CAUSE ADVISORY

CUSD Human Resource Department; Unlawful Delays
COVID-19 Related LEAVE Inquiries, Status, and Notifications

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CUSD Employees,

Throughout the last few months, the Union has become increasingly aware of performance concerns associated with the **CUSD * Human Resource Department** (*hereafter* - HR). These concerns are consistently associated with delays involving communication & material support. CUSD employees are also experiencing all types of convoluted & inefficient communication from the Human Resource Director, Diana Zapata.

More specifically, the greatest concerns include, but are not limited to:

   * the failure to respond to inquiries associated with the "INTERACTIVE PROCESS", as directed by the State

   * inconsistent practices and significant delays associated processing the District's "INTERACTIVE PROCESS"

   * delays and / or the failure to even respond to inquiries associated with FFCRA * LEAVE, FMLA * LEAVE, accumulated sick-leave totals, and other relevant LEAVE inquiries.

   * inconsistent practices and conflicting messages associated with the terms of FFCRA * LEAVE, FMLA * LEAVE, accumulated sick-leave totals, and other relevant LEAVE inquiries.

   * Confusion associated with COVID-19 testing; notifications provided in absence of either sufficient context and specifying criteria,

Please know that CAUSE Leadership appreciates the patience and professionalism that CUSD employees have demonstrated while experiencing this difficult condition.   As a courtesy, we have encouraged our members to provide the HR Director as much advance notice as possible. Unfortunately, it does not appear that the HR Department is responding in kind.   District employees are now being told they may not initiate their entitled LEAVE options until the CUSD has resolved it's end of the paperwork; even though many have provided well over two months of advance notification.

CAUSE has confirmed that such statements are neither inaccurate, nor permissible. In fact, they may even be unlawful. So, to be clear, District employees may exercise their eligible LEAVE options as needed. A pre-endorsement from the CUSD HR Department is not required. To further clarify these expectations, we are providing the following clarification from the **Department of Labor** (DOL):

[pages 3 and 4] *The U.S. Department of Labor Wage and Hour Division Fact Sheet # 28D: Employer Notification Requirements under the Family and Medical Leave Act* (https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs28d.pdf):

"Employers must be responsive to answer questions from employees concerning their FMLA leave.

DESIGNATION NOTICE REQUIREMENTS The employer is responsible in all circumstances for designating leave as FMLA-qualifying and giving notice of the designation to the employee.

This notice must:

 • **Be provided in writing within five business days** of having enough information to determine whether the leave is FMLA-qualifying;

 • **Be provided for each FMLA-qualifying reason** per applicable 12-month period (additional notice is required for any changes in the designation information);

 • **Include the employer's designation determination,** and any substitution of paid leave and/or fitness for duty requirements; and

 • **Provide the amount of leave that is designated** and counted against the employee's FMLA entitlement, if known. If the amount of leave is not known at the time of the designation, the employer must provide this information to the employee upon request, but no more often than once in a 30-day period and only if leave was taken in that period."

Although CAUSE continues to encourage employees to work with the District's agents in HR, you can proceed with the confidence that your HEALTH & SAFETY needs can not be delayed, dismissed, or undermined by administrative inaction, negligence, or malfeasance.

In Transparency,

~ j. Hotchner * CAUSE President

* C.A.U.S.E. - Yes We Can *

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