

RAINS, LUCIA & WILKINSON LLP

SPECIAL NEWS BULLETIN AN ULTIMATE BACKUP NEWSLETTER SUPPLEMENT April 5, 2003

| <i>Pleasant Hill</i> | <i>Sacramento</i> | <i>San Jose</i> | <i>Santa Rosa</i> |
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NEW LAWS PROTECT OFFICERS WHO DISPLAY AMERICAN FLAGS AND WEAR FLAG PINS ON-DUTY

In light of the fact that, on April 1, 2003, the San Francisco Chronicle published an article which headlined: *“Boss Orders Cops to Hide Flag Scarfs -- Some Officers Wore Bandannas Under Helmets at War Protests”*, we at Rains, Lucia & Wilkinson consider it appropriate to issue a Special News Bulletin detailing the important new rights that went into effect on January 1, 2003 protecting the ability of public safety officers to display American flags while on-duty.

Government Code section 434.5 was amended to prohibit a local government agency from adopting “any policy or regulation that prohibits or restricts an employee of that agency from displaying a Flag of the United States, or a pin of that flag, on his or her person, in his or her workplace, or on a local government agency vehicle operated by that employee.” While the agency can impose “reasonable restrictions at to the time, place, and manner of placement or display” of an American flag, it can only do so “when necessary for the preservation of the order or discipline of the workplace.” No restrictions can be imposed “solely to promote aesthetic considerations.”

Government Code section 3312 was added on January 1, 2003 to prohibit employers from taking any punitive action against any public safety officer who wears a flag pin or displays any other item containing the American flag, *unless* the employer gives the officer written notice that includes *all* of the following:

- (a) A statement that the officer’s pin or other item violates an existing rule, regulation, policy or local agency agreement or contract regarding the wearing of a pin, or the displaying of any other item, containing the American flag;
- (b) A citation to the specific rule, regulation, policy or local agency agreement or contract that the pin or other item violates; and
- (c) A statement that the officer may file an appeal against the employer challenging the alleged violation pursuant to applicable grievance or appeal procedures adopted by the department or public agency.

For further information about how these and any other important workplace rights might apply to your specific work environment, please contact Rains, Lucia & Wilkinson LLP directly

