

4:00 p.m. Roundtable

4:55 p.m. Parking Lot and Action Item Recap

5:00 p.m. Adjourn

5:15 p.m. Optional Wine Tasting and Appetizers
Rotunda
Hosted by Liebert Cassidy Whitmore

6:00 p.m. No Host Dinner
(Sign-up sheets are available with restaurant selections)

AGENDA

Thursday, September 26

- 6:15 a.m. Walk/Run**
- 7:30 a.m. Breakfast**
- 8:30 a.m. Approval of Spring 2019 Meeting Minutes**
- Approval of Treasurer's Report**
- 8:45 a.m. True Colors**
Bill Behrens; President, True Colors International
- 12:00 p.m. Lunch**
Hosted by Municipal Resource Group
- 1:15 p.m. Roundtable**
- 2:00 p.m. Performance Management**
Mary Egan; CEO & Managing Partner, Municipal Resource Group LLC
- 3:15 p.m. Break**
- 3:30 p.m. Roundtable**
- 4:45 p.m. Parking Lot and Action Item Recap**
- 5:00 p.m. Adjourn**
- 6:30 p.m. Hosted Dinner**
Fiesta Room
Hosted by Sloan Sakai Yeung & Wong

AGENDA

Friday, September 27

6:15 a.m. **Walk/Run**

7:30 a.m. **Breakfast**

8:45 a.m. **California Counties Foundation Board**

Tami Douglas-Schatz; Director of Human Resources, County of San Luis Obispo
Chastity Benson; Operations Manager, California counties Foundation

9:45 a.m. **Break**

10:00 a.m. **Roundtable**

10:30 a.m. **Legal Update**

Tim Yeung; Managing Partner, Sloan Sakai Yeung Wong LLP

11:45 a.m. **Adjourn**

CPAAC Conference Meeting Minutes: Spring 2019

Location: Wine & Roses; 2505 W. Turner Road; Lodi, CA.

Attendees: Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Fresno, Humboldt, Kern, Lake, Los Angeles, Marin, Monterey, Nevada, Sacramento, San Benito, San Bernardino, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, Shasta, Solano, Sonoma, Stanislaus, Sutter, Tehama, Ventura and Yuba. A quorum of the membership was present (Article IV, Qualifications and Rights of Membership, section H, Quorum). Retirees present were Bill May, Charlie Wilson and Martha Wilson.

Wednesday, March 27, 2019

1:00 p.m. **General Session – Call to Order and Welcome**

Pamela Knorr, President, CPAAC

- Special appreciation to San Mateo County for putting together the binders again.
- A hosted reception will follow today's meeting and will be inside the ballroom instead of outside due to weather.
- Tonight is a no-host dinner and tomorrow's dinner is hosted.
- No President's suite this meeting and no thank you gift for the speakers due to budgetary constraints.

Moved by Tami Douglas-Schatz (San Luis Obispo) and **second** by Lisa Garrett (Los Angeles) **to approve the agenda.** The motion passed unanimously.

Review of Fall 2018 Meeting Minutes and Treasurer's Report

Past President Marc Fox (Solano) reported that he is working with Riverside County on the website with more information to follow.

Introductions

The following new members were introduced: Steve Rose (Director, Nevada) Missi Bullington (Director, Tehama), Jeannine Seher (Assistant Director, Solano) and Sherri Waters (Assistant Director, Butte).

Acknowledgements

President Pamela Knorr (Butte) recognized Past President Marc Fox (Solano).

CPAAC Committee Reports

There were no reports.

1:15 p.m. Regional Connection Break-Out Sessions

Participants met based on their regions to discuss matters of regional interest. The regions are:

Regions:

- *North* – Butte, Colusa, Del Norte, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity
- *Central Area* – Alpine, Amador, Calaveras, El Dorado, Nevada, Placer, Sacramento, San Joaquin, Stanislaus, Sutter, Yolo, Yuba
- *Bay Area* – Alameda, Contra Costa, Marin, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma
- *South Central* – Fresno, Kern, Kings, Madera, Mariposa, Merced, San Benito, Tulare, Tuolumne
- *South* – Imperial, Inyo, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Ventura

2:00 p.m. Human Resources Role in Disaster Response and Recovery

Jill Abel (Yuba), Christina Cramer (Sonoma), Angela Davis (Shasta), Pamela Nichols (Lake) and Pamela Knorr (Butte) each spoke on how their county addressed fires, dam spillways and other natural disasters within their county and of the Human Resources Department's role in the disaster response and recovery.

Break

3:30 p.m. Staff Development – from Technician to Analyst

David Devine (Sacramento), Maury Castaneda (Sacramento) and Kate Howard (San Francisco) provided insights on how Sacramento County and the City & County of San Francisco are providing training for a Human Resources technician to advance to analyst.

4:15 p.m. Roundtable, Parking Lot and Action Item Recap

Participants gave brief updates highlighting key initiatives, challenges and/or requested resources. There were no parking lot or other action items.

5:00 p.m. Recess to Thursday, March 29, 2019

Thursday, March 28, 2019

8:35 a.m. Approval of Minutes and Treasurer's Report

President Pamela Knorr (Butte) called the meeting to order. Bill May spoke a few words on the history of CPAAC and service of its members.

Moved by Tamara Thomas (Stanislaus) and **second** by Lisa Garrett (Los Angeles) **to approve the Fall 2018 meeting minutes.** The motion passed unanimously.

Moved by Diane Dinsmore (Contra Costa) and **second** by John Mills (Santa Clara) **to approve the Treasurer's report.** The motion passed unanimously.

8:50 a.m. Critical Incident Stress Management

Scott Dansie and Elizabeth Dansie of The Psychological Group (PSG) addressed challenges faced by Human Resources and Risk Management professionals in preserving our first responder resource from the many liabilities imposed by their jobs. PSG outlined the standard of care in Critical Incident Stress Management programs and addressed the challenges associated with establishing such programs among high-risk employee groups.

Break

10:45 a.m. Legal Update

Gage Gungy, Partner, with Liebert Cassidy Whitmore provided attendees with a legal update and an overview of relevant new laws for 2019. Mr. Gungy also shared potential upcoming issues and pending legislation.

12:15 p.m. Lunch

1:15 p.m. Roundtable

Participants gave brief updates highlighting key initiatives, challenges, and/or requested resources.

2:10 p.m. PERB Insights

Mark Gregersen, Consultant, and Peter Lee, Associate, of Sloan Sakai Yeung and Wong LLP provided an overview of the current Public Employment Relations Board (PERB) Board Members, reviewed PERB's case processing and available resources, and shared their perspective on PERB Board case decision trends.

Break

3:55 p.m. Roundtable, Parking Lot and Action Item Recap

Participants gave brief updates highlighting key initiatives, challenges and/or requested resources. The membership discussed the fall 2019 meeting location and potential topics.

4:50 p.m. Recess to Friday, March 29

Friday, March 29, 2019

8:40 a.m. CSAC Legislative Update

Geoff Neill, Legislative Representative, and Josh Gauger, Legislative Representative, both with CSAC reviewed key Human Resources-related legislative bills, summarized non-legislative issues, State budget projections, and highlighted 2020 ballot initiatives.

10:00 a.m. Roundtable

Participants gave brief updates highlighting key initiatives, challenges and/or requested resources.

10:00 a.m. Break

10:50 a.m. SB 1421-Increasing Public Access to Peace Officer Personnel Records

Art Hartinger, Parter, with Renne Public Law Group provided a review for implementation of SB1421 (2018) and AB748 (2018), which amended the Public Records Act regarding the public's right to know all about series police misconduct, as well as about officer-involved shootings and other serious uses of force. The public's access to this information is through personnel records, video/audio recordings, and other public records.

11:35 a.m. Parking Lot

Participants provided the following as potential topic ideas for the fall 2019 conference:

- Topics for the fall?
- Pay for Performance, discretionary pay models
- Compensation specialist – Keenan, Mercer
- Equal Pay Act
- Disparate discipline based on race? Look at data, talk about it?
- Metrics to include in a survey – Pamela to send a survey

The CPAAC Board will move forward with the fall 2019 conference in Santa Barbara. The Spring 2020 conference will be held at the Wine & Roses in Lodi, CA with a planned conference dates of March 18 – 20, 2020.

12:00 p.m. Adjournment

The conference adjourned at 12:00 noon.

Treasurer's Report

Requests for Life Membership per Article IV, Section 4

Lifetime Membership

ARTICLE IV: Qualifications and Rights of Membership

A. Classes and Qualifications: This corporation shall have five classes of members, designated as follows: active, alumni, associate, life and affiliate. Any person dedicated to the purposes of this corporation and who meets the qualifications established below in this subsection shall be eligible for membership applications, and on timely payment of such dues and fees the Board may fix from time to time, shall be a member in good standing. (Amended 3/27/14)

1. Active Members: Each county in California which operates an organized central personnel program for its members is eligible for participation in this Association. Where all central personnel functions are conducted by a single department or agency, the individual in charge, or specific member of that representative, is entitled to active membership representing that county.

In a county where administration of central personnel functions is divided among two or more departments or agencies, there may be an active member from each of said departments or agencies.

2. Alumni/Former Active Members: Any former active member with three (3) or more years of service in CPAAC shall be eligible for Alumni Membership - Alumni in this Association. (Amended 9/30/93). Former active members, who are eligible for Alumni status, must submit a written request to the Board of Directors of their desire to continue as an Alumni member. Alumni Members do not pay dues as prescribed, may attend all meetings and conferences at their own expense, but are not entitled to vote. (Amended 3/27/14)
3. Associate Members: Associate members are organizations that have formed a partnership with CPAAC. A list of Associate Members shall be presented annually at the March conference for approval and require a two-thirds affirmative vote. Associate members do not pay dues and may attend all meetings and conferences at their own expense, but are not entitled to vote. (Amended 3/27/14)
4. Life Memberships: The Board of Directors may convene a Nominating Committee for the purpose of evaluating and making recommendation of candidate(s) for Life Membership designation. The Nominating Committee shall submit such recommendations to the Board of Directors. Upon an affirmative vote of is majority, the Board shall submit candidate(s) name(s) to the Association's general membership for a vote. The Association by a two-thirds affirmative vote at any meeting may confer life membership on any individual in recognition of outstanding service to the Association and contribution to the field. Consideration of Life Membership shall be based upon the nominee's contribution to the Association and longstanding distinguished leadership and service in the field of public sector human resource management. Life members pay no dues, may attend all meetings and conferences at their own expense, but are not entitled to vote. (Amended 3/27/14)
5. Affiliate Membership: Upon formal nomination by any active member of this Association and a two-thirds affirmative vote at any meeting, Affiliate Membership shall be open to law firms, consulting firms, or persons retained by Counties to represent or advise management in the area of personnel, labor relations or employee benefits. A list of Affiliate Members shall be presented annually at the March conference for approval. Affiliate Members do not pay dues as prescribed, may attend general meetings and conferences at their own expense, but are not entitled to vote. (Amended 3/27/14)

Autumn 2019 Legislative Update

Geoff Neill

Legislative Representative, CSAC

Josh Gauger

Legislative Representative, CSAC

Sheila McFarland

Legislative Analyst



AUTUMN 2019 LEGISLATIVE UPDATE

**County
Personnel
Administrators
Association of
California**

Geoff Neill
Josh Gauger
Legislative
Representatives,
CSAC

**Sheila
McFarland**
Legislative
Analyst

WHAT'S NEW?

- **Capitol Overview – 2019**
- **Key Policy Outcomes**
- **Non-Legislative Issues**
 - **IHSS**
 - **Homelessness**
 - **Budget**

NEWS FROM SACRAMENTO

- **Administration Priorities**
 - Economic Development
 - Emergency preparedness, response, and resiliency
 - Affordable housing and homelessness
- **Budget Projections**
 - Emphasis on reducing debt, building up state reserves.
- **Super-Supermajority**
 - 2019 Outcomes
- **2020 Ballot Measures**

KEY BILLS

- **Sexual Harassment/ Misconduct**
- **Employee Relations**
- **Accommodations**
- **Workers' Compensation**
- **Elections**
- **Other greatest hits**

SEXUAL HARASSMENT

SIGNED INTO LAW

- SB 778 (Labor Committee) – Would fix the sexual harassment training “stutter step”.

PASSED THROUGH LEGISLATURE

- AB 9 (Gonzalez) – Would extend statute of limitations from one year to three years for all DFEH-reported claims of employment-related discrimination, harassment, and retaliation.
- AB 171 (Gonzalez) – Would duplicate sexual harassment retaliation provisions, currently in FEHA (enforced by DFEH), in the Labor Code (enforced by the Labor Commissioner).
 - *Amendments allow “unlawful retaliation” presumption to be rebutted by evidence that the employer has a nonretaliatory business reason for the adverse action taken.*

EMPLOYEE RELATIONS

KILLED

- AB 196 (Gonzalez) – Increases paid family leave benefit to 100% of wages, up to \$100,000.
- AB 418 (Kalra) – Would create a new evidentiary privilege for communication between union agents and represented employees and former employees.
- AB 628 (Bonta) – Leave time for sexual harassment victims and their families.
- AB 1224 (Gray) – Would allow CFRA leave for employees who have worked at least 900 hours in the last 12 months, and allow a maximum of two leaves per 12-month period.
- AB 1066 (Gonzalez) – Unemployment for striking workers.

PASSED THROUGH LEGISLATURE

- AB 314 (Bonta) – Would expand “release time” for employee union representatives to, among other activities, new employee orientations.

ACCOMMODATIONS

KILLED

- AB 882 (McCarty) – Can't fire employees for testing positive for drugs being used as a medical-assisted treatment under the care of a physician or licensed treatment program.

PASSED THROUGH LEGISLATURE

- SB 142 (Wiener) – Would require new buildings and renovations to include lactation accommodations.
 - *Amendments narrow scope and requirements of bill, including providing a hardship exemption for employers with less than 50 employees.*

OUTSTANDING ISSUE

- Pending Permanent Wildfire Regulations and AB 1124 (Maienschein) – Would require employers to make respirators available to outdoor workers on any day they could reasonably be expected to be exposed to harmful levels of smoke from wildfires.

WORKERS' COMPENSATION

PASSED THROUGH LEGISLATURE

- SB 542 (Stern) – Creates new presumptions for public safety.
 - *As introduced, would have retroactively expanded workers' comp presumptions for broad mental health conditions to public safety personnel and volunteers. Amendments narrowed the bill to provide prospective PTSD rebuttable presumptions to public safety personnel, through 2025.*

AMENDED INTO STUDY BILL

- AB 1400 (Kamlager-Dove) – Previous version would have expanded presumption coverage from "active firefighting members" to "fire service personnel".

KILLED

- SB 416 (Hueso) – Expands presumptions to probation and other peace officers.
- AB 932 (Low) – Coverage for off-duty firefighters.
- SB 567 (Caballero) – Rebuttable presumptions for direct patient-care hospital employees for infectious diseases, cancer, musculoskeletal injuries, PTSD, and respiratory diseases.

RETIREMENT

PASSED THROUGH LEGISLATURE

- AB 1320 (Nazarian) – Divestment from Turkey

SIGNED INTO LAW

- AB 672 (Cervantes) – Prohibits disability retirees from being rehired without reinstatement in the same or similar position.

KILLED

- SB 266 (Leyva) – Disallowed pension contributions
- AB 33 (Bonta) – Divestment from private prisons

ALSO IMPORTANT

- AB 315 (C. Garcia) – Limits on local government association activities.
- SB 5 (Beall, McGuire, and Portantino) – State funding for local affordable housing and infrastructure projects
- November 2020:
 - Split roll (new version)
 - Bail reform referendum
 - Criminal justice reform rollback
 - Realtors/Prop 5 redux?
 - From the Legislature – voting age? Inherited properties?

IHSS

■ State Budget

- \$296.7 million in 2019-20 and \$1.86 billion over the next 4 years of increased state General Fund, decreasing inflation factor – 7% to 4%
- Stopped redirection from health, mental health, and CMSP

■ Wage negotiation changes

- Continues allowing counties to negotiate wage increases as supplements, applied when state minimum wage reaches non-supplemented wage level
- Continues allowing some state participation in wage and health increases above the state participation cap (must begin pre-2022)
- Ends state participation cap and increases county share of from 35% to 65% of non-federal share in 2022, when minimum wage reaches \$15/hour
- 1% withholding if no agreement and fact finding favors union

HOMELESSNESS

■ State Budget included:

- \$175 million direct allocations to counties
- \$190 million allocations through CoCs
- Statutory changes to improve county access to COC funding

■ Homelessness Action Team

- Chaired by Supervisor Ridley-Thomas
- To compliment Governor's taskforce on homelessness
 - Developing recommendations
 - Assisting with best practices and regional plans

■ Policy Conference – November 4, 2019, Sacramento

HOUSING

- **State Budget included:**
 - \$750 million for local governments:
 - \$250 million for planning grants (RHNA 6th Cycle)
 - \$500 million for housing-related infrastructure
 - \$500 million for the mixed-income loan program
 - \$500 million for the Low Income Housing Tax Credit program
- **AB 1482 (Low)**
 - Requires just cause for eviction
 - Rent increase cap – 5% plus inflation

WILDFIRES

- CSAC worked successfully to prevent changes to inverse condemnation for utility companies.
- Counties were also successful in obtaining additional disaster relief funding for counties, including:
 - Backfills for lost property taxes, including unprecedented multi-year allocations
 - Direct local assistance
 - Public safety power shutoff resources

QUESTIONS?

Geoff Neill, Legislative Representative
gneill@counties.org

Josh Gauger, Legislative Representative
jgauger@counties.org

The Modified Benefit Option

Diane Rundles, Interim Director
San Bernardino County



The Modified Benefit Option

Diane Rundles, Interim Director
September 2019



The Modified Benefit Option

- The **Modified Benefit Option (MBO)** is an alternative benefit package available to select job classifications throughout the County that provides a higher wage in lieu of some County-paid benefits.



- MBO was first established in December 2015.

General (Teamsters)

View detailed Modified Benefit Option (MBO) eligibility and benefit information for your bargaining unit

Find out more

Professional (SEIU)

View detailed Modified Benefit Option (MBO) eligibility and benefit information for your bargaining unit

Find out more

Nurses (CNA)

View detailed Modified Benefit Option (MBO) eligibility and benefit information for your bargaining unit

Find out more

Attorney (SBCPAA)

View detailed Modified Benefit Option (MBO) eligibility and benefit information for your bargaining unit

Find out more

Why Have A Modified Benefit Option?

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Challenge

- The County was having difficulty with recruitment and retention of certain classifications, especially at Arrowhead Regional Medical Center
- Employees leaving the County for higher paying positions in the private sector, *most with less benefits*
- Applicants declining job offers, citing pay as the reason

Solution

- Educate employees to look at total compensation (i.e., salary plus County-paid benefits, pension, and leave time) versus salary alone, and
- Create the MBO to provide higher pay and benefits that are competitive with the private sector

MBO Overview

Page 4

The MBO provides employees:



Higher pay



Paid Time Off (PTO) instead of separate use-specific leave banks (i.e., sick, vacation, and holiday)



Double-time for *all* hours worked on holidays, not limited to 8 hrs./holiday*



Slightly reduced Medical Premium Subsidy (MPS), while maintaining the same health coverage



Higher pensionable salary

*For employees who are regularly scheduled to work holidays. All other employees receive 13 paid holidays.

In addition, some classifications are eligible for:



Election of the lower-premium, higher deductible Blue Shield PPO Bronze Plan (Bronze Plan), and



A County match to the Flexible Spending Account (FSA) with enrollment in the Bronze Plan and employee's contribution to the FSA

Higher Pay

Employees can increase their pay while maintaining their current HMO Platinum plan (i.e. Kaiser HMO, Blue Shield HMO Plans),

OR

Employees can increase their pay even more by electing the low-premium, high-deductible Blue Shield PPO Bronze Plan.

Comparison of Options – Teamsters (Except Sup Nurses) and SEIU Eligible Classifications

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X = SAME BENEFITS AND ELIGIBILITY ACROSS OPTIONS

	Benefits	Full Benefit Option (FBO)	MBO - Maintain Same Health Coverage	MBO - Elect Bronze Plan
DIFFERENT	Salary	Current Base Salary	Additional \$1.75/hr over base	Additional \$1.75/hr over base
	Leaves/Paid Time Off (PTO)	Separate Leave Banks	PTO (slightly reduced hrs)	PTO (slightly reduced hrs)
	Medical Premium Subsidy (MPS)	Current MPS	Slightly lower MPS	Slightly lower MPS
	Flexible Spending Account (FSA)	No Match	No Match	County Match - \$25/pp (in lieu of RMT County Contribution)
	RMT County Contribution (eligible after 10 years of service)	Current Contribution	Current Contribution	No Contribution
	Deferred Compensation 457(b)	County Match	No Match	No Match
	SAME	Dental Premium Subsidy	X	X
Opt-Out/Waive Pay		X	X	X
Vision Care Insurance		X	X	X
County-Paid Life Insurance		X	X	X
Tuition Reimbursement		X	X	X
Short-Term Disability		X	X	X
Medical Emergency Leave		X	X	X
Sect 125 Premium Conversion Plan		X	X	X

Potential Benefits of the MBO

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Employee Only example: *Child Welfare Services Manager* enrolled in Employee-Only medical plan may increase pay by approximately \$2,000 to \$5,000 per year.

Annual	FBO - HMO Platinum Plan	MBO - HMO Platinum Plan	MBO – HMO Gold Plan	MBO - PPO Bronze Plan
A) Salary	\$96,886	\$100,526	\$100,526	\$100,526
Medical Premium (2019/20)	\$6,745	\$6,745	\$5,860	\$3,835
Medical Premium Subsidy (MPS) Provided by County	-\$5,169	-\$3,670	-\$3,670	-\$3,670
B) Employee's Share of Premium	\$1,576	\$3,075	\$2,190	\$165
C) Approximate Pay After Employee's Share of Premium	\$95,310	\$97,451	\$98,336	\$100,361
Potential Annual Increase		\$2,141	\$3,026	\$5,051

Paid Time Off (PTO)

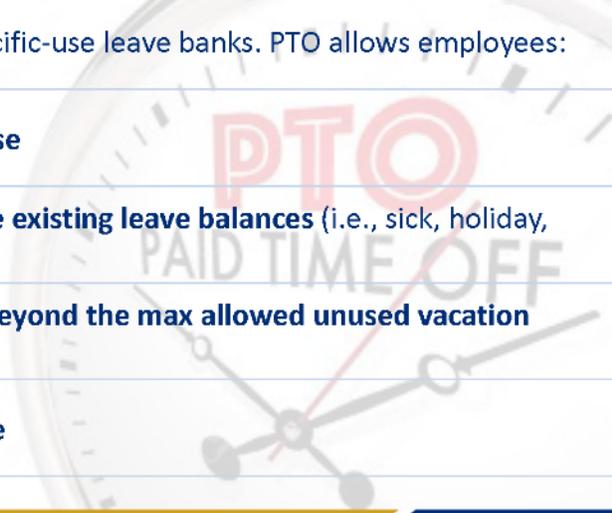
In lieu of separate specific-use leave banks. PTO allows employees:

Greater flexibility in use

To maintain and utilize existing leave balances (i.e., sick, holiday, vacation)

To accrue PTO hours beyond the max allowed unused vacation balance

Greater cash-out value



Paid Time Off (PTO) (cont.)

Comparison of Teamsters Units' Leave Banks and PTO Annual Accruals*:

NOTE: EMPLOYEES ELIGIBLE FOR ANNUAL/ADMIN LEAVE WILL CONTINUE ACCRUING SUCH LEAVE.

Approximate Years of County Service	FBO - Leaves	MBO - PTO	Max Allowed Unused PTO	Max Allowed Combined Vacation and PTO Balance
Leaves: < 4 Years PTO: < 5 Years	Sick - 88 hrs Vacation - 80 hrs Holiday - 112 hrs Total - 280 hrs	180 hrs	270 hrs	320 hrs
Leaves: 4 - 9 Years PTO: 5 +	Sick - 88 hrs Vacation - 120 hrs Holiday - 112 hrs Total - 320 hrs	216 hrs	324 hrs	404 hrs
Leaves: 9+	Sick - 88 hrs Vacation - 160 hrs Holiday - 112 hrs Total - 360 hrs			

*Employees who work less than 80 hrs per pay period will accumulate PTO on a pro-rata basis.

Paid Time Off (PTO) (cont.)

Employees can accrue PTO hours beyond the max allowed unused vacation balance

Example: An employee with 11 years of service who has reached the maximum allowed unused vacation time (i.e., 320 hrs.), may accrue PTO hours under the MBO until a combined total of 404 hours is reached. Consequently, the employee's bank of hours and the amount that may be cashed-out upon separation also increases.

Vacation/PTO	Hours
FBO - Max Allowed Unused Vacation	320
MBO - PTO Hours Employee Is Able To Accrue Until Combined Max is Reached	84
Max Combined Unused Leave/PTO Hours	404

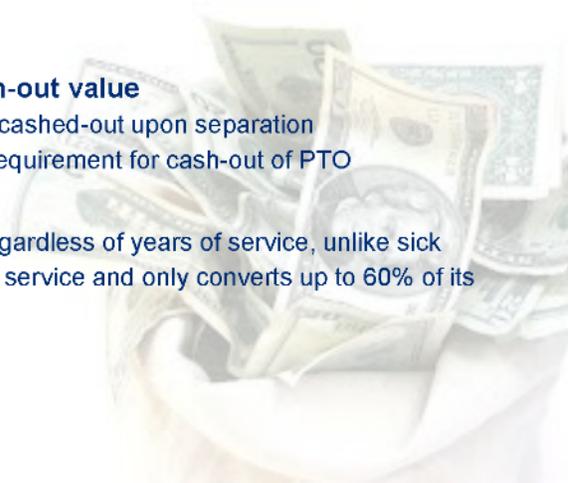
Note: Holiday and sick time are not included in the total maximum combined unused leave/PTO hours.

Paid Time Off (PTO) (cont.)

✓ Greater cash-out value

100% of PTO hours can be cashed-out upon separation
No minimum years-of-service requirement for cash-out of PTO

Example: Employees can cash-out 100% of PTO regardless of years of service, unlike sick leave which requires employees to have 10 years of service and only converts up to 60% of its value to the Retirement Medical Trust.



Employee Considerations When Electing MBO

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Is the employee a frequent user of their medical plan and do they have a lot of medical expenses?

If so, they may want to consider MBO while keeping a Platinum plan, paying slightly more for health premiums, which would be offset by the increase in income.

Does the employee utilize most of their leave bank hours (vacation, sick, and holiday)?

MBO provides approximately 2/3 of hours provided by the FBO.

The employee must consider if the PTO hours provided by the MBO and any existing unused leave hours are sufficient for their time-off needs.

Employees Who May Benefit From MBO

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Employees who may benefit from MBO:

- Need extra income
- Are near retirement and want to maximize their pension and lifetime earnings
- Want the flexibility provided by PTO
- Do not exhaust their leave banks
- Often work holidays
- Opt-out/waive medical coverage
- Are low health-care consumers/have low medical expenses (may benefit from Bronze Plan)

MBO Statistics

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MBO Eligible
Classifications

4

MBO Eligible
Bargaining
Units

3,165

MBO Eligible
Employees

298

MBO
Participants

5%

Average pay
increase if
MBO is
elected (units
with \$1.75
differential)

Summary of MBO

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Increase employee's pay

Maximize employee's
pension and lifetime
earnings

Accrue PTO hours,
providing flexible time-off
and the opportunity to
accrue time-off hours
beyond the allowed
maximum unused leave
balance

True Colors

Bill Behrens; President
True Colors International

Performance Management

Mary Egan; CEO & Managing Partner
Municipal Resource Group LLC



THE END OF THE ☑ PERFORMANCE EVALUATION...

Coaching for Excellence:
Readiness and Implementation

Mary Egan, Managing Partner, MRG

- Who uses an **annual** performance appraisal?
 - Based upon numeric ratings?
- Have you explored a **Coaching Model**?
- Is there change **“buy-in”** at leadership level?
- **Assessing Trust** in your County?



Today...

- WHY Coaching?
- The MRG *Coaching for Excellence* program
- Why a practice-based transformational format?
- Adapting to unique needs (public safety)?
- Igniting behavioral change and transformation
- Is CFE or Trust Building right for your County?

3

Pair and Share Minute



- Remember a “Coaching Manager?”
- What did they say or do that was impactful?
- What was the *impact*?



4

COACHING is critical learned skill

- Shaping and Managing Performance
- Developing Others
- Retaining Employees
- Building Job Satisfaction
- Quality of Life
- *AND* meeting new Workforce Expectations



5

Performance Appraisals are Painful

How the employee often sees it...

- “only discussing what is wrong”
- “Take away” and demotivating
- “Only self-promoting employees are recognized for their work”



Performance Appraisals are Painful

Manager Perspective

- Evaluations take too much time
- Makes it hard to replace problem employees
- Same employees have the same problems, nothing changes year to year
- Performance conversations are hard. I don't like having these conversations. "I can get sued".



7

The Evidence is In...

- Yearly evaluations *seldom shape behavior*
- Numeric ratings are impacted by bias (rater recency and confirmation)
- Next Gen workers expect real-time feedback to inspire, allow immediate course correction



8



Time to Ditch Your Annual Performance Appraisal?



“

The single biggest problem in communication is the illusion that it has taken place.

- *George Bernard Shaw* ”



Developing CFE: Walnut Creek

- 1) **“Is this really a problem?”**
 - Interviewed Executives / Key Stakeholders
 - Risk Assessment
- 2) **“What are others doing?”**
 - Researched Innovative Municipalities
 - Researched Private Sector Approaches
- 3) **Change Management Principles**

11



WHAT WORKS:

- **Phased Program**
- **Annual Career Conversation 1st**
- **Quarterly Coaching Expectations**
- **Transformational Training - to ignite, support and sustain real change with Train/Trainer**

12

The Sticky Parts...

- “Coaching will take too much time...”
- “My department has different needs...”
- “My employees don’t set goals...”
- “3 days in training!”
- “What about real performance problems?”
- “No more paper forms!”
- “What about new hires/probation?”



13

COACHING FOR EXCELLENCE CORE

Empowers and inspires Supervisors
to employ a coaching style
in *all* employee interactions,
and to conduct *at least*
4 annual coaching sessions
using a simplified “coaching form”



What did participants say?

This gave me tons of preparation & inspiration for heading into tough coaching conversations!

**Eye Opening,
Life Changing!**

This was a great chance to learn and improve on some of the biggest communication issues we all encounter

**Great Experience!
This is necessary to be a
complete Supervisor or
Manager.**

It was a very eye-opening experience where I gained amazing information that I can apply at work and in my personal life.



15

TRANSFORMATIONAL TRAINING - - SUPERVISORS

Day 1: Foundations

- Listening Skills
- Feedback
- Powerful Q's
- GROW
- PRACTICE

Day 2: Coaching

- Setting & Achieving Goals
- Assessing Motivation
- Coaching PRACTICE

Day 3: Tough Situations

- Coaching for Improvement
- PRACTICE
- Transfer of Skills
- Program Evaluation



16



“

You think you know how to Coach, but you have no idea...

”



TRANSFORMATIONAL TRAINING
- - STAFF 1 DAY

- Listening Skills and communication basics
- Advocacy and Engagement
- Setting Goals for your own career growth
- Powerful Answers to challenging situations
- GROW model
- **PRACTICE**



18

di-a-logue or di-a-log (di' ə-lɒg', -ləg) n
The free flow of meaning between two or more people.

DIALOGUE is really *all* communication including:

- What is actually said
- What is intended, indicated or implied
- The level of significance and importance of the message

What level of trust and understanding with your work colleague do you understand the meaning of dialogue on all three levels?

19



20

THE GROW MODEL



G

GOAL

What do you WANT?

R

REALITY

Where are you NOW?

O

OPTIONS

What COULD you do?

W

WHAT'S NEXT?

What WILL you do?



21

Exercise: ID Goal / Write on a Sticky Note

ID a "blue sky goal" ...

- Cleaning out garage
- Replacing back lawn
- Getting in better shape
- Taking a class
- Better choices at lunch breaks!



2

Exercise: Ask and Answer Handout

- Coach - Ask questions provided and listen with interest
- DO NOT GIVE ADVICE
- 5 minutes... then switch

23

WE TEACH HOW TO CATALYZE CHANGE

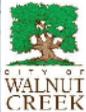


CHANGE



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THE WALNUT CREEK EXPERIENCE



Visit www.solutions-mrg.com/coaching-for-excellence-participant-experience/ to see videos of managers from Walnut Creek sharing their experiences.

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RESULTS THAT WORK - ROI

Measured Success:

1. Engagement Strategy
2. Engagement Survey Results (Up 10 points 1 year)
3. Customer service data
4. Retention statistics
5. Progressive Discipline outcomes



26



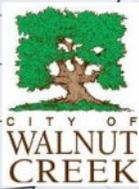
Coaching Realities

How does this play out in workplace?







Public Safety

Implementation -
Walnut Creek Police Department

Public Safety - Culture and Coaching

Last Department to Implement Coaching

Considerations - moving to Coaching Culture

- POST/POBR regulations
- Evolving processes and technology
- Changing assignments and Supervisors

29

Implementation Strategy: Be Flexible!

Started with Focus Groups

Adjusted the tool

Collected data - customized plan

Work with existing technology



30

Other Hurdles

Union Buy In

Pay for Performance Integration

Low Trust

Volume of Employees County-wide

31

LOW TRUST IMPACTS CHANGE OUTCOMES

Symptoms:

- Poor communication - many disputes/complaints
- Lawsuits and PR issues
- High Turnover
- Time spent managing ugly relationships not guiding strategy
- Employees not demonstrating enough emotional intelligence to become future leaders



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CONTRA COSTA COUNTY'S "BUILDING A HIGH TRUST WORKPLACE"

Emphasizes *personal skills* needed to build trust and end destructive patterns through adult centered learning based upon emotional intelligence building:

- **Speaking from Experience without Assumptions**
- **Listening to Understand**
- **Proactive Problem Solving**
- **Understanding Trust and What Trust Requires**
- **Connect → Dialogue → Resolve model**



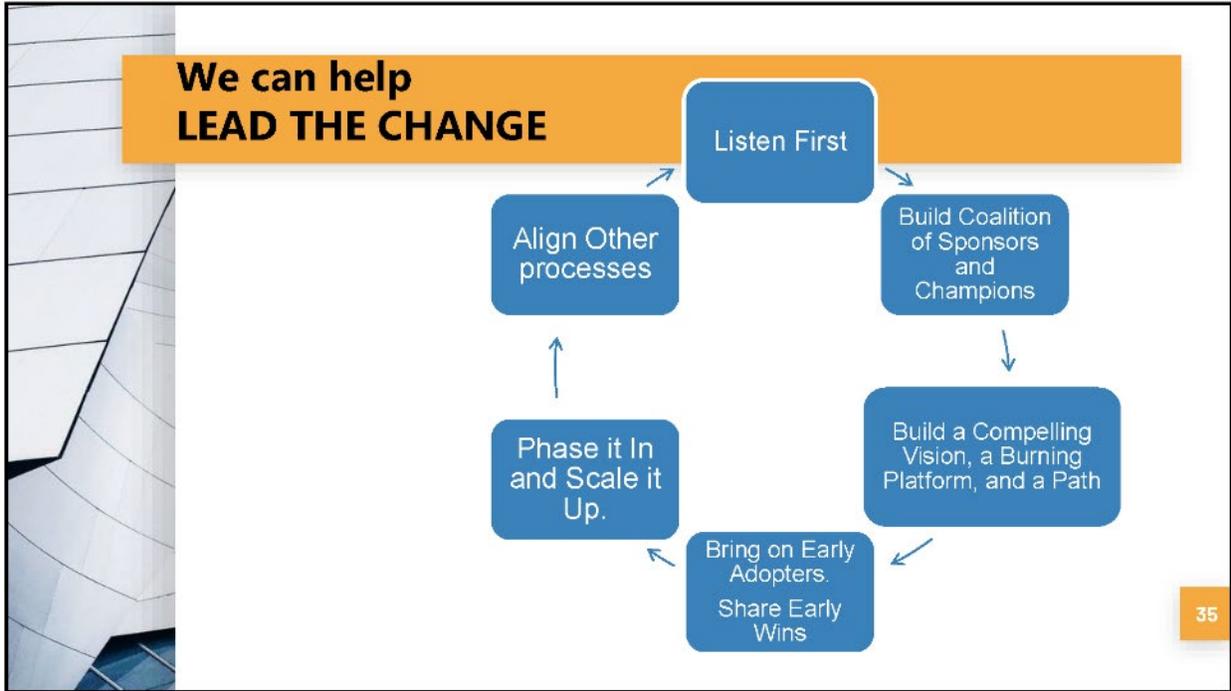
33



**Are you
Ready?**



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QUESTIONS?

Mary Egan
(916) 261-7547

Claire Laughlin
(831) 239-8483



Providing
**Innovative
& Practical
Solutions**
for over
10 years

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- Human Resource Services
- CEO & Executive Evaluations
- Training & Coaching
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COACHING FOR EXCELLENCE

The Power to Share, Discover and Be Inspired

"This course included a lot of very helpful information that cannot only help in work situations, but also with friends and family outside of work."
- City of Walnut Creek Participant



Workshop Takeaways

At the end of this 3-day event, you will possess the skills and confidence to effectively coach your employees in a wide variety of situations, including:

1. The foundational skills that every great coach must use:
 - Self-awareness
 - Active Listening Skills
 - Ask Powerful Questions
2. How to coach your employee when their performance is a challenge
3. How to form a coaching habit so that you can integrate coaching seamlessly into daily conversations

MRG offers practical, hands-on analysis and resolution of challenging issues that impact both public and private sector employers. We help identify realistic alternatives and creative solutions.

Claire Laughlin, MA
MRG Consultant, Trainer
Claire Laughlin is a dynamic, engaging trainer and consultant who uses experiential and innovative methods to help teams and organizations achieve results. With every client, she seeks to build individual leadership potential, teach positive communication habits, and enhance trust among and between team members.

The ability to coach is one of the most powerful competencies a manager can develop. Managers guide, develop and coach their employees as they learn. 70% of an employee's learning happens on the job. On-going coaching conversations are the most effective tool for shaping and managing employee performance.

When staff make measurable progress toward meaningful goals, they are more involved, motivated, productive and satisfied at work.

Join us for this intensive, practice-focused, 3-day workshop designed to build confidence while learning basic skills and structure of confident workplace coaching.

"Coaching For Excellence" has been proven to be extremely effective for enhancing employee engagement. Coaching is a specialized skill that requires passion and practice and most managers are never trained in this skill.

"Coaching for Excellence" can be customized to meet the culture and fit of your organization.



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Your Workplace Solution Partner

Meet Claire Laughlin, MA

Claire Laughlin has over 20 years of diverse experience in designing and facilitating groups of every size. From inspirational training to difficult conversations, Claire is fully committed to working with clients as they cultivate practices aimed at making their organizations healthy and highly productive. Claire is a founding member of the Public Dialogue Consortium and a trained mediator.

About MRG

MRG, LLC is an experienced, full-service consulting firm dedicated to assisting clients in attaining their strategic goals. MRG was founded in 2009 by highly skilled and broadly experienced professionals. Our consultants have hundreds of years of combined experience working to address corporate and government challenges.

MRG consultants are independent contractors, most of whom have held executive and upper management positions. Our solutions can be transformational by building new communication pathways and new uses of core strengths, but they are nothing if they are not also practical – doable and with identifiable steps to implementation.

Our team of investigators has a breadth of experience in workplace investigations including allegations of discrimination, sexual harassment, whistle-blower claims, retaliation, employee misconduct, and other similar employment-related complaints including interaction with DFEH and EEOC. Our hallmark is investigative results that include steps to create the cultural change for a healthier work environment which motivates employees to perform at their best.

Our process is custom designed for each client's specific situation but can include:

- Organizational Assessments
- Executive Coaching
- 360 Surveys
- Strategic Plan Implementation
- Workplace Investigations
- Human Resource Services
- CEO & Executive Evaluations
- Change Management
- Department Audits
- Board Governance
- Retreat Facilitation
- Labor Relations

Additional MRG Training Opportunities

Leadership ~ Management ~ Coaching

The Leadership Challenge ~ This is a world-class, 2-day intensive program that includes 360 feedback and is aimed at the upper level leaders and culture shapers within your organization. Our most popular program among public and private sector executives.

Leadership Transformation Training Program ~ This series takes the "long view" on leadership development. The training equips leaders with the skills and tools necessary to engage their teams, prioritize and plan the most important work, and drive results. Leaders meet monthly over an 8 – 10 month period for a learning session followed by a virtual workshop that supports leader in putting one new skill per month into action.

Supervisory Academy ~ Pick and choose from over 12 individual half day workshops to create a program of your choice aimed at your entry and mid-level supervisors and managers. Leaders will help them make the leap to leadership and get work done through others.

Being Your Best At Work ~ This 1-day intensive is designed to accompany the Coaching for Excellence program, but aimed at the Individual Contributors who will be partners in the coaching process.

The Career Accelerator Series ~ This 8-part series helps individual contributors develop the skills they need to be powerful and positive contributors, and to move up through your organization. If you are concerned about succession planning and developing your talent pipeline, then this series is for you!

To learn more about our services, visit www.Solutions-MRG.com or contact us at (866) 774-3222

MRG Bay Area

675 Hartz Avenue, Suite 300, Danville, CA 94526

MRG Sacramento Area

PO Box 561, Wilton, CA 95693

MRG Los Angeles Area

3108 Glendale Blvd #167, Los Angeles, CA 90039

Challenges: **RESOLVED**

MRG



"The quality of work produced by MRG is first class. Their competent ability to work through challenging issues in a timely manner is second only to their client service."

- Robert Bendorf, Yuba County Administrator

*What's **YOUR** challenge?*

MRG has a SOLUTION

Leadership	—————>	Coaching
Conflicts	—————>	Investigations
Dysfunction	—————>	Assessments
Divisiveness	—————>	Governance
Compliance	—————>	Training
Vacancies	—————>	Succession Planning



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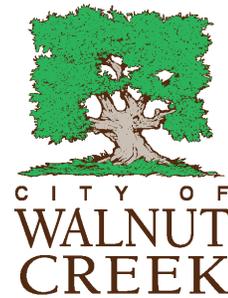


QR Code App available for your phone:
www.i-nigma.com/download-i-nigma-reader.html



CASE STUDY – CITY OF WALNUT CREEK

Coaching Conversations: Solving the Employee Engagement Puzzle



Performance appraisals “...have become the bane of our existence. They are time consuming, often inaccurate, and they really do nothing to improve performance.”

That brutally candid assessment from a manager at the City of Walnut Creek summarizes what executives in the public and private sectors increasingly believe—and what a growing body of research supports. Time-consuming, once-per-year conversations are intended to help boost performance and create a climate of constructive feedback, but the reality is that, most often, neither of these goals is achieved.

“The results of this program have been amazing.”

– Fran Robustelli,
City of Walnut Creek
Human Resources Director

“This type of transformational project is the hallmark of MRG.

We pride ourselves on innovative, forward-thinking solutions that help our clients achieve their goals.”

– Mary Egan, CEO, MRG

The annual performance evaluation is ineffective at best, and sometimes does more harm than good. Recent research also shows that replacing the annual appraisal with more frequent, coaching-focused conversations can positively impact employee engagement.

This coaching approach is something Walnut Creek has been actively supporting since 2015.

“We knew that getting managers involved in regular coaching conversations would make a positive difference,” says Fran Robustelli, City Human Resources Director.

In 2016, the City partnered with MRG, a world-class consulting firm headquartered in Sacramento, California, that serves over 250 cities, counties, special districts and private sector clients. “We have worked with MRG partners in the past and we knew they could design and deliver a custom training program that would help us meet our objectives,” says Robustelli.

Replacing annual appraisals with quarterly **Coaching Conversations** increased the frequency and quality of feedback and interaction between managers and their direct reports. The results: improved retention, fewer employee relations issues, increased employee understanding of expectations and organizational requirements, and improved job performance.

Claire Laughlin, a workplace communication specialist and MRG’s lead training consultant, developed a customized training program for the City.

“Quarterly Coaching Conversations make sense for any organization that wants to promote better relationships at work and accelerate the process of goal-setting and achievement,” says Laughlin. “What makes this program unique is that we trained both managers *and* their direct reports so that everyone feels a sense of ownership.”

After gathering data across all departments, a curriculum was designed and tested with a pilot group of 24 participants. It focused on processes and skills for workplace coaching, and on how to create conditions for open and honest feedback. The manager’s course also included a segment on understanding

employee motivation. Says one manager, "This course helped me learn ways to go *beyond leading* and become a *truly effective coach*."

The program was rolled out across departments citywide. In all, 219 employees were trained over nine months, representing 29% of managers and supervisors, and 72% of individual contributors. Quarterly coaching conversations are supported by an easy-to-complete online form, which replaces the cumbersome annual performance appraisal form.

Says HR Director Robustelli, "The results have been amazing. It's not just about the performance appraisal or better engagement scores. It's about managers talking regularly with their direct reports and supporting them as they work to achieve their performance goals."

¹David Tal, "A Culture of Coaching," Entrepreneur, 9/27/17.



"Coaching conversations are an important means by which experiences are turned into learning....Through coaching, you help people take responsibility for their actions and their development."

–Center for Creative Leadership

"The single most important managerial competency that separates highly effective managers from average ones is coaching."

–Harvard Business Review

If you want to enhance employee engagement in your organization, we encourage a coaching approach!

Schedule a **free intake session** with MRG to discuss your needs.



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Coaching Exercise

*Use the questions below as your guide for the exercise.
You don't have to ask them all... just ask the questions that make sense.
....and remember, DON'T GIVE ADVICE!*

Goal (generate energy for the goal or vision)

1. What's your goal?
2. What energizes you about your goal?
3. If you achieved your goal, how would it *really feel*?

Reality (confront the barriers that exist)

1. Where are you now in relation to your goal?
2. What barriers or obstacles have you faced, or do you anticipate?
3. What have you tried so far?

Options (explore the different options for overcoming barriers, or achieving the goal)

1. If you didn't have any constraints (time, money, etc), what would you do?
2. What creative options do you have for taking action?
3. What's the best / worst thing about each option you have described?

What's Next? (Make a plan)

1. When will you start?
 2. Whose help do you need? (And how / when will you get it?)
 3. What is the very next step you will take? When?
 4. How can you hold yourself accountable?
-
-
-

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Ready to Ditch Your Annual Performance Appraisal?

No matter how you want to initiate this change, we are here to help!

Pathway #1: ALL IN

- Replace the appraisal form.
- Revise the process.
- Teach how to *coach and be coached*.

RISK: Ensure capacity

Pathway #2: PEOPLE FIRST

- Focus on supporting a new kind of conversation.
- Ease into the idea of a new form and process.

RISK: Not enough support to optimize the coaching skill

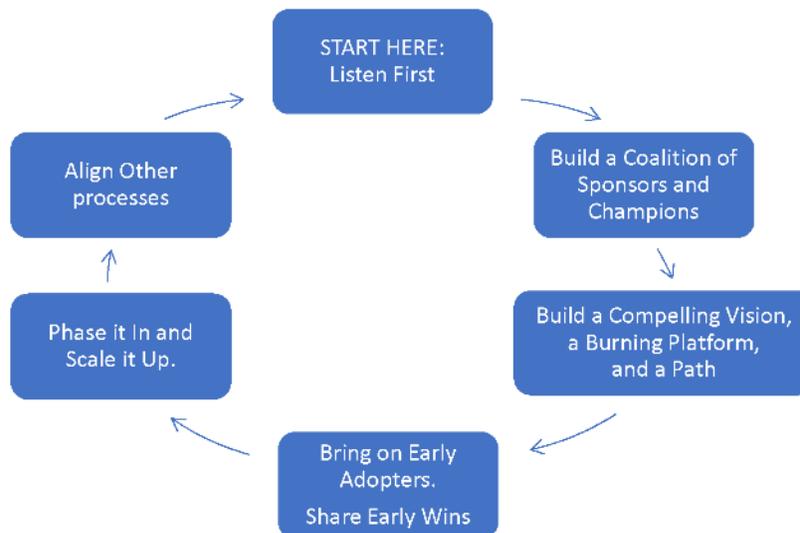
Pathway #3: FORM FIRST

- Build a new form *and* process. Lead staff to the conclusion that *coaching* improves engagement.

RISK: Could increase the number of ineffective conversations (not better)

STAGES OF CHANGE LEADERSHIP

Is this for us? Use the stages of **change leadership** as your guide. *Once your goal is clear, follow these guidelines to lead an effective transition to a new Performance Model.*



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STAGE	TIPS
Listen First	<p>At MRG, change processes start with a <i>Needs Assessment</i> to explore the landscape, identify concerns and influencers (+/-) whose views will inform and inspire long term.</p> <p>Remember, in this early stage, seek information, don't sell an idea. Begin to think about how to make the transition successful. Don't risk losing leadership capital by forging ahead with a "half-baked" plan.</p>
Build a Coalition of Sponsors and Champions	<p>If you've done a good job of LISTENING FIRST, it should be easy to find sponsors and champions to continue to gather data and interface with the various stakeholder groups touched by this change. Bring them on board. Build a Team Charter.</p>
Build a Compelling Vision, a Burning Platform & a Path	<p>When initiating substantial change, gather all the positive energy you can get.</p> <p>Build a SHARED, COMPELLING VISION that speaks to your organizational values. Use the verbiage gathered in Stage 1.</p> <p>Build a "BURNING PLATFORM" that makes the case for WHY change is necessary NOW. A little urgency can help get things moving.</p> <p>And remember to clarify the PATH. Give people easy ways to opt-in to the change and make a difference.</p>
Bring on Early Adopters; Share Early Wins	<p>Anticipate 16% "early adopters" who will embrace the change. Find them. Let them pilot the program. Work with them. Listen to their feedback. Collect their early wins and tell those stories. The positive energy that comes from early wins is wind at your back.</p>
Phase it in and scale it up	<p>What happens AFTER the first wave?</p> <p>Be sure that you have a plan for <u>complete adoption</u>. What does the WHOLE plan look like? How will you <i>support</i> people in their new skills? How will you ensure (past the initial training) that they are doing the new skill WELL?</p> <p>Provide incentives to come on board.</p> <p>Develop a CONTINUATION PLAN. How will you train the NEW people who join the organization?</p>
Align Other Processes	<p>Think about the surrounding processes such as recruitment, interviewing and selection, onboarding, compensation increases and more. What ELSE will be touched by this change?</p> <p>While these ideas should be considered from the start, no change initiative is complete until all processes are aligned.</p>

Let us know if you want to observe CFE training at another agency!

1-866-774-3222



2020 Meeting Dates

Spring 2020



March 18 – 20

Wine & Roses

Lodi, CA

Fall 2020



September ____

Hilton Beachfront Resort(?)

Santa Barbara, CA

Labor/Employment Update

Tim Yeung, Partner
Sloan Sakai Yeung & Wong LLP

Labor/Employment Update

County Personnel Administrators Association
of California

September 27, 2019

Tim Yeung, Partner, Sloan Sakai Yeung & Wong LLP

Sloan Sakai
ATTORNEYS AT LAW

Agenda

Agenda

Employment Law

- Update on New Laws Regarding Settlement Agreements

Labor Law

- *City of Arcadia* (2019) PERB Dec. No. 2648-M: “Exploding” Offers Can Be Evidence of Bad Faith

- Dealing w Requests to Meet and Confer re Managerial Decisions

New Laws re Settlement Agreements

Settlement Agreements

SB 1300

- Adds Gov Code Section 12964.5. Effective January 1, 2019.
- Unlawful to condition raise or bonus on:
 - Release of right to file claim/civil action
 - Signing non-disparagement clause, which includes any prohibition on disclosing unlawful acts in the workplace. Includes, but is not limited to sexual harassment.
- Does not apply to a settlement agreement resolving a claim filed in court, administrative agency, or through employer's internal complaint process.
- Presumably doesn't apply to severance agreements due to "as a condition of employment or continued employment" clause.

Settlement Agreements

SB 820

- Adds Code of Civil Procedure Section 1001. Effective January 1, 2019.
- Prohibits the inclusion of a provision in a settlement agreement that would prevent disclosure of factual information related to a civil action or administrative complaint filed for sexual offenses including sexual assault, sexual harassment, and harassment or discrimination based on sex.
- This law makes such a provision entered into on or after January 1, 2019, void as a matter of law and against public policy.

Settlement Agreements

SB 820

- Does not prohibit provisions that preclude disclosure of settlement amount.
 - But Note: Settlement agreements for public agencies are subject to CPRA
- This law creates an exception that shields the identity of the claimant including facts that could lead to discovery of their identity, except if a party is a government agency or public official.

Settlement Agreements

SB 820

- Following clause not permitted in sexual harassment cases:
Non-Defamatory Behavior – **EMPLOYEE** agrees that, except as may be required by law, he will not make, publish or state, or cause to be made, published or stated, any defamatory statement, writing or communication pertaining to the character, reputation, business practices, competence or conduct of the **EMPLOYER**, its affiliates, directors, officers, employees, agents, attorneys, servants, representatives, and successors, whether such conduct occurs prior or subsequent to this Agreement.

Settlement Agreements

SB 820

- Following arguably still permitted in sexual harassment cases:

Confidentiality Provision. The parties acknowledge that the **EMPLOYER** is subject to the California Public Records Act (“CPRA”) and that this Agreement constitutes a public record of a type that is generally required to be disclosed upon request. The parties and their attorneys agree that they will not voluntarily release this Agreement to third parties or to otherwise disclose its contents publicly except under the following circumstances: (a) The **EMPLOYER** receives a request and determines it is required by law to release the document to the person or entity submitting the request; (b) either party is required to disclose either pursuant to a subpoena issued by a competent authority or an order issued by a court or tribunal of competent jurisdiction; or (c) The **EMPLOYER** determines that disclosure is necessary for the **EMPLOYER** to defend itself in a judicial action or administrative proceeding (either internal or external). Nothing in this provision shall preclude the parties from sharing a copy of this Agreement or disclosing its contents to their accountants or attorneys, and in the case of the **EMPLOYER**, its officers, agents or employees with a need to know in order to perform their duties, and in the case of **EMPLOYEE**, to his domestic partner or spouse.

Settlement Agreements

AB 3109

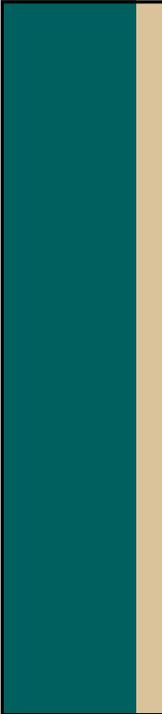
- Adds Civil Code Section 1670.11. Effective January 1, 2019.
- Any provision that, “waives a party’s right to testify in an administrative, legislative, or judicial proceeding concerning “alleged criminal conduct or alleged sexual harassment on the part of the other party to the contract or settlement agreement, or on the part of the agents or employees of the other party, when the party has been required or requested to attend the proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the legislature, is void and unenforceable.”

Settlement Agreements

AB 3109

- Largely codifies existing law/practice. Example for common settlement provision:

Nothing in this AGREEMENT shall affect the rights and responsibilities of the U.S. Equal Employment Opportunity Commission ("EEOC") or the California Department of Fair Employment and Housing ("DFEH") to enforce Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment and Housing Act, as amended, or any other applicable law. Nor shall anything in this AGREEMENT be construed as a basis for interfering with EMPLOYEE's protected right to file a charge with, or participate in an investigation or proceeding conducted by, the EEOC or any other state, federal or local government entity. Notwithstanding the foregoing, if the EEOC or any other state, federal or local government entity commences a lawful investigation or issues a complaint on EMPLOYEE's behalf, EMPLOYEE specifically waives and releases EMPLOYEE'S right, if any, to recover any monetary or other benefits of any sort whatsoever in connection with that investigation or administrative proceeding and further agrees not to seek reinstatement to University employment.



“Exploding Offers”

Exploding Offers

City of Arcadia (2019) PERB Decision No. 2648-M (6/12/19)

Facts:

- MOU set to expire on 6/30/14.
- In 9/13, City notified the Union that it wanted to begin successor negotiations with the goal finishing by the end of 11/13.
- The stated reason was that city council elections were in April 2014 and at least two incumbents could not run for re-election.
- By 11/13, the City apparently had reached tentative “deal points” with other labor groups but not the Union. The City told the Union that it would close negotiations if no deal was reached by the end of 11/13, and not re-open them until the Spring.
- The Union objected to the City’s “need for speed” since the MOU did not expire until 6/30/14. The Union also objected to the City’s offer of “signing bonuses” only if a deal was reached by the end of 11/13.
- The City acceded that negotiations could reconvene in the Spring but confirmed that signing bonuses would likely “not be on the table” at that time.

Exploding Offers

City of Arcadia (2019) PERB Decision No. 2648-M (6/12/19)

Holding:

- ALJ dismissed ULP. Board reversed.
- Board characterized exploding offers as a form of regressive bargaining since subsequent offers become less generous.
- To avoid bad faith bargaining a party “must show changed economic conditions or other changed circumstances to support its regressive posture.”
- Board argued that, “when a party issues an exploding offer without an adequate explanation as to why its bargaining position should become less generous on a given date in the future, it effectively imposes its own ground rule and deadline, evidences unlawful inflexibility, and manifests a take-it-or-leave-it attitude.”

Exploding Offers

City of Arcadia (2019) PERB Decision No. 2648-M (6/12/19)

Example from decision:

- When an employer offers a retroactive wage increase, its initial lump sum wage cost invariably escalates the longer negotiations continue.
- However, according to the Board, many employers in such circumstances can set aside the money needed to pay the retroactive wage increase as time goes on without a ratified contract. Therefore, an employer asserting that it cannot set aside money in this manner, or asserting a different basis for its exploding offer, “must be in a position to prove its rationale if requested to do so

Exploding Offers

City of Arcadia (2019) PERB Decision No. 2648-M (6/12/19)

Take-aways:

- “Exploding” or limited duration offers are not *per se* unlawful.
- Key to success:
 - Explaining *legitimate* rationale for expiration of offer
 - Board seems to indicate that it will test the legitimacy of the party’s explanation
- Board appears to allow economic justifications.
- Query: Will Board allow exploding offers made for policy reasons?
 - *Eg* To bring in the first MOU to set a pattern;
 - *Eg* Policy of no retro
 - *Eg* To prompt a quicker response

Dealing With Requests to Meet and Confer re Managerial Decisions

Meeting and Conferring

County of Santa Clara (2013) PERB Decision No. 2321-M (7/25/13)

- Key case in this area. Board sets forth steps that employers should take from making managerial decisions.
- In this case, County changed staffing levels at the main jail. Union argued it should have received notice in order to request effects/impact bargaining.
- Board held that union failure to request was excused because County did not provide notice.

Meeting and Conferring

Board guidance from *Santa Clara*:

1. The employer has a duty to provide reasonable notice and an opportunity to bargain before it implements a decision within its managerial prerogative that has foreseeable effects on negotiable terms and conditions of employment.
2. Once having received such advance notice, the union must demand to bargain the effects or risk waiving its right to do so. The union's demand must identify clearly the matter(s) within the scope of representation on which it proposes to bargain, and clearly indicate the employee organization's desire to bargain over the effects of the decision as opposed to the decision itself.

Meeting and Conferring

Board guidance from *Santa Clara*:

3. Having received such advance notice and an opportunity to bargain, a union's failure to demand effects bargaining may waive the right to bargain the reasonably foreseeable effects. Waiver remains, however, an affirmative defense. Where a union alleges that the employer did not provide reasonable notice and an opportunity to bargain prior to the employer's implementation of a change in a non-negotiable policy having a reasonably foreseeable impact on a matter within the scope of representation, a prima face case of failure to bargain in good faith is established. The union need not allege as well that it made a demand to bargain such effects as a condition to seeking PERB enforcement of its right to be free of an employer's failure to provide notice and an opportunity to bargain effects. The employer may raise an affirmative defense of waiver or otherwise challenge the union's claim that the employer did not provide sufficient notice of the change.

Meeting and Conferring

Board guidance from *Santa Clara*:

4. Where the employer implements the change without giving the union reasonable notice and an opportunity to bargain over foreseeable effects on matters within the scope of representation, it acts at its own peril. If the employer is ultimately found to have had a duty to bargain over effects and thus to have provided the union reasonable pre-implementation notice and an opportunity to bargain, its implementation without giving such notice and an opportunity to bargain constitutes a refusal to bargain.

The End

Speaker Bios



Dr. Bill Behrens

Bill Behrens is an award winning school administrator who completed his 33 years of service in public education as the Assistant Superintendent of Human Resources Development in the Temecula Valley Unified School District. During his years of service he was a classroom teacher at the Elementary, Middle, and High School levels in the areas of Math, Music and Physical Education. Additionally, Bill was a principal at all three levels, Elementary School, Middle School, and High School. He also provided district level leadership as the Director of Elementary Education, Director of Secondary Education and Coordinator of Human Resources Development while serving in the Alvord Unified School District. He continues the work he commenced in 1999 as a university professor at Brandman University and La Sierra University. Coursework topics include: Leadership, Professional Development, Organizational Development, Change, Teambuilding, Research Design and Human Resources.

Dr. Bill has been a Master Trainer and Organizational Development Consultant since 1985. He has trained and worked with diverse educational groups including the Tennessee State Department of Education, University of Texas at Austin, Erie 1 BOCES, Humboldt County Office of Education, Santa Monica Malibu Unified School District as well as many individual school sites. He has also worked with many businesses including Apple, Disney, Farmers Insurance, General Electric, Google, Kraft Foods and VISA. He has written three books in the area of Temperament Typology and Career Development. Bill enjoys the development of people and organizations to enhance performance. He is particularly drawn to the topics of communication and leadership.

Presently, Bill is the President of True Colors International. Bill can be reached at (951) 201-8575 or billbehrens1@gmail.com



Chastity Benson

Chastity Benson currently serves as the California Counties Foundation Operations Manager for the California State Association of Counties (CSAC). In this role she is responsible for coordinating the operations of the Foundation, including overseeing and implementing CSAC Institute and member engagement programs.

She has spent her career working for various public sector organizations, including four years with the California Department of Finance as the Assistant to the Director where she functioned as the liaison to the Governor's Office, Constitutional Officers, the Legislature, and many external stakeholders. Prior to that, she served as the Member Relations Coordinator for the California County Superintendents Educational Services Association where she managed the association's conferences, events, and marketing/promotional materials.

With a passion to serve and commitment to civic engagement, Ms. Benson is currently a Nehemiah Emerging Leadership Program (NELP) Fellow and Board Member at the Sacramento-based nonprofit Child Action, Inc.

Ms. Benson received her Bachelor of Science (BS) degree in Business Administration from William Jessup University.

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Tami Douglas-Schatz

Tami Douglas-Schatz is the Human Resources Director for the County of San Luis Obispo, where she has led the full scope of HR functions, including talent management, labor relations, risk management and learning and development, since 2009. Prior to her role in San Luis Obispo, she served as the Deputy Human Resources Director in Riverside County and Human Resources Director for a private start-up company. Tami is active in the California State Association of Counties HR Directors' Association (CPAAC), having served as President and in all other Board positions for five years. In 2017, her CPAAC peers elected her to represent the group as a member for CSAC Institute's Foundation Board, which guides the continuing education program for senior county staff and elected officials. Tami has a passion for growth and development and organizational change management. She has a Bachelors' Degree in Psychology and Business and Masters' Degree in Organizational Psychology.



Mary Egan

Mary Egan, MRG CEO & Managing Partner, collaborates with organizations and their executive leadership to achieve their full potential. Mary's specialties are assisting with performance evaluations and organizational analysis as well as coaching employers to address deficiencies and maximize their impact. She advises clients regarding employment related risk mitigation, strategic planning and interest-based problem resolution. Mary and the MRG team of consultants are highly skilled at coaching, conflict resolution, negotiations, organizational assessments, project management and workplace investigations. MRG has provided transformational services to clients including municipalities of all sizes, water districts, school districts, colleges & universities, governmental associations, Fortune 500 Companies, professional associations and other public entities such as county and CA state agencies.

Mary is also a Private Investigator licensed in CA. Mary's commitment to and passion for improving the quality of workplace investigations nationwide is demonstrated by her role as a founding member of the Association of Workplace Investigators (AWI). Mary earned a BS degree in Applied Behavioral Sciences from UC Davis and MPA degree from San Francisco State University. Mary is a recipient of the Sacramento Business Journal's Women Who Mean Business Award for 2018.

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Geoff Neill

Geoff Neill is a legislative representative for the California State Association of Counties, working in the area of government finance and administration. He has worked on a variety of issues during his thirteen years there, including the state-local fiscal relationship, taxes and revenue, pensions, elections, employee relations, and public safety realignment. He previously worked at the California Special Districts Association and currently sits on the SDLF Board of Directors. He studied political philosophy at UC San Diego.

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Diane Rundles



Diane Rundles has been the Interim HR Director for San Bernardino County for the last four months. Prior to that she was a Deputy HR Director for Riverside County. She has fourteen years of experience in public sector Human Resources and over eighteen years of experience total with public sector employers including the USDA Forest Service and the US Peace Corps. Diane Rundles has a Master's in Business Administration with a concentration in Management. She is an innovative thinker and has been recognized for her integrity in her career.



Tim Yeung

Mr. Yeung's practice includes all areas of labor and employment law. He regularly defends private and public sector employers in employment lawsuits involving claims of discrimination, harassment, and retaliation; whistle blower retaliation; failure to provide reasonable accommodations; and wage and hour violations. He has extensive experience handling all aspects of litigation, including jury trials and appellate litigation in both the state and federal courts. Mr. Yeung has also served as lead counsel in several wage and hour class actions, in both state and federal courts.

Mr. Yeung is also widely recognized for his expertise in public sector labor law. In 2004, he was appointed by the Governor as a Legal Adviser to the Public Employment Relations Board (PERB) where he advised the Board in over 100 precedential decisions. Mr. Yeung has litigated cases before PERB under almost every public sector labor relations statute, including the Dills Act (state employees), MMBA (city, county and other local employees), HEERA (higher education employees), TCEPGA (trial court employees), and TCIELRA (court interpreters). He has extensive experience seeking injunctive relief against strikes by essential employees, both before PERB and in court. He is also the author of the "California PERB Blog" (<http://www.caperb.com>), the first California legal blog focused on public sector labor relations

In addition to litigation, Mr. Yeung often serves as chief negotiator during contract negotiations. He also has extensive experience with factfinding, having served as a presenter/advocate and also as a panel member on several factfindings

Mr. Yeung is a frequent speaker at seminars throughout California and has authored several articles and publications on labor and employment law issues, including serving as editor for the MMBA Pocket Guide published by the California Public Employees Program. He is a past

Chair of the 6,000 member Labor & Employment Law Section of the State Bar of California and President of the Labor and Employment Relations Association of Northern California. Mr. Yeung is a former Chair of the Labor & Employment Law Section of the Sacramento County Bar and a former member of the City of Davis Personnel Board.

Prior to joining Sloan Sakai Yeung & Wong LLP, Mr. Yeung served as a Deputy Attorney General in the Employment Section of the California Department of Justice. Mr. Yeung has also served as a Legal Adviser to PERB and as a Labor Relations Counsel with the California Department of Personnel Administration.

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And our gratitude to our presenters
for the gift of their time and wisdom.

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