



Like Pay/Like Work Victory!

Chalk this one up as another win during a very long season.

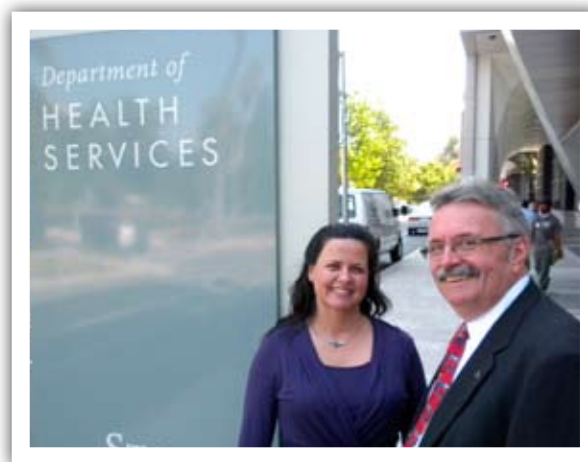
On July 28, Sacramento Superior Court Judge Lloyd Connelly ruled that the governor's representatives must present to the legislature accurate information about the need to fund the April 28, 2008 Like Pay/Like Work decision issued by DPA Director David Gilb. Not only must they present it to the legislature in a "suitable document," they must CONTINUE to present it until the DPA salary recommendations are met. Furthermore, DPA and Finance are required to report on the progress to the court EVERY SIX MONTHS.

The decision did not specifically rule on retroactivity: whether the state is obligated to meet the salary recommendations from the date the inequity was first created in 2005, or the date that CAPS filed its appeal in 2006. CAPS believes the state's obligation to pay retroactively continues, and that any appropriation to satisfy the judgment must include this amount.

Connelly issued his ruling just after the latest budget compromise was

settled. Any appeal by the state would be due in early October. Absent an appeal, the governor presents his proposed budget for the 2010-2011 fiscal year in January 2010, and it SHOULD include this item with sufficient funding to meet the DPA recommendations. Those recommendations apply to the 14 classifications of state scientific supervisors (for specifics on this, see the CAPS web page, under Like Pay for Like Work). CAPS legislative advocates will be there to help shepherd it through the legislative process. If it isn't there, CAPS will be back in court.

It has been a LONG wait for many anxious scientist supervisors and even rank-and-file scientists. Many face retirement, and ALL have seen their salaries remain virtually static, while their engineering counterparts have received multiple and sizeable salary increases. Through all of this, CAPS has pushed this crucial appeal, first through the administrative process at DPA, then in court. You can expect CAPS to pursue a positive outcome no matter the forum in which it is pursued. CAPS will continue to fight every step of the way for LIKE PAY FOR LIKE WORK.



J.J. Jelincic, the CAPS-endorsed candidate for CalPERS,

stands with Valerie Brown, CAPS Vice President. Both spoke on August 17 to state scientists at a CAPS-sponsored lunch meeting at the "East End" HQ of the Department of Public Health in Sacramento. Jelincic's day job is investment officer at CalPERS, where he has served for 23 years. Valerie Brown is an Associate Health Physicist with Public Health in Sacramento.

J.J. understands the importance of preserving CalPERS for the benefit of current and future retirees. He will use his position on the CalPERS Board to push for maximum investment returns. He will demand financial accountability and transparency from the major corporations in which CalPERS invests. He will ALWAYS put the interests of CalPERS members FIRST.

For members living in and around the Sacramento area, a candidate forum will be held Wednesday, September 2 at the Dante Club in Sacramento, 2330 Fair Oaks Blvd, from 6:30-8:30pm. Ballots in this election will be mailed by CalPERS on September 4.

More CAPS Scholarships for Members' Dependents

Twenty lucky dependents of CAPS members will each receive a \$500 scholarship to support his or her college education this year. Listed below are ten of them. The complete list can be found on the CAPS web page, and the remaining ten were published in the July *CAPSule*. Congratulations to ALL of the fine applicants who applied. CAPS selected as many applicants as there were funds available. This is a benefit available ONLY to CAPS members, and is made possible by a self-sustaining endowment made to CAPS many years ago. There will be another chance for a college scholarship next year!



Kevin Dolan, son of Stephan Dolan (CIWMB), is majoring in History at UCLA and will graduate in 2011.

Svetlana Hristova, daughter of Hristo Hristov (OEHHA), is majoring in International Relations at UC Davis and will graduate in 2010.



Sara Kewin, daughter of Paul Kewin (DTSC), is majoring in Communication; Political Science; Spanish at UC Davis and will graduate in 2012.

Ruthie Musker, daughter of Marilyn Silva (CDPR), is majoring in Ecology and Evolutionary Biology at UCLA and will graduate in 2011.



Mark Orcutt, son of Robert Orcutt (DFG), is majoring in Political Science at San Francisco State University and will graduate in 2012.



Stephanie Peterson, daughter of Matt Peterson (DTSC), is majoring in Biology at UCLA and will graduate in 2011.



Joshua Qin, son of Wei Zhao (CDPR), is majoring in Biology at University of Pennsylvania and will graduate in 2011.



Nicolas Saiz, son of Steven Saiz (SWRCB), is majoring in Broadcasting Communications at Luesta College and will graduate in 2011.



Anokh Sohal, son of Janamjeet Sohal (CDFA), is majoring in Biology at UC Davis and will graduate in 2013.



Jacqueline Wong, daughter of Jeff Wong (CDPH), is majoring in Pre-Nursing at San Diego State University and will graduate in 2012.

Third Quarter CAPS Grants

Each quarter, CAPS awards a \$400 grant to each of four scientists who want to further professional development but can't get the state to pay for it. There are far more applicants than available funds, so CAPS picks the winners at random. Here are the winners for the third quarter of 2009. To submit your request, download an application from the CAPS webpage.



Staff Environmental Scientist Bill Hoffmann of the Department of Water Resources in San Luis Obispo will use his grant to offset the cost of attending the 27th Annual Salmonid Restoration Conference in Santa Cruz during March.



Associate Industrial Hygienist Vera Liou, CIH of the California Integrated Waste Management Board in Sacramento attended the American Industrial Hygiene Conference and Expo in Toronto, Canada during May 2009 and will offset costs with her grant.



Research Scientist III Diana M. Lee of the Department of Public Health in Richmond will use her grant to attend and present at the 2009 Environmental Public Health Conference in Atlanta during October 2009.



Staff Environmental Scientist Jenny Marr of the Department of Fish and Game in Chico will use her grant to offset the cost of attending the Botany and Mycology Conference in Snowbird, Utah during July.

A Big Win for CAPS

By Patty Velez, President



The recent court victory for CAPS in the Like Pay for Like Work case is much more than vindication of CAPS' legal position.

It reinforces the historic link between the salaries of the state scientists and engineers, at least in 14 supervisory classifications. It FORCES the governor to PROPOSE and ADVOCATE higher salaries for scientific supervisors. This is vitally important because the state, under former Governor Gray Davis, chose to break that historic link by escalating the salaries of certain engineering classifications and leaving the scientists in the salary dust.

“Scientists historically have been paid the same or even more than some engineers . . .”

This isn't some abstract theorem. State scientists throughout state government are painfully aware of the change. While their paychecks barely crept up or remained unchanged, the salaries of the engineering counterparts propelled into the salary “stratosphere.” It has caused severe morale problems. It has prompted state departments to shift positions from scientific to engineering classifications as one of the only means to increase salaries and thus reward employees. This practice has adversely affected CAPS by shifting work from State Bargaining Unit 10 to Unit 9. Doves of scientists gave up jobs they cared about to transfer to the Air Resources Board (and other departments) largely for a fatter paycheck. Departmental

managers throughout state government protested this drain of scientific intellectual talent because these scientists were forced to simply chase the money. Still, nothing was done.

Early on, CAPS recognized the problem and challenged the state's abandonment of the historical salary equity between scientists and engineers. The reach of the appeal is limited. It was filed for the 14 scientific classifications that historically had been tied to supervisory engineering classifications based on salary and work duties. Legal precedents allow CAPS to make this case only for supervisors, because, in theory, the salaries of rank-and-file scientists are set via the collective bargaining process.

But the practical link is still there. Scientists historically have been paid the same or even more than some engineers, including at the rank-and-file level. This case shines a spotlight on that.

We didn't get everything we wanted; an order to IMMEDIATELY begin paying commensurate salaries, AND a RETROACTIVE award. But these are still very much in play. We continue to pursue them through the budgeting process as ordered by the Judge Lloyd Connelly.

By any measure, it was a huge win for CAPS and one that should eventually will pay off for ALL state scientists.

CAPS Challenges Third Furlough Day

CAPS filed a lawsuit in San Francisco Superior Court on July 24 challenging Governor Schwarzenegger's imposition of the third furlough day on state scientists. The challenge is based on the governor's failure to show savings from imposing the furlough on scientists paid out of Special Funds, the fact that there is no lawful relationship between the stated purpose of the executive order, which is to save the General Fund money, and its actual effect, which saves Special Fund monies and prevents essential work from being done.





The lawsuit also challenges furloughs at the State Compensation Insurance Fund specifically, where a court has already ruled that furloughs are illegal because of the independent status of SCIF. CAPS has a couple dozen scientists working at the SCIF.

The lawsuit also reiterates CAPS' challenge of the furloughs as a pay cut. Calling it a “furlough” doesn't change its impact, which is to cut employees' salaries. Government Code Section 19826 clearly prohibits the governor from unilaterally reducing the salary of state employees. CAPS has long demanded that the governor negotiate the furlough program and all aspects of salary and benefits with CAPS at the bargaining table. Nevertheless, the governor chose to impose three mandatory furlough days with only a Sacramento superior court judge finding it legal. That initial ruling is now on appeal to the Third District Court of Appeal.

CAPS expects a hearing on the third furlough day lawsuit soon.



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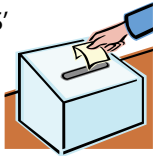
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Encapsulations



Appeal Hearings Taking Toll on Scientists. State Scientists unlucky enough to find themselves at the receiving end of an adverse (disciplinary) action are finding that their “day in court” before an administrative law judge is taking up to a year or more. This is a serious problem for those terminated because employees are most often without equivalent employment during the appeal period. CAPS is working for quicker hearings on behalf of affected members, and may file suit to force hearings within six months as required by law.

CAPS Board of Elections Underway. The election process for the CAPS’ Board of Director’s election is underway. The Election Schedule, Rules and Nominations Form are available on the CAPS website at **www.capsscientists.org**. All CAPS members are urged to participate in this election process for the next group of volunteer scientists who will lead CAPS during the next two years.



CAPS Gets Parks Scientist \$8,000 Back Pay. A Parks Environmental Scientist recently received a check for \$8,000 in back wages when CAPS helped correct the date on a past promotion. The member looks forward to her next promotion to Range C this fall. Members who believe they qualify for a higher alternate range should contact their nearest CAPS office for an evaluation of their situation.

CAPS (ISSN 10446230) is published monthly by the California Association of Professional Scientists, 455 Capitol Mall, Suite 500, Sacramento, CA 95814. Periodicals Postage Paid at Sacramento, CA. POSTMASTER: Send address changes to: 455 Capitol Mall, Suite 500, Sacramento, CA 95814-2483.

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