

overpaid

Part-Time Faculty Association of Allan Hancock College

PARITY & FAIRNESS THROUGH ADVOCACY



Date: September 29, 2010

To: Richard Carmody

CC: Betty Miller, Mike Terman, Gary Aston, Jeff Boxer, files

Subject: Paycheck reductions following overpayment to bargaining unit members—Labor Code Sections 221, 222, 223, 224

Dear Richard:

As you know, several times in recent years members of the Part-Time Faculty Association's bargaining unit have been overpaid. Following these overpayments, the entire amount that was overpaid has been taken from the bargaining unit member's paycheck the following month without that person's knowledge or consent. This frequently leaves them with little or nothing on their paycheck for that month. This is a violation of Labor Code Sections 221, 222, 223, and 224. While we recognize the importance of this money being repaid, it causes a hardship, sometimes severe, to the person in question when the money is recouped this way. The PFA has indicated in the past its willingness to work with Business Services to see that the money is repaid by setting up a payment plan. We have also pointed out that reclaiming all of the money overpaid on one paycheck is a violation of the above-referenced labor code. Yet the practice continues. If such a violation occurs again we will have no choice but to take formal legal action.

Sincerely,

Mark James Miller

Mark James Miller, President, Part-Time Faculty Association of Allan Hancock College, CFT Local 6185

California Labor Code

221. It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.

222. It shall be unlawful, in case of any wage agreement arrived at through collective bargaining, either wilfully or unlawfully or with intent to defraud an employee, a competitor, or any other person, to withhold from said employee any part of the wage agreed upon.

222.5. No person shall withhold or deduct from the compensation of any employee, or require any prospective employee or applicant for employment to pay, any fee for, or cost of, any pre-employment medical or physical examination taken as a condition of employment, nor shall any person withhold or deduct from the compensation of any employee, or require any employee to pay any fee for, or costs of, medical or physical examinations required by any law or regulation of federal, state or local governments or agencies thereof.

223. Where any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract.

224. The provisions of Sections 221, 222 and 223 shall in no way make it unlawful for an employer to withhold or divert any portion of an employee's wages when the employer is required or empowered so to do by state or federal law or when a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital or medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, or when a deduction to cover health and welfare or pension plan contributions is expressly authorized by a collective bargaining or wage agreement.

Nothing in this section or any other provision of law shall be construed as authorizing an employer to withhold or divert any portion of an employee's wages to pay any tax, fee or charge prohibited by Section 50026 of the Government Code, whether or not the employee authorizes such withholding or diversion.