

# Monday, October 12 is a holiday for state workers

## A message from Local 1000 President Yvonne Walker

I have received numerous questions and concerns about the upcoming Columbus Day holiday. **Monday, October 12, 2009, is a holiday.** I am aware that the Department of Personnel Administration (DPA), through the departments, has put out a conflicting message. This is not a case of different interpretations of the contract. The contract, Article 7.1, section B, is clear and unambiguous.

While it is true that the Legislature changed the law, this was done as part of contract negotiations where we exchanged Columbus Day and Lincoln's Birthday for two personal holidays. When the Governor broke his word and failed to get our contract ratified by the Legislature, he also lost the ability to implement the new terms of our new contract. **Therefore, our current contract, which grants Columbus Day as a holiday, is still in force.**

The Ralph C. Dills Act is clear:

"(a) If a memorandum of understanding has expired, and the Governor and the recognized employee organization have not agreed to a new memorandum of understanding and have not reached an impasse in negotiations, subject to subdivision (b), **the parties to the agreement shall continue to give effect to the provisions of the expired memorandum of understanding, including, but not limited to, all provisions that supersede existing law,** any arbitration provisions, any no strike provisions, any agreements regarding matters covered in the

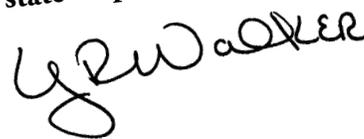
Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.), and any provisions covering fair share fee deduction consistent with Section 3515.7." (Gov't Code, § 3517.8, emphasis added.)

The Government Code cited by DPA that supposedly changes this holiday **is superseded** in our contract, Article 5, section 6.

If the Governor, through DPA and the departments, wants to have Columbus Day not be a holiday for us, they need to get our contract ratified by the Legislature prior to October 12, 2009.

Any worker that is threatened or intimidated by their department to not take Columbus Day should notify their steward, union rep or the Union Resource Center immediately. Any attempt by departments to take punitive actions against employees who exercise their rights under the contract and the law will be defended and the state will be forced to make the employees whole.

**Again, October 12, 2009, is a holiday and state employees should not come to work.**



In Solidarity,  
Yvonne R. Walker  
President, Local 1000

# Judge's final ruling: back pay, plus interest for SCIF workers

Judge Charlotte Woolard of the San Francisco Superior Court issued a final ruling Sept. 24 declaring that all employees of the State Compensation Insurance Fund (SCIF) are entitled to back pay – plus interest.

Woolard agreed with Local 1000 attorneys on all points. She agreed that workers are due interest for lost wages from furloughs.

Private attorneys representing the governor did not appear at last Thursday's hearing to contest the issue.

In Woolard's earlier tentative ruling posted on the San Francisco Superior Court



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**—Yvonne Walker**  
Local 1000 president

website, the judge writes: “Back pay is appropriate to make petitioners (SCIF workers) whole.” Woolard also agreed that employees are entitled to interest.

The SCIF victory is one of six legal challenges to the governor's unilaterally imposed furloughs. Four lawsuits are still pending in state courts. There is also an unfair labor practice charge pending before the Public Employment Relations Board.

“This is the first step in overturning the governor's illegal efforts to furlough state employees,” said Local 1000 President Yvonne Walker. “We will keep fighting until we stop furloughs for all state workers.”

## How the SCIF legal victory affects other state workers

After Local 1000's recent court victory exempting 6,200 State Compensation Insurance Fund (SCIF) employees from furloughs, members in other departments are asking about the impact of the court's ruling.

**Q: Why are SCIF employees exempt from furloughs while other Local 1000 members are not?**

**A:** The ruling that San Francisco Superior Court Judge Charlotte Woolard handed down is based on a narrow area of law in the California Insurance Code intended to protect SCIF operations from state interference. The Local 1000 legal team is currently litigating four other cases in state courts meant to halt furloughs.

**Q: Why are SCIF employees receiving back pay for days they did not work?**

**A:** The back pay award is the legal remedy for the governor's violation of state law. Like an employee who was illegally fired and did not work because of the violation, SCIF employees were unable to work because of

the illegal furloughs. After reviewing legal arguments from both sides, Judge Woolard agreed Sept. 24 to award back pay – with interest – to make SCIF employees whole.

**Q: Why did this lawsuit go to court and receive a much faster ruling than other Local 1000 furlough lawsuits?**

**A:** Judge Woolard agreed with Local 1000 attorneys to move the process forward in this case. The other four Local 1000 lawsuits are at various stages of hearing or appeal. Gov. Schwarzenegger's attorneys have been fighting efforts to speed up resolution of these cases.

**Q: With this victory, what happens next for Local 1000 members?**

**A:** This is the first crack in the governor's illegal furlough scheme. This victory allows the Local 1000 legal team to focus on our other furlough litigation. We currently have five other legal challenges pending. Four are moving through the state's superior and appellate courts, while the final challenge is being heard by the Public Employment Relations Board.

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