



# EA Voice

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- How the Supreme Court case may affect the EA
- Learn about your rights during an investigation
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**Message from the Editor**

Dear EA Member,

We would like to welcome you back to our updated EA Voice newsletter. As you can see, there have been some changes to the newsletter, but we hope to make it more interactive and we would like you to be a part of it. We have a members' section and welcome your input.

We also want to invite all of our members to our next General Membership meeting next Tuesday June 19 in the Yerba Buena Room. Lunch will be provided and we will be introducing our new Business Agent.

We would also like to welcome our new Vice President David Joe. David works in the Office of Rule Development and Strategic Policy, and has been with the Air District for almost 2 years. David earned his degrees at UC Davis and is originally from Sacramento. Growing up in the state capital, David learned about the value of civil service, as well as the importance of labor unions and workers' rights. He is excited to serve on the board and looks forward to supporting the goals of the EA.

**Current Labor Affairs: Union Dues**

*“Janus v. American Federation of State, County, and Municipal Employees, Council 31*, is a case currently pending in the US Supreme Court concerning the right of public sector labor unions to collect fees from non-union members for the service of collective bargaining. California law currently permits union security agreements in the public sector. *Janus v. AFSCME* is a current case that challenges their legality.

Illinois Republican Governor Bruce Rauner filed suit, claiming that fair-share agreements are unconstitutional and a violation of the First Amendment right to free speech. Rauner was later dropped from the case, but Hugh Janus, an Illinois social worker covered by a collective agreement, also claimed that he should not need to pay fees to AFSCME because he is not a member of the union. Under Illinois law, AFSCME and other unions are allowed to charge workers minimum fees for the service of collective bargaining. As unions have a duty of fair representation to all workers in a bargaining unit, this has been allowed under the National Labor Relations Act of 1935, and was approved in the public sector in 1977 by the US Supreme Court in *Aboud v. Detroit Board of Education*. Janus and others argue that, following *Harris v. Quinn* (2014), fair-share agreements violate their right to free speech because a union can use money to contribute to political campaigns that they may not believe in. Reference — Wikipedia

Impact to the EA: it is expected the Supreme Court will rule in favor of Janus. The EA does not endorse any political candidates and has not been using membership dues to contribute to political campaigns. However, the impact of this decision would mean that bargaining union members would most likely be able to opt out of paying union dues yet may be entitled to representation. Obviously, the EA Board does not wish for members to opt out of paying dues as our dues are used for grievance activities, contract negotiations, and social events, which benefit all employees.

## Workplace Investigations

Lately, there have been more workplace investigations conducted at the Air District than what seems to be “normal”. Sometimes, when a bargaining unit employee is told to participate in an investigation, he/she may be the subject of the investigation. Other times, someone else is the subject of the investigation. Either way, it is an awkward and sometimes intimidating situation.

For the most part, bargaining unit employees have property rights in their positions. Employees under an investigation that may lead to disciplinary action have rights, known as Weingarten rights, to have a union representative present during any questioning. The right is not “self-executing”. The employee must ask for the presence of a union representative.

EA members have been asking their stewards what their rights and obligations are under such circumstances. The following is a Q&A regarding those questions.

**Q:** Must I participate in the investigation?

**A:** Yes, employees must participate in investigations related to workplace conduct or issues. They must answer all questions related to these issues truthfully and to the best of their recollection.

**Q:** Am I entitled to union representation?

**A:** Yes, if you are the subject of an investigation that could possibly lead to disciplinary action. Thus, it is

imperative that you immediately ask HR if you are the subject of the investigation or if the investigation can lead to disciplinary action. The same principle applies if you are asked to meet with your Manager or Director: if you suspect that something is up, ask them if your meeting could result in disciplinary action. You are entitled to union representation under such circumstances, but you must ask for it.

**Q:** Must I participate if I know I am not the subject of the investigation?

**A:** Yes, employees must participate in investigations of workplace issues or **conduct**. They must answer all questions truthfully and to the best of their recollection. HR may allow a union representative to be present, so it is advisable to ask.

**Q:** If the Air District instructs me not to discuss any aspects of the investigation (after the interview is concluded) am I obligated to follow those instructions?

**A:** Not necessarily. Confidentiality admonitions must be narrowly tailored to address the specific concerns of the investigation. An overbroad admonition may violate your right to discuss wages, hours and other terms and conditions of employment.

**Q:** If I am interviewed, either as the subject or as a witness, can I exercise my Fifth Amendment rights and refuse to answer any of the investigator’s questions?

**A:** No, you are obligated to cooperate in the investiga-



## YOUR RIGHTS AT WORK

tion: the Fifth Amendment does not protect you in this civil context as long as you are not required to waive your right not to have the answers used in a criminal proceeding. Otherwise, your refusal to answer questions could be construed as insubordination and could result in disciplinary action.

It is also noteworthy to mention that public employees' Fourth Amendment rights may also protect their property, desks and work areas. Searching those areas may violate a bargaining unit employees' privacy rights. Finally, at the conclusion of an investigation and before the imposition of any discipline, bargaining unit employees are entitled to a due process hearing, known as a Skelly hearing. The hearing allows the employee to present evidence and witnesses to support his or her position on a proposed disciplinary action. A union representative or designee is allowed to attend the Skelly hearing to assist the employee and to ensure that the Air District complies with the collective bargaining agreement.

*“The grievance process in the MOU is one tool to resolve disputes between the EA and the Air District”*

## Members' Corner / Ask the EA

This section will be dedicated to members' voice. Members can share editorial pieces, ask questions, discuss current state of affairs, share their knowledge or experience on any subject, raise any concerns, or generally speak what's on their mind. We would like to make this section more interactive and open to members. A little disclaimer: we will not publish anything that is harmful, inflammatory, or degrading to another individual. Author can choose to remain anonymous or disclose his/her identity. Please submit the content for this section at [voice@employeesassociation.org](mailto:voice@employeesassociation.org)

We look forward to hearing from you.

## Getting Involved with the EA

There are several ways members can get involved with the EA. The best way to get involved is to attend our meetings. Coming to our monthly board meetings and general membership meetings will give you an understanding of what goes on with the EA. Another way to get involved is to join a committee. The following committees are always looking for help and support:

### Archive Committee:

The Archive Committee is responsible for maintaining and documenting the history of the EA. In addition, the archive committee has also taken the role of maintaining EA surplus and supplies from various EA activities.

### Social Committee:

The Social Committee is responsible for putting together all our social EA activities. The Social Committee works closely with the Air District in planning the summer picnic and children's holiday party. The Social Committee also evaluates suggestions from members for social events or ideas.

### EA Voice

The EA Voice Committee is responsible for the publication of this newsletter.

### EA Website

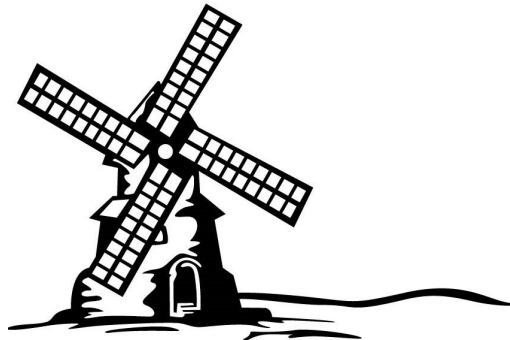
The EA Website Committee maintains and updates the EA's website.

Please contact Chris Coelho ([ea.steward.chris@gmail.com](mailto:ea.steward.chris@gmail.com)) if you are interested in learning more.

## The Rumor Mill

**Rumor:** The Air District has been monitoring employees' productivity using Microsoft Workplace Analytics. MS Analytics is part of the Office 365 program software and tracks employees' and groups time spent surfing the web, reading emails, working on Excel, Word documents, and almost everything done on your computer. This program collects and tracks all the data and time you spend on your work computer.

**Answer:** FALSE. Yes it maybe possible for the Air District to track productivity on your work computer, they are currently not implementing this program or any other type of productivity programs. As far as we know.



*"Members should feel free to contact their steward whenever they have questions"*

Email:  
voice@employeesassociation.org

## EA Board Members

President: Virginia Lau (eavp2017@yahoo.com)  
Vice-President: David Joe (djoe.ea@gmail.com)  
Treasurer: Mark Tang  
Corresponding Secretary: Simrun Dhoot  
Recording Secretary: Tina Landis  
Professional Stewards: Tamiko Endow & Snigdha Mehta  
Technical Stewards: Kimberly Mazza & Robert Cave  
Inspection Stewards: Linda Duca & Chris Coelho  
Clerical Steward: Brittany McIntosh

*We're on the  
web!  
www.eavoice.org*

## Upcoming Events

### General Membership Meeting

Tuesday June 19, 2018

12 to 1 PM. Yerba Buena Room.

Lunch will be provided. Come meet our new Business Agent!

The BAAQMD Employees Association (EA) was formed in 1973 by a group of concerned employees who believed that the Air District needed a viable employees organization

Our next EA Board meeting will be **Thursday July 12, 2018** from 12-1. Room TBD. Members are always welcome to attend.

All meeting will be webcast at:  
<https://zoom.us/j/4157494979>



BAAQMD EMPLOYEES' ASSOCIATION ANNUAL  
**SUMMER PICNIC**

Catered BBQ & ADULT beverages!  
FUN for kids! games, bounce house & prizes  
Bring dessert to share!

RSVP BY AUG. 24  
to kchu@baaqmd.gov

OUR BIGGEST SOCIAL EVENT OF THE YEAR!  
All staff members and their families are invited!

**SEPT. 8  
11-3PM**

Footbridge & Maple Picnic Area  
Cull Canyon Regional Recreation Area  
18870 Cull Canyon Road, Castro Valley  
[www.ebparks.org/parks/cull\\_canyon/](http://www.ebparks.org/parks/cull_canyon/)

The poster features a vibrant illustration of a picnic scene with a picnic basket, a picnic table, a butterfly, and a sun in the background.