

## DROP Update by Ann Smith – MEA Attorney – February 07, 2007

Dear ALL:

While nothing halting from Mr. Aguirre's office would surprise any of us at this point, it was a surprise today to see that Mayor Sanders *joined* Mr. Aguirre in holding a press conference to urge the City Council to take an unlawful action related to DROP. As a further affront to all working men and women, the Mayor and Mr. Aguirre held this press conference at the Martin Luther King, Jr. Library in order to exploit an occasion related to Black History Month.

Here are the actual facts: DROP began as a 3-year trial program effective April 1, 1997, when the City also got the benefit of a new 90% cap on pension benefits for safety employees. As a result of settlement events related to the Corbett litigation and the meet and confer process between the City and its four Unions during the spring of 2000, the DROP program became **permanent on April 1, 2000** – and thus part of the Constitutionally-protected vested pension benefits of every City employee. The City's MOUs with each of its four labor unions – effective July 1, 2000 -- memorialized the fact that this benefit was made permanent, and the City Council adopted a Resolution making those MOUs final and binding under the law. The permanency of the DROP benefit was also acknowledged in the documents related to the *Corbett* Judgment and in the documents related to the Charter-required vote of all SDCERS plan participants which took place in May 2000.

The DROP program is currently a term of MEA's *binding* MOU which remains in effect through June 30, 2008. Because the DROP program is part of the Constitutionally-protected pension benefits of each **individual** employee, this benefit cannot be bargained away during the meet and confer process. During the last round of collective bargaining in 2005 -- recognizing that this is the law -- the City sought to eliminate the DROP program **only for NEW HIRES** effective July 1, 2005. This change as to **NEW HIRES** was accomplished through collective bargaining as reflected in the MOUs presently in effect between the City and its employee Unions.

Mr. Aguirre did attempt to have the DROP program declared "null and void" by means of the pension benefit litigation pending before Judge Barton but this attempt failed as reflected in Judge Barton's findings and conclusions contained in his final Statement of Decision filed on January 18, 2007. Remember when Mayor Sanders told you and the public at large that the **courts must decide** the issues related to your pension benefits? It would now appear that deference to the courts will only occur if the courts decide the issues to the Mayor's and Mr. Aguirre's personal satisfaction. Thus, the Mayor has now joined Mr. Aguirre in a misguided effort to try to strong-arm the City Council into violating the law by adopting an Ordinance unilaterally eliminating DROP.

Rest assured that MEA will remain vigilant regarding this latest assault on your vested benefits as a City employee and will take all appropriate steps to enforce the law.  
Best regards, Ann Smith

[P. S. By the way, you may access the last published official City report regarding one aspect of the cost impact of the DROP program by visiting the City's website and printing out the Manager's Report 05-012 to the Honorable Mayor and City Council dated January 10, 2005. This report concluded that "the City benefits through DROP, both financially and organizationally," and documented a \$452 million savings to City funds since the start of DROP on April 1, 1997, through November 2004.]