

THE TRUTH ABOUT THE EMERGENCY RESOLUTION

Last Monday night, the Capistrano Unified District adopted an “emergency resolution.” Elements of this emergency resolution are incomplete. Elements of this emergency resolution are inaccurate. Elements are simply untrue.

Such emergency resolutions are commonly adopted by school districts that fail to reach agreements with their employees’ unions. As a result, the misleading nature of the District’s emergency resolution is not readily explained by simple incompetence or by a good faith ignorance of the law.

These misrepresentations appear to be intentional.

California law governing concerted action is clear and well established

The Legal Department of the CTA was asked to correct the misleading statements regarding the right to strike and the School Board’s ability to fire employees for participating in a lawful strike.

To implicitly threaten you, the District claims that strikes are not protected.

This is not true. Unfair labor practice strikes are unequivocally protected under both the National Labor Relations Act (in the private sector) and California’s Educational Employment Relations Act (EERA). In the private sector, economic strikers can be “permanently replaced.” This is not the private sector. Under California law, strikes by public school employee are lawful. Moreover, strikes are not one of the offences for which school Districts can discipline or terminated teachers. CAL. EDUCATION CODE section 44932. As a result, school districts can not “permanently replace” California’s public school employees.

Moreover, EERA prohibits public school employers from threatening, discriminating, against coercing, retaliating or otherwise punishing employees for their participation in lawful concerted activities. CAL. GOVERNMENT CODE § 35435(a). The District’s own emergency resolution acknowledges this fact!

Together EERA and EDUCATION CODE afford you far better legal protection than employees in the private sector. The best protection, of course, is our own solidarity!