

# AB 1564: Protecting Confidential Communication Between Public Employees and Their Union Representatives

When a public employee needs to talk to their union representative — about a grievance, a disciplinary action, a workplace dispute — that conversation must be confidential. Without it, workers can't get real advice, and employers can game the system by demanding to know what was said. PORAC is proud to sponsor AB 1564 (Ahrens), which makes that protection the law.

AB 1564 prohibits public employers from interrogating employees or their representatives about confidential union communications, and from forcing those communications into the open. It applies across California's public sector: state agencies, local governments, school districts, community colleges, and universities.

This isn't new ground. The Public Employment Relations Board (PERB) has enforced this principle for years. AB 1564 simply codifies this longstanding precedent — making it clear, consistent, and enforceable everywhere.

## WHAT THE BILL DOES

AB 1564 prohibits a public employer from:

- Questioning a public employee, union representative, or exclusive representative about confidential communications made in connection with union representation.
- Compelling any of those parties to disclose such communications to a third party.

The bill does NOT apply to:

- Criminal investigations.
- Certain circumstances when a public safety officer is under investigation.

## WHY THIS BILL MATTERS

The right to union representation means nothing if an employer can demand a play-by-play of every conversation between a worker and their representative. Without clear statutory protection, public employees who fear that honesty will be used against them simply stop speaking openly with their union representatives.

Current PERB precedent, while protective, requires case-by-case analysis that creates inconsistency across different jurisdictions and workplaces. These longstanding labor protections need to be codified into uniform, enforceable law.

## WHY THIS BILL MATTERS CONT.

AB 1564 addresses this by:

- Providing clear, uniform notice to all public employers – from school districts to state agencies to local governments – of their obligations.
- Reducing litigation and disputes that arise when employers claim ambiguity in existing PERB case law.
- Reinforcing the fundamental right of public employees to freely seek advice and representation from their union without surveillance or interference.
- Ensuring employees can communicate candidly with their representatives, which is essential to effective grievance handling, contract negotiations, and workplace advocacy.

## SETTING THE RECORD STRAIGHT

Some employers have raised concerns about the bill's scope. Here are the facts:

- **AB 1564 does not create a new evidentiary privilege.** It establishes an unfair labor practice, adjudicated through PERB's existing administrative process – not through the courts.
- **It codifies what PERB has already required for years.** The Legislature's intent is to provide uniform, clear statutory notice – not to impose new obligations on employers.
- **The bill will likely cut costs for employers in the long run.** Claims of initial compliance costs may be founded for employers that need to update collective bargaining agreements or related training. However, because this bill reflects preexisting PERB obligations, employers already operating in good faith will face no new requirements. In the long term, this bill is likely to reduce employer costs associated with disputes and litigation by providing clear, consistent boundaries regarding confidential union communications.
- **Courts retain independent authority.** Nothing in this bill prevents a court from requiring testimony in judicial proceedings – only employer-initiated questioning and compelled disclosure are restricted.

## The Bottom Line

California has long led the nation in protecting labor rights. AB 1564 is a straightforward next step: take a protection that exists in PERB case law, write it into statute, and make it real and consistent for every public employee in the state.

Public employees shouldn't have to wonder whether their conversation with a union representative will end up in their employer's hands. AB 1564 makes sure it won't.