

MEMORANDUM OF LAW

DATE: March 3, 1988

TO: City Clerk
FROM: City Attorney
SUBJECT: Employee Appearance Policy

In a memorandum dated February 8, 1988, you informed this office that you had recently received a letter from the San Diego Municipal Employees Association alleging that your department's proposed policy on employee appearance is a mandatory subject of meet and confer. You asked us to address the following three questions: (1) Is a department policy on appearance a meet and confer item; (2) Is inclusion of the proposed language on appearance and hygiene into all employees' performance plans allowable whether or not the departmental policy is a meet and confer item; (3) Is this proposed language in the performance plans also a meet and confer item?

The Meyers-Milias-Brown Act Gov't Code . 3500 et seq. requires that The City of San Diego meet and confer with the recognized employee organization prior to implementing any changes in an employee's wages, hours and other terms and conditions of employment. If violations of a formal policy may subject an employee to discipline under Civil Service Rule XI, . 3, para. (d); or to adverse comments in an employee's performance report such policy affects the employee's terms and conditions of employment. *Vernon Firefighters v. City of Vernon*, 107 Cal.App.3d 802, 812 (1980).

We can therefore answer all three of your questions as follows. The implementation of an employee appearance policy (including its proposed language), enforceable by either discipline or adverse comments in a performance report, is subject to the meet and confer requirements of the Meyers-Milias-Brown Act. Once those requirements are met, an

employee appearance policy setting forth clearly articulated reasonable standards may be adopted by the appointing authority or agency. *Kelly v. Johnson*, 425 U.S. 238, 47 L.Ed.2d 708, 96 S.Ct. 1440 (1976).

JOHN W. WITT, City Attorney

By

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