



**PUBLIC EMPLOYMENT  
RELATIONS BOARD**

**ANNUAL REPORT**

**to the  
LEGISLATURE**



**1980**

THE  
PUBLIC EMPLOYMENT RELATIONS BOARD

HARRY GLUCK  
CHAIRPERSON

BARBARA D. MOORE  
MEMBER

JOHN JAEGER  
MEMBER

IRENE TOVAR  
MEMBER

VACANT  
MEMBER

CHARLES L. COLE  
EXECUTIVE DIRECTOR

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## INTRODUCTION

The PERB administers three laws, each covering a unique group of employees: the Educational Employment Relations Act (EERA), the State Employer-Employee Relations Act (SEERA), and the Higher Education Employer-Employee Relations Act (HEERA). The three collective negotiations laws administered by PERB now apply to approximately 730,000 employees. Included are public school employers, the State of California, the Regents of the University of California, the Trustees of the State College and University system and the Directors of the Hastings College of Law.

The Educational Employment Relations Act (EERA) has been in effect since April of 1976, the State Employer-Employee Relations Act (SEERA) has been in effect since July of 1978, and the Higher Education Employer-Employee Relations Act (HEERA) has been in effect since July of 1979.

BOARD ADMINISTRATION

LEGISLATIVE ENACTMENTS

In 1980 the Legislature made the following revisions, deletions, and additions to the three Employer-Employee Relations Acts administered by PERB:

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AB 1797            Chapter 1175            Effective date: January 1, 1981\*  
(Chacon)  
(Does not amend Government Code)

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EERA - CLASSIFIED EMPLOYEE SALARY DEDUCTIONS

Authorizes the governing boards of schools and community college districts to make deductions from the salaries of classified employees: (1) who are members of the employee organization that is the exclusive representative; and (2) who are not members for the payment of service fees as required by an organizational security arrangement between the exclusive representative and the employer.

\*Sections 1.5 and 2.5 of this bill become effective January 1, 1981. Sections 1 and 2 of this bill do not become operative since SB 2030 was also chaptered and becomes effective January 1, 1981. Note: SB 2030 does add a section to the Government Code.

AB 2685 Chapter 869 Effective date: January 1, 1981  
(Gage)  
(Amends section 3517.5 of the Government Code)

SEERA - PROVISIONS TO BE SUPERSEDED BY MEMORANDUM OF  
UNDERSTANDING

Adds to the provisions which are to be superseded by the  
memorandum of understanding; these provisions:

- (1) Require the State Personnel Board to establish and  
adjust the salaries of the superintendent, members of  
the teaching staff, officer and employees of the  
California Maritime Academy in the same manner and  
following the same procedures as in the establishment  
and adjustment of state civil service salaries;
- (2) Permit any state officer or employee when working  
overtime at his headquarters on state business to  
receive his actual and necessary expenses, during his  
regular work week, subject to rules and regulations  
adopted by the State Board of Control.

AB 2688 Chapter 1265 Effective date: January 1, 1981  
(Bates)  
(Amends section 3517.5 of the Government Code)

EERA - JUDICIAL REVIEW

Requires the Public Employment Relations Board to respond  
within 10 days to any inquiry from a party to an action as to  
why the Board had not sought court enforcement of its final

decision or order; it also requires the Board to seek enforcement upon the request of the party and requires the Board, when seeking enforcement, to file in court the record of the proceeding and evidence showing the party's failure to comply with its decision or order.

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AB 2859 Chapter 949 Effective date: January 1, 1981  
(Mangers)  
(Amends Government Code section 3548.1 and 3548.3)

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EERA - FACTFINDING

Permits the parties to mutually agree, within five days after the Board selects a chairperson, upon a person to serve as chairperson in place of the person selected by the Board. The costs for this chairpersons will be equally divided between the parties.

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SB 475 Chapter 666 Effective date: July 2, 1980  
(Rodda)  
(Amends Government Code section 3541 and 3542)

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PERB - GENERAL COUNSEL

Requires the Governor to appoint a general counsel upon the recommendation of the Board and requires the general counsel to serve at the pleasure of the Board.

SB 1483 Chapter 1059 Effective date: September 26, 1980  
(Maddy)  
(Does not amend Government Code)

Changes the name of the Department of Education to "State Department of Education." It also allows a school district to identify itself on letterhead stationery and identification cards as " \_\_\_\_\_ City Schools."

SB 1860 Chapter 1088 Effective date: January 1, 1981  
(Rodda)  
(Amends Government Code section 3541)

PERB - BOARD MEMBERS AND EXECUTIVE DIRECTOR

Provides that PERB shall consist of 5 members. It permits the Board to delegate its powers to any group of 3 or more Board members and states that nothing shall preclude any Board member from participating in any case pending before the Board. The Executive Director will be subject to appointment and removal by the entire Board.

SB 2030 Chapter 816 Effective date: January 1, 1981  
(Rodda)  
(Adds section 3564.3 to the Government Code)

EERA - ORGANIZATIONAL SECURITY

Provides that an employee who is a member of a bona fide religious body whose traditional teachings include objections to the support of employee organizations shall not be required to

join, maintain membership in or financially support any employee organization as a condition of employment. Such an employee could be required to pay sums equal to the service fee to a non-religious, non-labor organization, or charitable fund exempt from federal income tax. The employee organization would be allowed to charge such an employee a fee for representation.

## BOARD OPERATIONS

During 1980, the Board was composed of three members appointed by the Governor subject to confirmation by the Senate. During this reporting period, Harry Gluck served as Chairperson during the second year of his five year term; Dr. Raymond Gonzales served until June 19 when he resigned to accept an appointment with the U.S. Department of State. Barbara Moore completed the second year of her two year appointment.

Pursuant to SB 1860 of 1980 (effective January 1, 1981) the Board was expanded from three members to five members. On January 19, 1981, the Governor appointed John Jaeger to a one year term and Irene Tovar to a four year term. One position remains vacant.

During 1980, the Board itself issued 12 decisions regarding representation issues, one of which involved the final phase of the placement of approximately 4000 job classifications and 150,000 employees under SEERA, and 32 decisions regarding unfair practice cases. A digest of Board decisions begins on page 8.

In addition to its caseload of appeals filed as the result of proposed decisions in representation and unfair practice

cases, the Board also rules on administrative appeals, requests for injunctive relief, appeals from public notice complaint decisions, and requests for judicial review. In 1980, the Board issued 29 decisions covering administrative appeals, 1 decision on requests for judicial review, 10 decisions on requests for injunctive relief and six decisions on appeals from public notice complaint decisions. In calendar year 1980, the Board itself issued a total of 90 decisions of various kinds.

As in all preceding years the Board operated within its budget. For the 1979-80 fiscal year, the Board expended approximately \$3,325,884 in the administration of the Educational Employment Relations Act, the State Employer-Employee Relations Act, and the Higher Education Employer-Employee Relations Act. Including one-time costs for the implementation of HEERA and SEERA, the PERB budget for 1980-81 is \$4,393,732.

## CASE DIGEST

### REPRESENTATION CASES

As of December 31, 1980, the Board itself issued decisions in 12 representation cases. The following is a digest of the representation decisions:

#### I. UNIT DETERMINATION

##### A. Appropriate Unit Placement

###### 1. SEERA -

SEERA Unit Determination: Regs. (1/11/80)  
S-R-1 - 56-S PERB Decision No. 110b-S

The Board considered and granted all requests for reconsideration. However, except for the realignment of all Assistant and Associate Transportation Engineers, CALTRANS into Unit 9, Professional Engineers, the majority was not persuaded by [any new legal or factual issues] that there should be any substantive changes in the basic composition of the 20 units determined appropriate in the original decision (PERB No. 110-S). All requests for PERB to join in seeking judicial review were denied.

Unit determination for the State of California pursuant to Chapter 1159 of the Statutes of 1977 (SEERA) (12/31/80). S-R-1 - 56-S PERB Decision No. 1100-S sets forth criteria for exclusion of employees from units as supervisory, management, or confidential employees.

Request to Reopen Phase III (SEERA) Proceedings on Unit 7; Protective Service Public Safety, Coalition of Associations and Unions of State Employees/State Park Peace Officers' Association of California (7/11/80) S-R-7S Administrative Motion PERB Decision No. 138-S.

Request to reopen the record denied.

2. EERA: Certificated - Children's Center Teachers

Redondo Beach City SD; Early Childhood Federation, Local 1475; Redondo Beach City Teachers Assn. (1/17/80) LA-R-430B (825) PERB Decision No. 114

Past practice and efficiency of operations evidence does not outweigh lack of community of interest between children's center teachers and elementary teachers. Board finds separate unit of children's center teachers appropriate.

HO reversed on self-determination election as Board finds combined unit inappropriate.

3. Management Employee

Ventura County CCD and Ventura County Federation of College Teachers, AFT Local 1828 (7/11/80) LA-R-759; LA-UM-92 PERB Decision No. 139.

The Board affirms the hearing officer's finding that affirmative action officer is a management employee.

B. Elections - Challenged Ballots/Objectives To

Los Angeles USD; SEIU, Local 99; CSEA, Chapter 500; Assn. of Educational Office Employees (1/16/80) LA-R-1-D PERB Decision No. 113

During the course of a consent election, ballots of three classifications of employees had been challenged because of alleged supervisory status. Because the challenge ballots were outcome determinative, the Board was asked to conduct a hearing to resolve the issue of their status. After the Hearing Officer issued a proposed decision to exclude two and include one of the classes at issue and after the parties filed exceptions to this proposed decisions, the parties themselves reached agreement to exclude the three disputed classifications and filed a joint request to withdraw their case, then pending before the Board. The Board consented to the parties joint request on the grounds that their stipulation regarding the three classifications at issue clarified their initial

consent election agreement and rendered the pending case moot.

Jefferson Elementary SD; Jefferson Classroom Teachers Assn.; Jefferson Federation of Teachers, Local 3267  
(6/19/80) SF-D-12; D-41 PERB Decision No. 135

Board agents ordered to appear as witnesses at hearing regarding objections to election.

C. Organization Status - Sister Local Chapter Activities

Fairfield-Suisun USD; CSEA and its Solano Chapter 1048 and Mutual Organization of Supervisors  
(3/25/80) SF-R-548X PERB Decision No. 121

Hearing officer had based his findings that CSEA chapter 302 and chapter 1048 are the same employee organization for purposes of section 3545(b)(2) on the fact that "state CSEA is a named party both to the recognition agreement and contract between 302 and the district and to the request for recognition filed by 1048." The Board affirms and further finds the close relationship and many connections between state CSEA and the two chapters make them the same employee organization for purposes of section 3545(b)(2).

Sacramento City USD; CSEA; SEIU, Local 535 (3/25/80)  
S-R-8 PERB Decision No. 122

While there is interchange between the international and its locals, it is insufficient to make SEIU Local 535 the same employee organization as SEIU Local 22.

Los Angeles CCD; Classified Union of Supervising Employees, Local 699, SEIU (3/25/80) LA-R-809 PERB  
Decision No. 123

There is insufficient interchange between two locals and/or the international to make them one employee organization. Temporary assistance to one local from international is not sufficient to establish an impermissible relationship. Constitutional ties are "insufficient . . . to conclude that Local 99 and the International are 'the same employee organization.'"

D. Petition

El Monte Union HSD and El Monte HSD Education Association (10/20/80) LA-R-795; LA-R-810 PERB Decision No. 142.

In April 1976, the Association filed a request for recognition for all certificated employees. Belmont issued and the District voluntarily recognized a unit of classroom teachers and others. Negotiations began and the Association then petitioned for two additional separate units, one of summer school and one of all hourly certificated employees. A hearing was held on the two petitions and, thereafter, Peralta issued.

On the unique facts of this case, the Board construes the petitions for representation as petitions for modification based on the fact that it was PERB's changing policies, not errors by the Association, which precluded the Association from reaching its goal of representation of all teachers in a single unit. See Redwood City Elementary School District (10/23/79) PERB Decision No. 107.

The Board grants the petitions for unit modification based on a finding that the teachers in the existing unit and the petitioned-for teachers constitute an appropriate unit.

E. Public Notice Complaint

Howard O. Watts v. Los Angeles CCD and AFT College Guild, Local 1521 (12/31/80) LA-PN-25 PERB Decision No. 150.

Complainant appeals dismissal of his public notice complaint and alleges that his appeal rights were prejudiced because the tape recordings of the formal hearing in his case were lost.

In the absence of a record of the formal proceedings, PERB is unable to determine either the substantive or procedural due process issues raised in his appeal. The case is remanded for a new hearing unless the parties stipulate to a reconstructed record submitted by the Regional Director.

Howard O. Watts v. Los Angeles USD (12/30/80)  
LA-PN-27 PERB Decision No. 151.

Complainant appeals the dismissal for failure to amend his public notice complaint which alleged that the District violated sections 3547(a), (b), (c), (d), and (e) of EERA by:

1. Failure to provide to the public a sufficient number of copies of the union's negotiating proposals;
2. Failure to schedule on the governing board's agenda presentation of the union's initial proposals;
3. Failure to provide adequate opportunity to the public to respond to the union's initial proposals; and
4. Inadequate procedures to sunshine negotiating proposals for units of classified employees.

PERB summarily affirms the dismissal of the complaint for failure to amend with the exception of the allegation that the District violated section 3547(a) by failing to schedule the presentation of initial negotiating proposals on its agenda for April 7, 1980. This allegation does not require amendment in order to state a prima facie violation.

The case is remanded for further processing consistent with the decision.

Howard O. Watts v. Los Angeles USD and United  
Teachers of Los Angeles (12/30/80) LA-PN-28 PERB  
Decision No. 152.

Complainant appeals the dismissal of his public notice complaint which alleged numerous violations of or inadequacies in the District's public notice rules and regulations, and its rules governing the conduct of public meetings that purportedly violate sections 3547(a), (b), (c), (d), and (e) of EERA.

The Board affirms the dismissal of all allegations except the following which are dismissed with leave to amend.

1. The allegation that the District's three-minute rule prevented complainant from fully responding to the proposals on May 5 and 12, 1980.
2. The allegation that certain new subjects or initial proposals of UTLA were not sunshined.

A third allegation that certain negotiating proposals were not scheduled on the District's governing board's agenda on April 28, 1980, states a prima facie case and is remanded for further action. (An alleged failure to provide complainant with a copy of the proof of service of the letter of dismissal was held to be nonprejudicial.)

Howard Watts v. Los Angeles CCD and AFT College Guild, Local 1521 (12/31/80) LA-PN-20 PERB Decision No. 153.

Complaint dismissed without leave to amend. Board finds that service was effected and the lack of proof of service is not fatal.

Howard Watts v. Los Angeles CCD and SEIU, Local 99 (12/31/80) LA-PN-21 PERB Decision No. 154.

Board affirms regional director's dismissal of public notice complaint.

Howard Watts v. Los Angeles CCD and CSEA (12/31/80) LA-PN-22 PERB Decision No. 155.

Board affirms regional director's dismissal of public notice complaint.

#### UNFAIR PRACTICE CASES

As of December 31, 1980, the Board itself issued decisions in 32 unfair cases. The following is a digest of the unfair decisions:

A. Employee Organization - Duty of Fair Representation

Thomas A. Romero v. Rocklin Teachers Assn. (3/26/80) S-CO-28 PERB Decision No. 124.

Board affirms hearing officer dismissal of unfair practice charge alleging Association violated duty of

fair representation in refusing to negotiate benefits, but finds that a violation of the duty of fair representation by exclusive representative is not limited to instances of discriminatory or bad faith conduct but also includes arbitrary conduct. ["Arbitrary conduct by an exclusive representative may itself constitute a violation of the duty of fair representation because the Board believes that without reliance on an arbitrary standard, employee organizations would be permitted to make unreasonable decisions. . . ."]

Janet King v. Fremont Unified District Teachers Assn.  
(4/21/80) SF-CE-42 PERB Decision No. 125.

The Board summarily affirms the hearing officer's finding that the Association did not breach the duty of fair representation because it did not act arbitrarily, discriminatorily or in bad faith in filing or handling the grievance. (The grievance was filed to enforce a no-reprisals agreement without receiving permission from the affected employee.)

It further holds that because the Association was grieving on its own behalf for the purpose of enforcing an agreement, the right of an individual employee to refrain from participating must be subordinated to the larger interest the organization has in enforcing a no-reprisals agreement.

Section 3543.6 is the proper section under which to file duty of fair representation claims.

Castro Valley USD; Lois McElwain and Marie Lyen v;  
Lois McElwain and Marie Lyen v. Castro Valley  
Teachers Association (12/17/80) SF-CE-112; SF-CO-23  
PERB Decision No. 149.

The District and Association negotiated a transfer policy for a secondary school reorganization which prevented charging parties from transferring from junior to senior high. The hearing officer found these negotiations to be proper and dismissed the resulting charges against the Association and District. The Association refused to take charging parties' grievance regarding their nontransfer to arbitration. The hearing officer found the Association breached its duty of fair representation by failing to consider the merits of charging

parties' grievance in determining whether to take the matter to arbitration.

The Board affirmed the hearing officer's dismissal of the charges against the District and the Association involving their negotiation of a new transfer policy. However, the Board reversed the Hearing Officer and dismissed the section 3543.5(b) violation because it found that the Association's refusal to take charging parties' grievance to arbitration was rational, nonarbitrary, and without evidence of hostility or bad faith towards the charging parties.

B. Employer

1. Unilateral Acts

Davis USD; CSEA v. S-CE-78

New Haven USD; New Haven Teachers Association v. SF-CE-126

Newark USD; Newark Teachers Assn. v. SF-CE-127

State Center CCD; CSEA v. S-CE-80

Centinela Valley High HSD; Centinela Valley Secondary Teachers Assn. v. LA-CE-180

(2/22/80) PERB Decision No. 116

Districts' unilateral freezing of salaries disrupts the status quo, which includes consideration of past practice of annual step and column raises based on education and experience of employees. Rights to bargain over salary increases are not waived where the union either: entered limited term agreement to maintain status quo or eventually entered agreement with higher immediate pay increase without retroactive reinstatement of salary increment.

Oakland USD; Oakland Education Assn. v. (4/23/80) SF-CE-143 PERB Decision No. 126

Board finds subsequent contract does not moot unfair practice charges.

Unilateral action by employer in changing health insurance administrator had the subsequent effect of loss of certain benefits, thereby violating section 3543.5(a), (b), and (c).

Remedy ordered:

1. Terminate current administrator as soon as possible under terms of agreement and reinstate former administrator, or
2. Negotiate a modification of agreement with current administrator to provide benefits lost in change;
3. Reimburse employees for expenses (PERB retains jurisdiction in case of dispute over amount);
4. Three months from date of decision to file claim for expenses;
5. Personal delivery of notice and order to employees and former employees affected by change.

Rio Hondo College Faculty Assn.; Rio Honda CCD  
(5/19/80) LA-CE-126 PERB Decision No. 128

Dismissal of charge regarding unilateral adoption of released time policy by District affirmed by Board. Association was not the exclusive representative and had no right to meet and negotiate or consult with employer re released time.

The Board establishes a standard by which certain types of employer speech can be examined and determined to be protected:

(a)n employer's speech which contains a threat of reprisal or force or promise of benefit will be perceived as a means of violating the Act and will, therefore, lose its protection and constitute strong evidence of conduct which is prohibited by section 3543.5 of the EERA.

2. Refusal to Rehire

Grossmont CCD; Grossmont College Teachers Assn.  
CTA/NEA v. (3/13/80) LA-CE-196 PERB Decision  
No. 117

The District's refusal to rehire part-time employees who had taught two out of the previous five semesters was based on business necessity not organizational discrimination, and the charge is dismissed. It is further found that the employees in issue are not members of the unit which the Association represents.

The Board also affirms the hearing officer's dismissal of the refusal to negotiate charge indicating that at the time of the alleged unlawful acts, the Association was not the exclusive representative, nor was any other employee organization. Therefore, the employer was not obliged to "meet and negotiate." Further, there is no evidence that the Association made any request to negotiate before or after it was certified as the exclusive representative.

Los Gatos Jt. Union HSD; SEIU, Local 715 v.  
(3/21/80) SF-CE-129 PERB Decision No. 120

Board affirms hearing officer finding that District did not rehire a substitute custodian for summer employment because of his union activities. Finding is based upon a credibility resolution favoring employee's claim that his supervisor informed him that his union activities may have been the basis for the hiring decision, although in testimony the supervisor denied the statement.

Board declines to adopt hearing officer's proposed remedy. It finds District's liability to make employee whole does not extend indefinitely, but only through the summer and following semester.

Cerritos CCD; California Teachers Association v.;  
Jim Shaw v. Cerritos CCD (10/14/80) LA-CE-205;  
LA-CE-206 PERB Decision No. 141.

The District refused to rehire a part-time teacher on the grounds that his personality and behavior prevented him from getting along with others. The California Teachers Association and the teacher filed unfair practice charges alleging that the refusal to hire was actually caused by protected organizational activities. The credited testimony of the acting division chairman indicated that organizational activities did not affect the rehire decision.

The hearing officer's decision that the District's action did not violate section 3543.5(a) was affirmed by the Board. Under Carlsbad Unified School District (1/30/79) PERB Decision No. 89, the Board determined that there must be a nexus between the employer's acts and the exercise of employee rights under EERA in order to find a violation of section 3543.5(a). In this case, the charging parties failed to establish the requisite nexus between the teacher's nonretention and his organizational activities. The unfair practice charges were dismissed.

### 3. Scope Issues

San Mateo City SD; San Mateo Elementary Teachers Assn. v. (5/20/80) SF-CE-36 PERB Decision No. 129

The Board establishes a two-prong test to determine whether or not a proposal is within the scope of representation. Using this test, the Board found the length of instructional day, preparation time and rest periods are within scope.

Healdsburg Union HSD and Healdsburg Union SD; CSEA v. (6/19/80) SF-CE-68 PERB Decision No. 132

The issues presented in the instant case are not moot because they pertain to significant negotiability issues which persist beyond this case and are likely to arise in future negotiating sessions in these and other districts.

Except as to article XI, Rights of Bargaining Unit Upon Change in School Districts, the

majority finds that, to the extent set forth in their respective opinions, the proposals are negotiable and the districts committed unfair practices by refusing to negotiate. The Board ordered the Districts to cease and desist from failing and refusing to negotiate as to items within scope and to meet and negotiate with CSEA as to these matters.

Jefferson SD; Jefferson Classroom Teachers Assn. v. (6/19/80) SF-CE-33; CO-6 PERB Decision No. 133

Using standard established in San Mateo (5/20/80) PERB Decision No. 129 the Board found numerous proposals submitted by the certified representative to be either within or out of scope.

SF CCD; Department Chairperson Council of the SF CCD v. (11/25/80) SF-CE-223 PERB Decision No. 146

The District enacted an emergency resolution after the passage of Proposition 13 which deprived supervisory stipends, benefits and regular salary increments from Department Chairperson Council unit members. The District refused to negotiate with the Council about the resolution.

The Board summarily affirmed the hearing officer's decision which found a violation of section 3543.5(a), (b) and (c) and concluded that the stipends were a regular part of unit members' compensation.

#### 4. Impasse Procedures - Participation In

Redwood City SD; Local 377, Council 57, AFSCME, AFL-CIO v. (2/7/80) SF-CE-172 PERB Decision No. 115

Board adopted hearing officer proposed decision finding that short delays (three days or less) do not constitute failure to participate in impasse in good faith where time is not shown to be of essence. No violation of 3543.5(c) was demonstrated where the parties thought they had an agreement but had no agreement due to a mutual mistake.

Fremont USD v. Fremont Unified District Teachers Association; Fremont Unified District Teachers Association v. Fremont USD (6/19/80) SF-CO-19; SF-CO-20; SF-CE-92 PERB Decision No. 136.

The District alleged that the FUDTA had refused to participate in the statutory impasse procedures in good faith. FUDTA alleged that the District had refused to meet and negotiate in good faith and had refused to participate in the impasse procedures in good faith.

Using the PERB's "totality of the conduct" test the Board found the District did not meet and negotiate in good faith. The District took an inflexible position, conditioned agreement on noneconomic matters, and delayed the bargaining process.

The District's insistence on proceeding directly to factfinding and bypassing the mediation process violated section 3543.5(c) and (e).

The Board found that during both negotiations and in the impasse procedures FUDTA attempted in good faith to resolve the differences with the District.

Based on FUDTA's conduct during mediation and factfinding and the District's unlawful conduct, FUDTA's work stoppage, standing alone, did not support a charge of bad faith participation in impasse procedures.

Work stoppage during mediation does not constitute a per se violation of obligation to participate in good faith in impasse procedure.

5. Bargaining - Refusal/Bad Faith/Failure

Long Beach USD; Long Beach Federation of Teachers; Local 1263 v. (5/28/80) LA-CE-171 PERB Decision No. 130

The Board found that:

The District's ban on organizational activity which prohibited solicitation and distribution directed at teachers who were not assigned work

during two 20 minute periods before and after class and who were in nonworking areas is unreasonable. The rule was unreasonably applied to organization efforts directed at instructional aides.

The District's rule regarding distribution of literature is unreasonable because it does not clearly permit nonworking employees to distribute material to other nonworking employees or to receive organizational material in nonworking areas. This rule was applied to instructional aides in such a manner as to result in nearly insurmountable obstacles and generally thwarted organizational efforts to provide aides with literature.

The District's identification card rule discriminates against union representatives without justification and interferes with their ability to effectively utilize organizers.

The District's three person conversation and prior arrangement rules are unreasonable. Conversations with more than three persons are not inherently disruptive, and the rules unlawfully limit access. The District may require one day advance notice for use of school facilities, but the District may not require that all meetings with four or more employees be conducted at pre-arranged facilities.

Fremont USD v. Fremont Unified District Teachers Assn.; Fremont Unified District Teachers Assn. v. Fremont USD (6/19/80) SF-CO-19; 20; SF-CE-92 PERB Decision No. 136 (See Impasse Procedures, Participation in)

San Ysidro SD; San Ysidro Federation of Teachers v. LA-CE-212 PERB Decision No. 134

The Board found that:

The District's order to employee negotiators to return to work after negotiations were terminated early on January 4, even though the federation was willing to continue bargaining, was contrary to its agreement for a full day's released time and thereby violated 3543.5(c). Disciplinary

action imposed on employees by District for employees' refusal to return to work violated 3543.5(a).

Considering the "totality of the party's conduct," the Board found that the District had engaged in hard bargaining on January 10. Adamancy on a single issue is not a per se violation of the duty to bargain in good faith.

Because discipline imposed on three of the employees was found to have been based on conduct occurring on both January 4 and 11, and where part of the conduct was found protected and part may not; the entire penalty was set aside.

Discipline of one employee based on January 4 conduct (conduct found protected) was ordered rescinded and 1/2 day's pay restored.

Per San Francisco CCD (10/12/79) PERB Decision No. 105 a concurrent violation of 3543.5(b) is found.

Redondo Beach City School District; Early Childhood Federation of Teachers, Local 1475 v. (10/14/80) LA-CE-1142 PERB Decision No. 140.

The District refused to negotiate with the Early Childhood Federation, the certified exclusive representative of a unit of children's center teachers, on the grounds that the Federation was not the exclusive representative of an appropriate unit. The Board, in Redondo Beach City School District (1/17/80) PERB Decision No. 114, had previously found a unit of children's center teachers to be appropriate. At the hearing, the District presented no additional evidence on the appropriateness issue.

The Board summarily affirmed the hearing officer's holding and order. In the absence of presentation of newly discovered or previously unavailable evidence or special circumstances, relitigation of PERB's unit determination is not warranted and that determination is therefore binding precedent. Thus, the District violated section 3543.5(c) by refusing to negotiate with the exclusive representative of an appropriate

unit. Pursuant to San Francisco CCD (10/12/79) PERB Decision No. 105, the District also violated section 3543.5(b).

Stockton Teachers Association v. Stockton USD, Stockton Federation of Teachers; Stockton USD v. Stockton Teachers Association (11/3/80) S-CE-162; S-CE-225; S-CE-235; S-CO-39 PERB Decision No. 143.

The District refused to provide the exclusive representative, the Association, health plan cost data during reopener negotiations. During contract negotiations, the District reneged on a ground rules agreement and conditioned negotiations of substantive issues on reaching a new ground rules agreement. The District allegedly made unilateral changes in teacher evaluation procedures, a subject covered under the parties' contract which provided for binding arbitration.

The District violated section 3543.5(c) by not providing the health plan cost data to the Association and reneging on the ground rules agreement, by conditioning discussion of substantive issues on reaching agreement on a new ground rules agreement and by a variety of other dilatory tactics.

Pursuant to section 3541.5(a), the Board dismissed the charge alleging a unilateral change in teacher evaluation procedures.

Since no exceptions were filed, the hearing officer's holding and order concerning the District's unlawful assistance to a rival employee organization was not considered.

The Board took notice that the Regional Director had stayed a decertification election pending resolution of the instant case and ordered the Director to process the petition in light of the Board's decision.

#### 5. Reprisals/Right to Representation

San Diego USD; San Diego Teachers Assn. v. (6/19/80) LA-CE-194 PERB Decision No. 137

3543.5(a), (c), (b)

The action of two members of the board of education (placing letters of commendation in the personnel files of nonstriking teachers) constitutes conduct by the District because no action was taken by three board members who had agreed to a "no sanctions" agreement (condoning of the letters thereby being applied), District stationery was used, titles of the board members were used, and decision by management to place letters in personnel files.

This action violated 3543.5(a), and since the action occurred during negotiations and without the association's knowledge, it constituted bad faith negotiations in violation of 3543.5(c).

Placement of commendation letters written by two school board members in non-striking teachers' personnel files found to be an action by the District and a violation of 3543.5(a). "The letter interfered with the protected right of the employee organization and its members to accept in good faith the terms of the school board's resolution (no sanctions against striking teachers) by returning to work, resuming negotiations and refraining from continuation of the strike."

District's failure to disclose the existence of the commendation letter during negotiations violated section 3543.5(c).

Marin CCD; SEIU, Local 250 and Local 400 v. (11/19/80) SF-CE-297; SF-CE-316 PERB Decision No. 145.

Union activist was reprimanded for discussing union business allegedly during working hours, for challenging the authority of a supervisor and for failing to attend a Weingarten-type meeting with his supervisor without his union representative. Employee was subsequently fired for alleged neglect of duty and failure to notify his supervisor that he was taking sick leave. The Board found that: (1) reprimand of union activist was disparate treatment because the other employee who engaged in same conduct was not disciplined; (2) the District was on ample notice that the employee was ill when it decided

to terminate him for neglect of duty; and, (3) the past practice regarding reporting of sick leave was very informal and the employee was in conformity with that practice. The District also promulgated rules restricting only classified union activity which inter alia prohibited solicitation during coffee and rest breaks. The rules are discriminatory and invalid because of the prohibition of solicitation during non-working periods and must be rescinded.

The facts of this case indicate that the District possessed the requisite animus to support a finding that the employee would not have been reprimanded and fired but for the employer's illegal motive. Reprimand for failure to attend the Weingarten-type meeting because no representative was permitted violates section 3543.5(a).

The employee is reinstated with full back pay, offset by his interim earnings, and retroactive contribution by the District to PERS.

Santa Monica USD; San Monica Classroom Teachers Association v. (12/10/80) LA-CE-60 PERB Decision No. 147.

The District reprimanded and threatened the Association president (Emch) with termination because of a protected communication to Association members. The hearing officer found a violation of section 3543.5(a) but no separate violation of section 3543.5(b).

The Board affirmed the finding of a section 3543.5(a) violation, based on the current Carlsbad test. Utilizing the Board's decision in San Francisco CCD, PERB Decision No. 105, the Board found a violation of section 3543.5(b).

6. Individual's Standing to File Charge

South San Francisco USD; Michael J. Martin v. (1/15/80) SF-CE-180 PERB Decision No. 112

The Board distinguished Hanford (6/27/78) PERB Decision No. 58, from instant case by finding that Hanford did not limit an individual's right

to file an unfair practice charge. (Hanford found a non-exclusive employee organization's rights to file an unfair practice charge limited by statutory provisions.) Charges alleged that a unilateral change by employer in a coaching assignment violated 3543.5(c). Relying on Hanford, the hearing officer had found individual did not have standing to file charges.

Board remanded the case to the General Counsel on finding a prima facie violation of section 3543.5(c), and also a potential interference with employees exercise of representational rights (section 3543.5(a)).

7. Request for Reconsideration

Santa Clara USD; Santa Clara Federation of Teachers, Local 2393; United Teachers of Santa Clara (5/7/80) SF-CE-13 PERB Decision No. 104a.

Board finds no "extraordinary circumstances" and denies request for reconsideration. However, the Chief ALJ was directed to conduct a hearing on District's claim of "legal incapacity" to comply with the ordered remedy.

8. Procedures

Ocean View School District; Ocean View Teachers Assn. v. (6/10/80) LA-CE-520 PERB Decision No. 131

Motion to excuse late filing is denied. No extraordinary circumstances shown.

9. Revised Order

Davis USD; New Haven USD; Newark USD; State Center CCD; Centinela Valley Union HSD; (6/19/80) S-CE-78; SF-CE-126; SF-CE-127; S-CE-80; LA-CE-180 PERB Decision No. 116a Revised Order

Based upon notification by Districts of agreements reached with employee organizations for retroactive payment of withheld salaries, the Board issues a revised order deleting the requirement for retroactive payment. The revised order retains the requirement that interest must be paid.

10. Agreement to Withdraw Charge

Victor Valley Teachers Association v. Victor Valley Joint Union High School District  
(12/11/80) LA-CE-266; LA-CE-386 PERB Decision No. 148.

Association sought to pursue unfair practice charge which had previously been held in abeyance pending negotiations. Each party had filed charges, but had agreed to withdraw them if and when negotiated agreement was concluded. District withdrew its charge upon execution of agreement, but Association refused to do so, alleging contract did not resolve all unfair practice issues.

Hearing officer's decision to dismiss charge, based on PERB's policy of encouraging voluntary settlement, which would be undermined if party is allowed to renege, particularly in light of District's withdrawal of its charge, is affirmed without discussion.

C. SEERA

Professional Engineers in Cal. Government v. State of California (3/19/80) S-CE-7S PERB Decision No. 118-S

State did not unlawfully deny union right to represent its supervisory members in employment relations with state. Unfair practice mechanisms of SEERA are unavailable not only to supervisors, but also to unions representing them to the extent that the union seeks to enforce a right solely related to supervisors. To allow union to file charge that union's rights were denied would have effect of bootstrapping supervisors' rights into statutory enforcement scheme.

Charge alleging denial of rights of supervisors to be represented dismissed as not within jurisdiction of PERB and no showing of impact on non-supervisory employees' rights.

Charge on behalf of management employees dismissed since PERB has no jurisdiction.

California Department of Forestry Employees Assn. v. State Department of Forestry (3/25/80) S-CE-4S PERB Decision No. 119-S

Charge alleging employer policy restricting supervisors from discussing preferences for unions interfered with supervisors' rights is dismissed. However, the policy is found to unreasonably restrict the "flow of information between supervisors and rank and file members" and may therefore interfere with employees' rights under 3519(a). Remanded to Chief Administrative Law Judge for hearing.

California Correctional Officers Assn. v. State of California (5/15/80) S-CE-3-S PERB Decision No. 127-S

Considering the test set forth in Carlsbad USD (1/30/70) PERB Decision No. 89 the Board finds the Department of Corrections' removal of office space and inmate clerical services was not violative of employees' organizational rights. Access rights to employees not unreasonably hinder(ed). ". . . [A]ccess to public property may be reasonably regulated under varied circumstances."

Board finds no violation of 3515.5 as the department did discuss proposed changes with organization.

Department's action was "justifiable response to enactment of SEERA." No 3519(d) violation.

PERB has no jurisdiction over George Brown Act. Charge dismissed.

## PERB FUNCTIONS

The Board has these functions established by statute:

- . to determine, through secret ballot elections, whether employees wish to be represented by an employee organization for the purpose of negotiating and, if so, which organization;
- . to prevent and remedy unlawful acts, defined in the Act as unfair practices, by either employers or employee organizations;
- . to effectuate statutory impasse procedures designed to assist employers and employee organizations in reaching agreement;
- . to ensure that the public is afforded sufficient information and time to register its opinion regarding negotiations;
- . to monitor the financial activities of employee organizations;
- . to conduct research and public education and training programs relating to public employer-employee relations.

## PERB PROCEDURES

### REPRESENTATION PROCEDURES

The first area of the Board's involvement with the parties is usually in a representation matter. The Board is empowered to determine appropriate units in disputed cases or otherwise approve appropriate units for bargaining purposes.

This is triggered by one or more petitions from employee organizations, filed with the employer, requesting recognition as the exclusive representative of a group of employees. After a posting period, the employer notifies the PERB in writing of its decision as to whether or not there exists a dispute regarding the standing of the various employee organizations and/or the composition of an appropriate unit. If there is only one employee organization and the parties agree on the unit description, the employer may grant voluntary recognition or it may ask for a representation election. If more than one employee organization is competing for the same unit, an election is automatic. The Board has stressed voluntary settlements through cooperation and has consistently offered the assistance of board agents to work with the parties for unit settlements. It is the policy of the Board to encourage the parties covered by the Act to resolve disputes by mutual

agreement provided such agreement is not inconsistent with the purpose and policies of the Act.

In a case where there is a dispute regarding the appropriateness of a unit, a Board hearing officer holds a unit determination hearing. The dispute is decided on the basis of the community of interest between and among the employees and their established practices including, among other things, the extent to which such employees belong to the same employee organization and the effect of the size of the unit on the efficient operation of the school district.

After the unit dispute is resolved, the district may grant voluntary recognition if there is only one employee organization. If the employer refuses to grant voluntary recognition and requests an election, an election is held.

The Board is also involved, under the EERA, with the parties when, after an appropriate unit is determined, one or both parties want to make changes in the unit description. These changes would be effected in accordance with PERB Regulation 33261. Under the commonly used parts of this regulation, the Board entertains a petition for a change in unit determination when one, both the exclusive representative and the public school employer jointly file the petition or two, where there

has been a change in the circumstances which existed at the time of the initial unit determination. If the differences cannot be settled informally with the aid of the Board agent, a formal hearing is held and a decision rendered following the same principles as representation hearings.

Another employee organization or group of employees may try to decertify an incumbent exclusive representative by filing a decertification petition with the PERB. Such a petition would be dismissed if it is filed within 12 months of the date of voluntary recognition by the employer or certification by the PERB of the incumbent exclusive representative. The petition would also be dismissed if it is filed when there is a negotiated agreement currently in effect, unless it is filed during a 30-day window period beginning 120 days prior to the expiration of that agreement.

## ELECTIONS

One of the major functions of the PERB has been to conduct elections. The two general categories of elections are representation and organizational security elections. Representation elections involve the selection of an exclusive representative, if any, by employees in a negotiating unit

which has been determined to be appropriate. The great majority of elections fall into this category.

A representation election occurs in several ways. A consent election is held if the parties to the election can agree on the description of an appropriate negotiating unit and on other provisions such as dates, hours and location of polling sites.

A directed election is ordered by a Regional Director when the parties are not able to agree upon a negotiating unit and bring their dispute to the PERB for a hearing and decision. After the PERB decision becomes final, parties who submit at least 30% showing of support in the unit found to be appropriate become eligible to appear on the ballot. A directed election might also be ordered by a Regional Director when the parties agree upon an appropriate unit, but cannot agree on the provisions of the actual conduct of the election.

In consent and directed elections the choice of "No Representation" appears on each ballot in addition to the name of the employee organization(s).

During an election a board officer or an official observer of the parties may challenge the eligibility of any person to

cast a ballot. If challenged ballots are not resolved at the ballot count, they are set aside unless they are sufficient in number to affect the results of the election. In the latter case a PERB hearing is held to determine which, if any, of the challenged ballots are eligible to be counted.

If no entry on the ballot receives a majority of all votes cast, a runoff election is held. In this case the ballot lists the two ballot entries which received the greatest number of votes in the first election.

During the ten days following an election, objections to the conduct of the election may be filed. If objections are filed, a PERB hearing and decision normally follow. The result of the election will not be certified until any objections have been decided. If an employee organization receives a majority vote and no objections to the election are filed, the organization will be certified by the PERB as the exclusive representative for the unit in question. To date no election has been set aside as a result of the objections.

A decertification election is conducted by PERB when the employees of a negotiating unit seek to remove the incumbent exclusive representative. The process is initiated by filing a valid decertification petition with the PERB. Procedures for

conducting decertification elections are the same as those utilized for other representation elections.

The second general category of elections (under EERA and HEERA) is the organizational security election. Such an election may be held to approve or rescind an organizational security agreement. Once an organizational security arrangement has been agreed upon by the employer and the exclusive representative, the employer may request the PERB to hold an election to determine if the employees wish to adopt the provision. The ballot calls for the employees in the unit to vote "Yes" or "No" on the provision.

Election procedures similar to those for a representation election are utilized. Objections to the conduct of the election may be filed.

#### IMPASSE PROCEDURES

The agency assists the parties in reaching negotiated agreements through mediation, then through factfinding under EERA and HEERA, should it be necessary. If the parties are unable to reach an agreement during negotiations, either party may declare an impasse. At that time a Board agent contacts both parties to determine if they have reached a point in their

negotiations where their differences are so substantial or prolonged that further meetings would be futile. In cases where there is no agreement of the parties regarding the existence of an impasse, a Board agent counsels the parties and seeks information that would help the Board to determine if mediation would be helpful and productive at that time.

The Act provides that the mediator cannot be a PERB staff member. Therefore, the PERB has maintained an interagency agreement with the Department of Industrial Relations, State Mediation and Conciliation Service, to provide mediators in PERB determined impasses. The costs of mediation services under this agreement are paid by the State. The parties may jointly agree upon their own mediation procedure; however, the cost of any such procedure shall be borne equally by the parties. The parties have utilized their own mediation procedure in only a few cases.

Once it is determined that an impasse exists, the State Mediation and Conciliation Service is contacted to assign a mediator. The mediation process under the EERA has been enormously successful.

If settlement is not reached during mediation, either party (under EERA and HEERA) may request that factfinding procedures

be implemented. If the mediator agrees that factfinding is appropriate, PERB provides a list of potential neutral factfinders from which the parties select a person. The cost of the neutral chairperson is borne by the PERB. The cost of the other two panel members, each of whom is selected by their principal, is paid by the respective parties.

If the dispute is not settled during factfinding, the panel is required to make findings of fact and recommend terms of settlement. These recommendations are advisory only. Under EERA, the public school employer is required to make the report public within ten days after its issuance. Under HEERA, the parties are prohibited from making the report public for at least 10 days. Both laws provide that mediation can continue throughout the factfinding process.

#### ADMINISTRATIVE APPEALS

Administrative decisions rendered by Board staff are, with the limitations provided in PERB Regulation 32380, subject to appeal by the parties to the Board itself. Administrative decisions are any policy or procedural decisions made by staff other than those resulting from a formal hearing or a refusal to issue a complaint in an unfair practice matter.

## UNFAIR PRACTICE PROCEDURES

An employer, an employee organization, or an employee may file a charge alleging an unfair practice. Upon receipt, the charge is docketed, assigned a case number and screened to see that it states a prima facie case. A copy is served on the party alleged to have committed the unlawful act. The respondent then files an answer to the charge.

If it is determined that the charge fails to state a prima facie case, the charging party is informed of the determination. If the charge is neither amended nor withdrawn, the Board agent assigned will dismiss the charge. The charging party then has a right to appeal the decision to the Board.

When the answer has been received, a board agent calls the parties together for an informal conference. At this time efforts are made to settle the matter by mutual agreement. At the informal conference, the parties are free to discuss the case in confidence with the Board agent. No record is made since the primary purpose is to achieve a voluntary settlement. If it becomes apparent that voluntary settlement is unlikely, a formal hearing is scheduled. If a formal hearing is conducted, it is typically held in the local community. If this arrangement is not mutually desirable, the

hearing will be held at one of PERB's regional offices or in other state facilities.

The hearing officer rules on motions, takes sworn testimony and receives evidence. The hearing officer then studies the record, considers the applicable law, and issues a recommended decision.

After receipt of the recommended decision, any party to the proceedings may file a Statement of Exceptions with the Board and submit briefs in support thereof. This method provides any party with the opportunity to appeal the recommended decision before it would otherwise become effective. The Board, after hearing the exceptions, may affirm the decision, modify in whole or in part, reverse, or send the matter back to the hearing officer for the receipt of additional testimony and evidence. At any time during the above process, the Board may elect to transfer a case from a hearing officer to the Board itself.

Hearing officers' proposed and recommended decisions are made in accordance with precedential Board decisions. In the absence of a Board decision on the same or similar facts, the hearing officer will decide the issue(s) applying such other relevant legal precedent as is available subject to an appeal to the Board. Hearing officers' proposed and recommended

decisions become final decisions of the Board if not appealed and are binding on the parties to the particular case.

An important distinction exists, however, between these decisions and decisions of the Board itself. Decisions of the Board itself are made after deliberation by the Board members on cases that have been appealed from a hearing officer's decision. The decisions are precedential and bind not only the parties to that particular case but also serve as precedent for similar issues until modified or reversed by the Board itself or by the courts. They are appropriately cited as precedent. Hearing officers' decisions are not.

Hearing officers' proposed decisions in unfair practice charges have dealt with many difficult and challenging legal issues of first impression under the statute. This has occurred, in the main, prior to the development of a body of Board precedent.

#### LITIGATION

The PERB is represented in litigation by the General Counsel's office. The Board may be involved in at least six types of court proceedings:

- (1) judicial review of a unit determination decision;

- (2) court enforcement of Board decisions or subpoenas;
- (3) review of a final Board order in an unfair practice case;
- (4) injunctive relief;
- (5) attempts to block the Board's processes; and
- (6) the Board may file amicus curiae briefs in or be a party to litigation affecting its jurisdiction on public sector labor relations generally.

#### PUBLIC NOTICE COMPLAINTS

The EERA provides that the public be informed about the issues being negotiated and also be afforded the opportunity to express its views on the issues to the school employer.

PERB regulations provide the public with a mechanism to allege a violation of this section of the EERA. A Board agent is assigned to investigate each complaint. Every effort is made to gain voluntary compliance and to resolve the complaint without the necessity for a formal hearing. To date, the staff has been successful with this approach.

SAN DIEGO SUPERIOR COURT CASE

San Diego Association v. Superior Court of San Diego County  
(1979)

In response to a teacher strike, the District sought and obtained an injunction in Superior Court to halt the strike arguing that strikes are unlawful under the common law. The strike continued as the parties continued the negotiation process. The parties concluded their negotiations in a written agreement. The School Board passed a resolution granting amnesty to those employees who returned to work. However, notwithstanding the amnesty agreement of the parties, the Superior Court issued a contempt citation after the injunction was not honored by the striking employees. The court held the President of the Teachers Association in contempt of court and levied a fine and a jail sentence.

The Association sued the Superior Court to set aside the contempt citation by arguing, among other things, that the advent of the EERA impliedly granted a right to strike. At that point PERB was not involved with the court case. The Superior Court ruling was affirmed by the Court of Appeal and the matter was appealed to the State Supreme Court.

The Supreme Court then asked PERB to respond to several questions. PERB advised the Court that it could not give a definitive response in the matter without a case before it, but agreed to speculate as to certain types of cases. The Court asked if a strike might constitute an unfair practice. The PERB majority said yes and listed two examples: (1) a strike without completion of the statutory impasse proceedings and (2) a strike to achieve demands without negotiating for the demands. The court also asked if PERB had the authority to seek injunctive relief in strike cases. The PERB majority responded that EERA provided for PERB to have exclusive, initial jurisdiction over determinations of unfair practice charges. Therefore, to the extent that a party alleges that a strike constitutes an unfair practice, the matter might be enjoined and should come to PERB first though PERB's decision would be appealable.

It should be noted that the above responses were made by a majority of the Board. In a separate dissenting amicus filing, one member argued that strikes violate the common law and are therefore per se unlawful. The Supreme Court rejected the latter argument and specifically did not answer the question of whether strikes are per se unlawful under the common law. The individual member also argued that the reference to Labor Code section 923 in EERA made strikes unlawful under the act. The

court specifically rejected that argument holding that the EERA provisions merely did not extend to school employees those specific rights granted to private sector employees by section 923. The Court further advised that PERB should not grant injunctions ("harsh sanctions") automatically but should use its expertise to further the purposes of the Act. The court concluded that strikes which were unfair practices were enjoined and also ruled that PERB had exclusive initial jurisdiction over what constitutes an unfair practice. The court vacated the contempt citation and indicated that when an injunction is sought, the request should initially be made of PERB and not the courts.

The majority response to the Supreme Court's questions never addressed the common law status or legality of strikes question. The majority contended that PERB has no jurisdiction to interpret the common law. The court agreed that PERB rules on EERA and the courts interpret the common law. It should be noted that the Board has not yet had the opportunity to decide the question of whether a strike is illegal under EERA where all statutory requirements have been met by the employee organization. The Supreme Court left open the question of whether a strike which doesn't violate EERA might still constitute an unlawful act under common law.

As a result of the San Diego case, the Board adopted rules which provide for a compressed investigative timeline in which the General Counsel reports to the Board within 48 hours after receipt of a request in recognition of the nature of the rights and interests which are involved. As might be expected, this newly defined jurisdiction involves a substantial additional workload for the Board.

A Board decision to seek injunctive relief related to a specific unfair practice charge is based on an evaluation of: (1) the likelihood that the charge would prevail when heard, and (2) the potential for irreparable harm should the injunctive relief not be sought.

PERB has had five unfair practice cases in which requests to enjoin strikes have been made. PERB has sought injunctive relief in all cases in which a party alleged that the strike constituted an unfair practice which was likely to succeed on the merits. In one case in which an employee organization refused to honor the injunction, PERB sought contempt proceedings and obtained a fine for non-compliance.

In an interesting and frequently misunderstood case, Modesto, the Board found that the strike conducted after the completion of the statutory impasse procedures were exhausted, apparently

## UPDATES

### EERA

#### Elections

As a result of elections conducted by PERB and voluntary recognition by school districts, approximately 90 to 95 percent of the school employees in the State have exercised their right to be represented by an exclusive representative in negotiations on matters set forth in the EERA. During 1980, PERB conducted 91 elections of various kinds covering approximately 31,600 employees. A listing of the elections conducted in 1980 is found in the appendices, page 68.

There were 26 elections conducted by PERB during 1980 to determine which employee organization, if any, would represent the employees of a particular negotiating unit.

In addition, there were 40 decertification elections. Of these, 20 resulted in the retention of the incumbent organization; none resulted in the selection of no representation, and 20 resulted in the selection of another employee organization as the exclusive representative.

Organizational security provisions negotiated between the employer and the exclusive representative required 25 elections

to be run by PERB in 1980. Of these elections, 25 resulted in ratification of the organizational security provision and none resulted in rejection of the organizational security provision.

### Representation Procedures

When the parties seek to establish a new unit or to modify an existing unit, a petition must be filed with the PERB regional office. A Board agent then investigates the request to ensure compliance with the Act and Board policies. In disputed cases, the Board's staff frequently were able to help the parties resolve their differences, thus precluding the necessity of a time-consuming formal hearing.

During 1980, 69 requests/interventions for recognition, and 138 petitions for unit modifications were received and processed. There were 14 proposed decisions issued which dealt with representation issues.

### Mediation/Factfinding

The EERA provides for both mediation and factfinding, if necessary, to assist those parties who may have reached an impasse in their attempt to negotiate an agreement on wages, hours, and terms and conditions of employment.

The process of assisting the parties to reach negotiated agreement through mediation, or factfinding when necessary, has continued to be productive. In 1980, PERB received a total of 412 mediation requests, 63 (15 percent) proceeded to factfinding.

#### Public Notice Complaints

The EERA provides that the public be informed about the issues being negotiated and also be afforded the opportunity to express its views on the issues to the school employer.

PERB regulations provide the public with a mechanism to allege a violation of this section of the EERA. A Board agent is assigned to investigate each complaint. Every effort is made to gain voluntary compliance and to resolve the complaint without the necessity for a formal hearing. To date, the staff has been successful with this approach. Eleven public notice complaints were filed with PERB in 1980.

## SEERA

In the early months of 1980, PERB hearing officers held a series of sub-hearings structured to provide the data needed to determine appropriate bargaining units. These hearings resulted in approximately 30 thousand pages of testimony and thousands more pages of exhibits which were submitted to the Board itself for a decision. On November 7, 1980, PERB Decision No. 110-S, Unit Determination for the State of California was issued. This placed approximately 145,000 state employees in over 4,000 classifications into 20 bargaining units.

### SEERA UNITS

	<u>Approximate Number of Employees</u>		<u>Approximate Number of Classes</u>
Unit 1	31600	Administrative, Financial, and Staff Services	1184
Unit 2	1950	Attorney and Hearing Officer	95
Unit 3	2450	Education and Library	369
Unit 4	36800	Office and Allied	210
Unit 5	5000	Highway Patrol	9
Unit 6	8050	Corrections	58
Unit 7	5750	Protective Services and Public Safety	270
Unit 8	3950	Firefighter	28
Unit 9	6100	Professional Engineer	325

SEERA UNITS

	<u>Approximate Number of Employees</u>		<u>Approximate Number of Classes</u>
Unit 10	1400	Professional Scientific	253
Unit 11	2900	Engineering and Scientific Technicians	194
Unit 12	12900	Craft and Maintenance	479
Unit 13	500	Stationary Engineer	19
Unit 14	950	Printing Trades	75
Unit 15	7400	Custodial and Services	89
Unit 16	1200	Physician, Dentist, and Podiatrist	70
Unit 17	2050	Registered Nurse	38
Unit 18	8150	Psychiatric Technician	15
Unit 19	3550	Health and Social Services/Professional	161
Unit 20	2700	Nonprofessional Medical and Social Service Support	56
Total	<u>145,350</u>		<u>1002</u>

As provided for under the Board's rules, the parties filed Requests for Reconsideration and for Judicial Review of the unit determination decision. The Board ruled on these requests in January of 1980.

On December 31, 1980, PERB Decision No. 110c-S was issued. This decision was based on information produced during additional hearings held in 1980, and identifies employees to be excluded from each of the 20 units as managers, supervisors,

or confidential employees or employees otherwise excluded from coverage under SEERA pursuant to Government Code section 3513(c). This decision also ordered the conduct of representation elections in all units.

A total of 45 valid election petitions were filed by employee organizations during early 1980. It is anticipated that PERB will conduct the elections during the Spring of 1981.

On March 25, 1980, by a 2-1 decision, the 3rd District Court of Appeal declared SEERA unconstitutional based on its interpretation of the constitutional powers of the State Personnel Board (3 Civil 18364). This decision was appealed to the State Supreme Court by the Governor of the State of California, the California State Employees' Association and the Public Employment Relations Board. The Supreme Court granted the petitions for hearing and oral arguments were held before the Court on December 2, 1980. A Supreme Court decision is expected early in 1981.

## HEERA

On July 1, 1980 the Higher Education Employer-Employee Relations Act (HEERA) became effective. The Los Angeles Regional Office was designated to handle representation matters affecting California State University and Colleges (CSUC) and the San Francisco Regional Office was designated to handle representation matters affecting the University of California (UC) and Hastings College of the Law.

### CSUC - Representation Matters Handled by Los Angeles Regional Office

In February of 1980 a petition was filed requesting recognition in a unit of Children Center Teachers at Sacramento State College. A hearing to resolve the jurisdictional question was held in May and June of 1980 and has been continued to January of 1981.

A petition for certification in a statewide unit of approximately 7,000 office and technical employees was also filed in February. An informal conference was conducted in July and a hearing will be held early in 1981.

During June of 1980 an election in a statewide unit of peace officers was conducted. The election resulted in the certification of an exclusive representative for that unit of employees.

In July of 1980 a petition for certification was filed for a statewide unit of Public Safety Sergeants and Lieutenants. In November this petition was placed in abeyance at the request of the petitioner.

During the period from March to August, 1980 hearings were held to determine appropriate units of: 1) academic and professional employees; and 2) maintenance and crafts employees. The hearing officers are drafting recommended decisions in appropriate units and the Board will issue final decisions and order elections. Approximately 23,000 employees will be covered in these decisions.

U.C./Hastings - Representation Matters Handled by San Francisco Regional Office

#### PETITIONS

Petitions were filed during 1980 to determine appropriate units covering virtually all job classes and sites within the

University of California system. There were 10 requests for recognition, 37 petitions for certification, 25 parties of interest, and 19 limited parties. In addition, one unit modification was filed. These filings ranged from employees located at a single campus or laboratory to system-wide units.

These filings covered the following groups of employees:

- |   |  |
|---|--|
| 1. Firefighters                                   | 17. Operating engineers  |
| 2. Laborers and gardeners                         | 18. Technical employees  |
| 3. Crafts and trades employees                    | 19. Professional classes   |
| 4. Protective services officers                   | 20. The faculty of UC Berkeley, UC Los Angeles, UC Santa Cruz and UC Riverside |
| 5. Police officers and sergeants                  | 21. Office and clerical employees  |
| 6. Custodians                                     | 22. Patient care and hospital service employees                                |
| 7. Printing trades employees                      | 23. UC Los Angeles and UC Berkeley Institute of Industrial Relations employees |
| 8. ESL teachers                                   | 24. Skilled trades   |
| 9. Stationary engineers                           | 25. Reprographics employees  |
| 10. Health professionals                          |  |
| 11. Service, maintenance and operations employees |  |
| 12. Stationary engineers                          |  |
| 13. Lab technician                                |  |
| 14. Nurses  |  |
| 15. Truck drivers                                 |  |
| 16. Medical housestaff                            |  |

#### HEARINGS

The unit determination hearing process under HEERA was divided into two parts.

During Phase I, which began in March, the University presented extensive testimony regarding its structure, classifications, and personnel policies relevant to all units.

During Phase II, with the exception of police and academic senate faculty, most classifications were assigned to one of two hearings - operations or professional. These hearings will result in recommended decisions by hearing officers on appropriate units which will be automatically reviewed by the Board itself. The briefs will be submitted to the hearing officers in March 1981, with decision to follow thereafter.

The Board, through the administrative appeal process, ruled on several issues arising from decisions issued by its SF Regional Director and the hearing officers in charge of the unit hearings. In September, AD-100-H upheld the method used by the Regional Director to verify showings of interest in the absence of accurate lists of employees which the University said it could not provide at that time. The Regional Director checked the showing based on two assumptions: 1) that the number of employees estimated as comprising the unit claimed to be appropriate was accurate, and 2) that those persons who clearly demonstrated their desire to be represented by the party of interest applicant were among those employed in the proposed unit.

In AD-101-H the Board overruled a joint hearing order prohibiting parties from proposing alternative units at the conclusion of the hearings unless a formal amendment had been filed. The Board declared that parties could change their original positions or propose alternatives without formal amendments as long as the new positions(s) did not expand the existing scope of the hearings. The Board further ruled that all parties could, in their post hearing briefs, argue any position or alternative.

Requests for reconsideration of AD-100-H and AD-101-H were denied in November since no extraordinary circumstances were cited.

AD-102-H upheld the SF Regional Director's recommended dismissal of four petitions filed after commencement of the hearings based upon lack of showing of interest. The Regional Director had proposed, as an alternative, that the party apply for party of interest status since this would have a less disruptive affect on the hearings. The Board ruled that the petitioners had not been denied any rights since a party of interest may participate to the same extent in representation hearings as a petitioner or intervenor.

AD-103-H also upheld the Regional Director's application of PERB rules 32700 (b) and (e) (4) which require that membership lists submitted as proof of support must be accompanied by the date of each members' signature on an enrollment, membership application, or designation card and that such signatures must have been obtained within one calendar year prior to the filing of the petition.

### ELECTIONS

In addition, four elections were held in 1980. The first involved the UC Berkeley faculty who voted for no representation in June. August saw the first certification of an exclusive representative when police officers voted to be represented by the University Policy Association in a system-wide unit. In December, both the faculty at UC Los Angeles and UC Santa Cruz cast their ballots. Since no entry on the ballot received a majority in either election, runoffs will be conducted early in 1981.

## UNFAIR PRACTICE

### EERA

In 1980, 445 unfair practice charges were filed; 375 cases were voluntarily settled prior to hearing. During the calendar year, hearing officers issued 152 dismissals prior to hearing and 68 proposed decisions became final and thirty-three were appealed to the Board.

### SEERA

During 1980, 55 unfair practice charges were filed. Twenty-three charges were voluntarily settled prior to hearing. Three additional charges were dismissed with no appeal taken. Ten charges have been temporarily placed in abeyance at the request of the parties; four hearing officers' proposed decisions were issued one of which became final and three were appealed directly to the Board.

### HEERA

During 1980, 54 unfair practice charges were filed. Nineteen charges were voluntarily settled prior to hearing. Seventeen charges have been temporarily placed in abeyance at the request of the parties. During the calendar year, six hearing officers' proposed decisions were issued after

hearing, two of which became final and four were appealed directly to the Board for decision.

In addition to this, Board agents were extremely active in working with the parties under EERA, SEERA and HEERA in informal conferences, attempting to work out mutually acceptable solutions to the problems giving rise to the charges. In the vast majority of cases, this resulted in withdrawal of the charges by settlement. Graphs of the unfair practice charges filed during 1980 are found in the appendices, pages 64-80.

## SUMMARY

Since 1976, the Public Employment Relations Board has completed the major transition required for the implementation of EERA. As the decision summary illustrates, virtually all first-generation representation questions involving appropriate unit disputes have been answered. Until late in 1979, the Board was still faced with the big backlog of unresolved cases which were originally filed in April and July of 1976. This workload is now behind us, and EERA representation caseload has stabilized. We have closed over 7,000 cases since April of 1976, and there were only 627 open EERA cases as of December 31, 1980.

The recently issued Healdsburg and Jefferson decisions typify the shift from initial representation issues to the resolution of second-generation questions concerning the duty to meet and negotiate and the scope of representation. These cases have been appealed into the court system.

It is clear that the transition from the Winton Act to the EERA, which involved the forging of a new negotiating relationship, was a difficult period in some districts. In recognition of this, and because the Board believes that the best settlements are those agreed to by the parties, PERB

focused its efforts on helping the parties to reach agreement. This approach was very successful. Few of the exclusive representatives in the 2,004 units in place have failed to negotiate at least one contract.

However, the following factors have impacted the agency and the parties:

1. During these four and a half years, the Board itself experienced several external interruptions in its case-handling capacity. Reginald Alleyne, our original Chairman, resigned during his term, and the seat was left vacant for approximately three months. The two remaining members did not agree on all issues, and many cases were left to a new member to resolve. The Governor replaced member Cossack-Twohey at the expiration of her term in 1979, and a vacancy created when Ray Gonzales resigned remained unfilled during the entire second half of 1980. Both of these events contributed in lost time to process cases.
2. When the Board initially opened for business on April 1, 1976, twelve hundred school districts were simultaneously affected. Several petitions for bargaining units were filed in each district. This meant that a huge one-time

caseload was presented. While it is likely that we will never again see such a one-time workload, it took an extraordinary period of time to deal with these cases. Cases were docketed chronologically and those toward the bottom of the list had to wait longest for resolution. As a result, the Board made a policy decision that expediting representation cases to resolve unit disputes was the best way to initially effectuate the purposes of the EERA. Of necessity, it meant that many unfair practice cases appealed to the Board had to wait for resolution.

3. Unlike appellate courts, PERB cannot control its own docket by refusing to hear appeals. Consequently, the flow of case decisions is dependent on the number of appeals taken. The number of requests for injunctive relief have significantly increased in the last two years and therefore have impacted the flow of all other cases.
4. A trend has appeared which permits the conclusion that our caseload may grow substantially. Approximately one year ago, the State Board of Control authorized reimbursement to school districts for local mandated costs relating to EERA. The guidelines provide for reimbursement of, among other things, the cost of litigation and processing cases before PERB. Since appeals normally stay our orders, and

since the employer is now reimbursed for the costs of such appeals, we can anticipate an even greater incidence of appeals both to the Board and the Courts.

5. Since the passage of EERA in 1976, PERB was given jurisdiction over both the State Employer-Employee Relations Act and the Higher Education Employer-Employee Relations Act. These new statutes required the Board to direct substantial time and energies toward developing appropriate rules and regulations, conducting public hearings with considerable public testimony and, finally drafting and adopting the appropriate rules. Substantial time and effort was spent responding to the lawsuit challenging the constitutionality of SEERA as well as the unit determination case which consisted of over 60,000 pages of record including transcripts, briefs and exhibits.
  
6. The scope of negotiation language in the Act is subject to differing interpretations. The Jefferson and Healdsburg cases on scope of negotiations present the situation where there are three separate opinions interpreting the statutory scope language. The cases contained issues in which the majority varied from issue to issue. The cases are currently appealed to the Court of Appeal by the employers and the employee organizations involved.

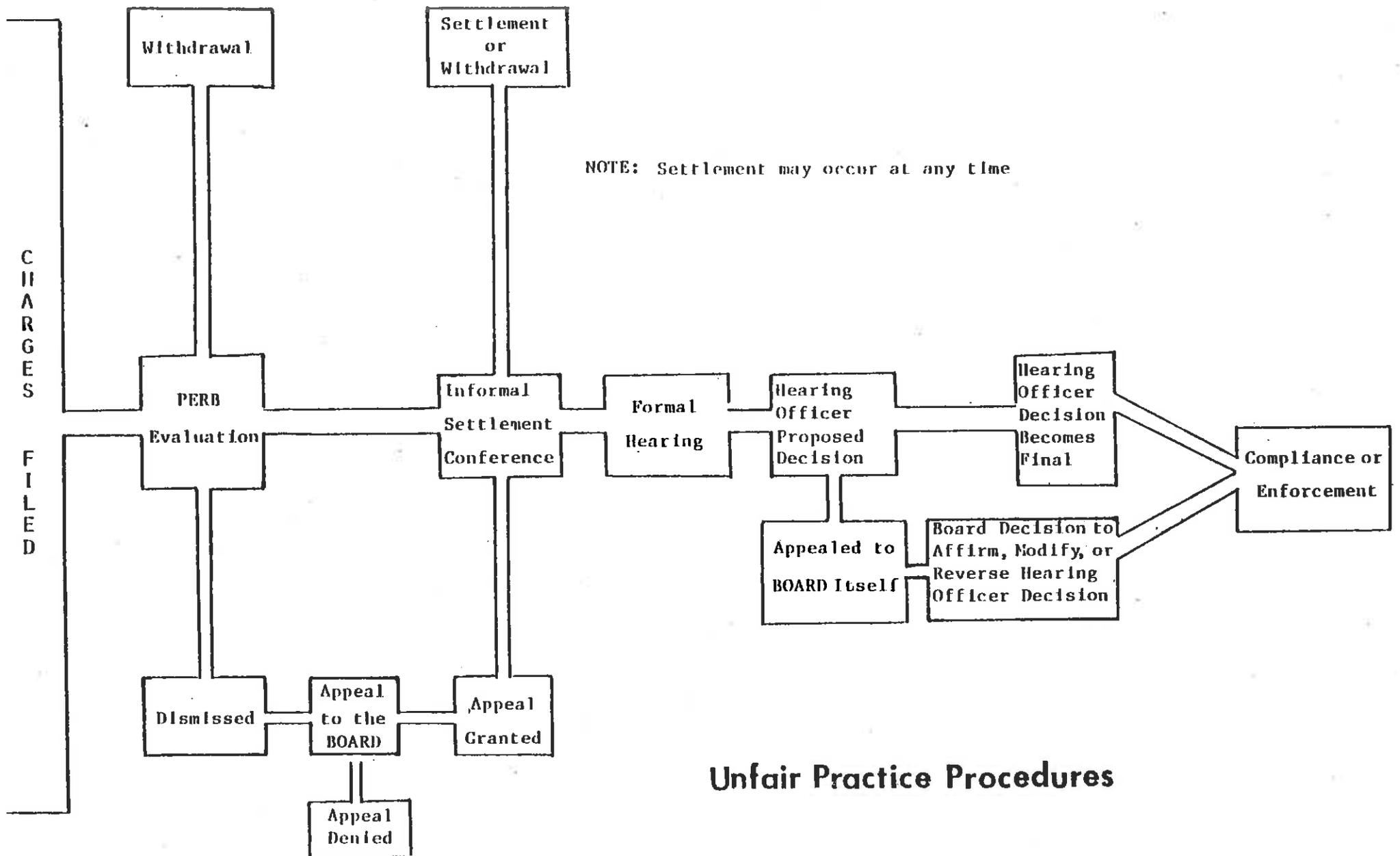
Notwithstanding the complexities of these cases, it is hoped that the result of this litigation will be a definitive resolution of questions concerning scope of negotiations.

7. While the Board is authorized to conduct research and public education and training programs relating to public employer-employee relations, the workload and fiscal limitations have required staff to focus on case processing rather than these functions.
8. To avoid potential conflict between PERB's adversary litigation role and the neutral hearing role, the Board considered it essential to separate the administration and supervision of the hearing process from the litigation function. To this end, the Board is in the process of establishing a bifurcation of these functions in which the General Counsel would continue to function as the chief legal officer to the Board in all matters relating to litigation and the Chief Administrative Law Judge would supervise the hearing process. The Board is currently recruiting applicants for the position of General Counsel which was established as an exempt position pursuant to SB 475 of 1980 (Rodda).

In the aggregate, the factors listed above have had a substantial impact on the flow of EERA cases through the agency. In recognition, the board is considering various alternatives for expediting all cases. Specifically, the Board has adopted rules which allow the prioritization of certain kinds of cases, and we have developed a management information system to track all cases through the agency. Additionally, the passage of SB 1860 of 1980, which expands the Board from three to five members, may assist in this regard.

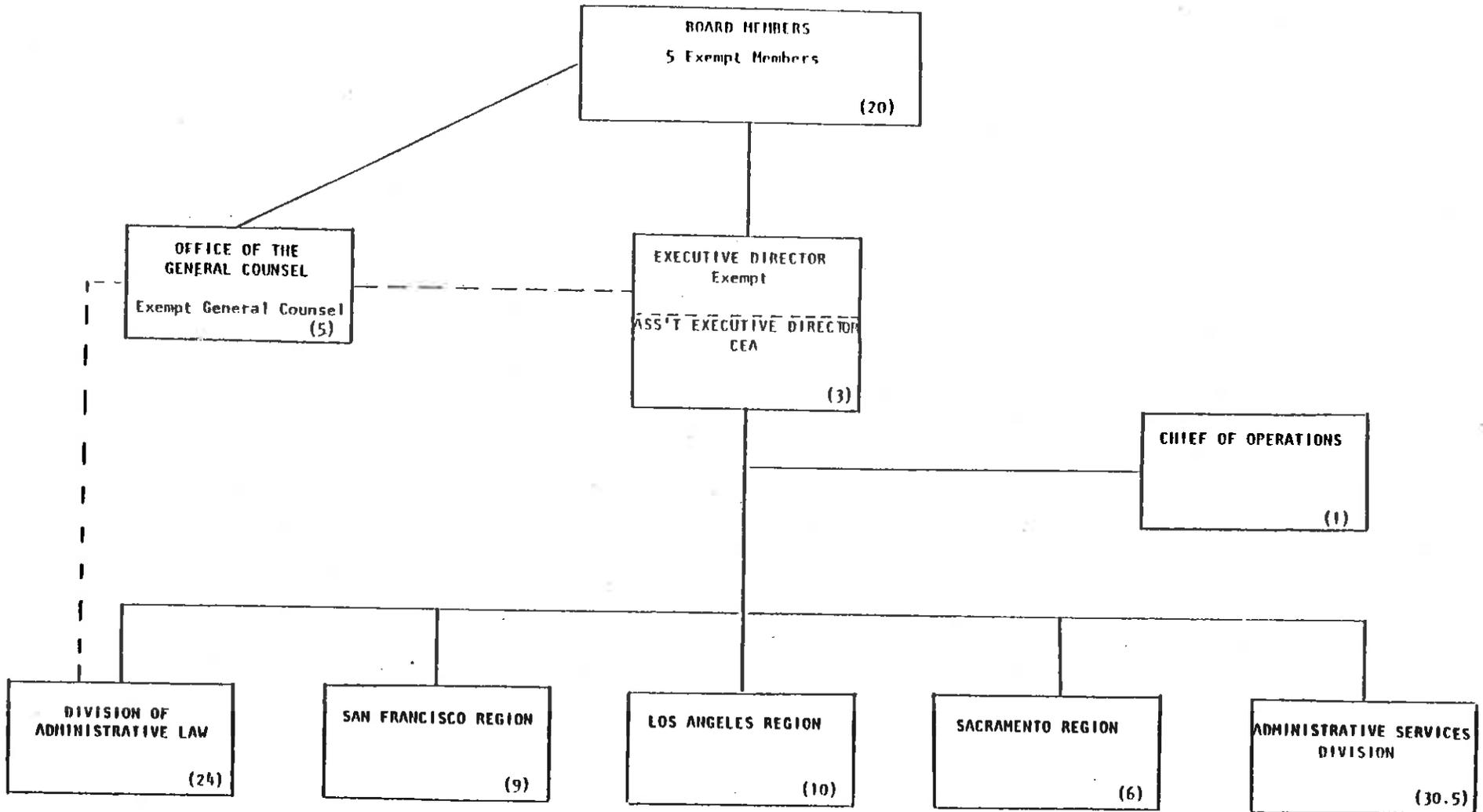
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**Unfair Practice Procedures**

PUBLIC EMPLOYMENT RELATIONS BOARD



LIST OF ABBREVIATIONS USED IN ELECTION LOG

ADA	ASSOCIATE DEANS ASSOCIATION
AFSCME	AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES
AFT	AMERICAN FEDERATION OF TEACHERS
BCST	BEACH CITIES SECONDARY TEACHERS
BD	BOARD DIRECTED
CA	CONSENT AGREEMENT
CCD	COMMUNITY COLLEGE DISTRICT
CSEA	CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION
CTA	CALIFORNIA TEACHERS ASSOCIATION
D	DECERTIFICATION
ESD	ELEMENTARY SCHOOL DISTRICT
FA	FACULTY ASSOCIATION
HSD	HIGH SCHOOL DISTRICT
JtUnESD	JOINT UNION ELEMENTARY SCHOOL DISTRICT
JtUnHSD	JOINT UNION HIGH SCHOOL DISTRICT
LA	LOS ANGELES
LIUNA	LABORERS' INTERNATIONAL UNION OF NORTH AMERICA
LOCAL 39	INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY LOCAL 39
OS	ORGANIZATIONAL SECURITY
R	REPRESENTATION (Case #)
RO	RUN-OFF
RDD	REGIONAL DIRECTOR DIRECTED
S	SACRAMENTO
SCOPE	SONOMA COUNTY ORGANIZATION OF PUBLIC EMPLOYEES

SEIU SERVICE EMPLOYEES INTERNATIONAL UNION  
SEU SCHOOL EMPLOYEES UNION  
SF SAN FRANCISCO  
SICE SOLEDAD INDEPENDENT CLASSIFIED EMPLOYEES  
SPEA SAN PASQUAL EDUCATORS ASSOCIATION  
SPTA SAN PASQUAL TEACHERS ASSOCIATION  
SPUHSDFE SANTA PAULA UNION HIGH SCHOOL DISTRICT FEDERATION OF TEACHERS  
SPUHSDFC SANTA PAULA UNION HIGH SCHOOL DISTRICT TEACHERS CLUB  
SUPA STATEWIDE UNIVERSITY POLICE ASSOCIATION  
TEAM TEAMSTERS  
USD UNIFIED SCHOOL DISTRICT  
UTP UNITED TEACHERS OF PALMDALE

PUBLIC EMPLOYMENT RELATIONS BOARD  
 ERA ELECTIONS HELD - 1980

1980 DATE HELD	R-No	CASE NO	SCHOOL DISTRICT	UNIT TYPE	No OF VOTERS	No OF VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORG (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
05/13	LA-R-0076	D-60	ARC USD	C	1141	0932	AFT-491	CTA-432	-	007	002	002	RDD
06/10	SF-R-0091	D-68	Alameda USD	C	0500	0452	CTA-244	AFT-195	-	004	009	001	RDD
12/17	LA-R-0853		Antelope Valley STA	CL	0072	0070	CSEA-52	-	-	018	000	001	CA
05/01	LA-R-0055	D-52	Antelope Valley UnHSD	C	0319	0306	UTAV-157	CTA-145	-	000	004	000	RDD
06/02	LA-R-0299A	D-67	Banning USD	CL	0057	0045	CSEA-37	Team-8	-	000	000	000	RDD
05/29	LA-R-0587	D-57	Bassett USD	C	0264	0248	CTA-121	BFT-115	-	002	010	000	RDD
06/17	LA-R-0587	D-57	Bassett USD (Revised Tally)	C	0264	0241	RTA-121	BFT-118	-	002	000	000	RDD
04/25	S-R-0026	D-29	Cantua ESD	C	0014	0014	-	CTA-7	AFT-7	000	000	000	RDD
04/25	S-R-0371		Cantua ESD	C	0014	0014	CFT-14	-	-	000	000	000	CA
06/05	S-R-0026	D-29	Cantua ESD	C	0014	0014	-	CTA-7	AFT-7	000	000	000	RDD/RO
10/21	LA-R-0250B	D-72	Capistrano USD	CL	0050	0045	CSEA-35	Team-10	-	000	000	000	RDD
05/06	LA-R-0334	D-53	Carlsbad USD	CL	0198	0150	LIUNA-88	CSEA-61	-	001	000	000	RDD
10/09	LA-R-0334	OS-29	Carlsbad USD	CL	0198	0114	-	YES-91	NO-23	-	000	000	CA
06/04	S-R-0384-1		Caurthers UnESD	CL	0020	0018	CSEA-18	-	-	000	000	000	CA
06/04	S-R-0384-2		Caurthers UnESD	CL	0012	0012	CSEA-7	-	-	005	000	000	CA
09/23	S-R-0685		Coarsegold UnESD	CL	0012	0013	CSEA-13	-	-	001	001	000	CA
02/28	LA-R-0350A		Compton USD	CL	0438	0262	CSEA-153	SEU-106	-	003	000	026	RDD
02/28	LA-R-0350B		Compton USD	CL	0760	0298	CSEA-284	-	-	014	000	018	RDD
02/28	LA-R-0350C		Compton USD	CL	0243	0163	CSEA-161	-	-	002	000	006	RDD
02/28	LA-R-0350D		Compton USD	CL	0095	0040	CSEA-31	SETU-8	-	001	000	005	RDD
10/30	SF-R-0484	OS-81	Contra Costa CCD	C	1075	0581	-	YES-284	NO-297	-	000	000	CA
11/07	LA-R-0346B	D-48	Downey USD	CL	0174	0126	SETU-65	CSEA-54	-	004	003	000	RDD
11/18	LA-R-0096	OS-32	Downey USD	C	0700	0457	-	YES-378	NO-79	-	000	002	CA
04/16	LA-R-0673B		El Monte UnHSD	C	0026	0024	CTA-21	-	-	003	000	000	CA
05/14	LA-R-0336	D-51	Escondido UnHSD	C	0306	0266	CTA-146	AFT-118	-	002	000	000	RDD
06/04	S-R-0370		Etna UnHSD	CL	0018	0020	CSEA-11	-	-	007	002	000	CA
01/22	SF-R-0378B		Franklin McKinley ESD	CL	0110	0096	CSEA-53	Team-32	-	001	010	000	CA
05/06	S-R-0037C	D-30	Fresno USD	CL	0281	0177	CSEA-96	SETU-74	-	007	000	000	RDD
11/13	S-R-0022	OS-23	Grant JtUnHSD	C	0606	0375	-	YES-325	NO-49	-	001	003	CA
11/13	S-R-0240	OS-22	Grant JtUnHSD	CL	0456	0170	-	YES-99	NO-70	-	001	001	CA
06/11	SF-R-0011B	D-54	Hayward USD	CL	0400	0192	SETU-98	CSEA-84	-	005	005	002	RDD
02/05	LA-R-0845		Imperial CCD	C	0102	0097	CTA-45	-	-	050	002	000	CA
05/06	SF-R-0130A	D-41/12	Jefferson ESD	C	0330	0329	AFT-165	CTA-163	-	001	000	000	RDD
06/04	SF-R-0111B		Jefferson UnHSD	CL	0039	0028	Team-27	AFSCME-0	-	001	000	000	CA
02/13	LA-R-0515	OS-27	Jurupa USD	CL	0462	0255	-	YES-153	NO-102	000	000	000	CA
09/23	S-R-0487A		Kings River UnESD	CL	0008	0008	-	CSEA-3	-	004	001	000	CA
09/23	S-R-0487B		Kings River UnESD	CL	0017	0015	CSEA-12	-	-	003	000	000	CA
03/28	LA-R-0004D	OS-28	Los Angeles CCD	CL	0037	0026	-	YES-26	NO-11	-	000	001	CA
01/22	LA-R-0001D		Los Angeles USD	CL	4500	1287	CSEA-1287	-	-	000	000	1402	CA
03/18	S-R-0660	OS-19	Los Rios CCD	C/S	0032	0024	-	YES-22	NO-2	-	000	000	CA
05/12	S-R-0551B	D-28	Marysville JtUSD	CL	0078	0045	Oper Eng-28	CSEA-17	-	000	000	000	RDD

1980 DATE HELD	R-No	CASE NO	SCHOOL DISTRICT	UNIT TYPE	No OF VOTERS	No OF VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORG (OS-NO)	NO REP	CHALG BALLOT	VOID BALLOT	TYPE OF ELECT
11/06	SF-R-0213	OS-80	Monterey Pen CCD	CL	0115	0072	-	YES-58	NO-14	-	000	000	CA
06/04	LA-R-0102	D-61	National SD	CL	0251	0229	NCETA-134	NCFT-94	-	001	000	000	RDD
12/03	SF-R-0216	OS-82	New Haven USD	C	0442	0182	-	YES-161	NO-20	-	000	000	CA
05/29	SF-R-0051	D-65	Newark USD	C	0385	0355	CTA-203	AFT-149	-	001	002	000	RDD
01/29	SF-R-0339	D-47	No. Monterey COE	C	0259	0234	CTA-140	AFT-89	-	000	005	001	RDD/RO
04/17	SF-R-0258H	OS-74	Oakland USD	CL	1000	0194	-	YES-245	NO-149	-	000	001	CA
05/29	SF-R-0246	OS-76	Old Adobe SD	C	0084	0085	-	YES-46	NO-39	-	000	000	CA
04/28	LA-R-0120B		Orange USD	C	0044	0035	CTA-31	-	-	004	000	000	CA
12/02	LA-R-0120A	OS-30	Orange USD	C	1318	0645	-	YES-474	NO-171	-	000	000	CA
12/02	LA-R-0120B	OS-31	Orange USD	C	0037	0020	-	YES-10	NO-10	-	000	000	CA
10/16	LA-R-0426	D-71	Oxnard UnHSD	C	0480	0425	OFTA-255	OST-168	-	002	000	001	RDD
06/05	LA-R-0486	D-65	Palmdale SD	C	0162	0152	PETA-109	UTP-39	-	004	000	002	RDD
10/15	LA-R-0701	D-69	Palo Verde CCD	C	0043	0034	CTA-19	PVCCFT-15	-	000	000	000	RDD
01/17	LA-R-0612B	D-45	Pasadena Area CCD	CL	0091	0082	Tcam-50	-	-	032	000	000	RDD
06/11	LA-R-0471	D-68	Pasadena USD	C	1265	0996	PEA-535	PFT-426	-	012	023	012	RDD
12/11	SF-R-0495	D-71	Potter Valley ESD	CL	0020	0017	Local -17	CSEA-2	-	000	000	000	RDD
04/02	LA-R-0410B		Redondo Beach City SD	C	0026	0021	AFT-20	-	-	001	000	000	RDD
03/11	SF-R-0055	OS-67	Richmond USD	C	1600	1203	-	YES-713	NO-489	-	001	000	RDD
06/02	S-R-0008		Sacramento USD	CL	BALLOTS IMPOUNDED								
06/04	SF-R-0124A	D-62	Salinas UnHSD	C	0380	0360	AFT-217	CTA-138	-	003	002	000	RDD
05/27	LA-R-0669A	D-66	San Diego CCD	C	1631	0562	CTA-282	AFT-244	-	034	002	004	RDD
06/05	LA-R-0173A	D-62	San Diego CCD	CL	0151	0101	SEIU-79	CSEA-20	-	002	000	007	RDD
06/05	LA-R-0173C	D-63	San Diego CCD	CL	0043	0023	CSEA-13	SEIU-8	-	001	001	000	RDD
06/05	LA-R-0173D	D-64	San Diego CCD	CL	0029	0025	SEIU-14	CSEA-11	-	000	000	001	RDD
12/09	LA-R-0852		San Diego CCD	C/S	0053	0042	ADA-22	-	-	020	000	000	CA
11/14	SF-R-0622A	OS-78	San Francisco USD	CL	0808	0331	-	YES-244	NO-87	-	000	001	CA
04/29	SF-R-0067	OS-75	San Jose CCD	CL	0230	0097	-	YES-79	NO-18	-	000	000	CA
04/10	SF-R-0068B	OS-73	San Jose USD	CL	0450	0191	-	YES-107	NO-90	-	000	001	CA
05/28	LA-R-0099	D-54	San Pasqual USD	C	0045	0042	SPTA-24	SPEA-18	-	000	000	000	RDD
02/21	SF-R-0029B	OS-19	San Ramon Valley USD	CL	0110	0064	-	YES-32	NO-32	-	000	000	CA
12/10	SF-R-0024A	D-70	Santa Clara COE	CL	0342	0205	SEIU-118	CSEA-58	-	007	022	000	RDD
12/10	SF-R-0024C	D-69	Santa Clara COE	CL	0290	0197	SEIU-109	CSEA-47	-	013	028	000	RDD
03/18	SF-R-0264A	D-49	Santa Cruz City SD	C	0480	0422	AFT-260	CTA-155	-	004	003	000	RDD
03/26	LA-R-0188	D-49	Santa Paula UnHSD	C	0061	0059	SPUHSDF-38	SPUHSDF-21	-	000	000	000	RDD
05/27	SF-R-0322	D-59	Sebastopol UnESD	CL	0040	0020	SCOPE-20	-	-	000	000	000	RDD
05/30	SF-R-0394	D-66	Solano CCD	CL	0045	0024	Local 39-22	-	-	002	000	000	RDD
03/20	SF-R-0243B		Soledad UnESD	CL	0021	0019	STCE-11	CSEA-8	-	000	000	000	RDD
02/05	S-R-0470	OS-18	Sonoma UnHSD	CL	0054	0037	-	YES-29	NO-8	-	000	000	CA
01/22	LA-R-0118	OS-26	South Bay UnESD	C	0305	0152	-	YES-124	NO-28	-	000	000	CA
01/22	LA-R-0395	OS-25	South Bay UnESD	CL	0302	0209	-	YES-187	NO-22	-	000	000	CA
05/20	LA-R-0370	D-55	South Bay UnHSD	C	0265	0244	RCST-130	AFT-112	-	002	000	000	RDD
04/24	S-R-0402		Spring Valley ESD	CL	0013	0011	CSEA-9	-	-	002	000	000	CA
12/17	S-R-0036A	D-27	Stockton City USD	C	1158	1074	CTA-705	AFT-347	-	011	011	007	RDD
04/23	S-R-00520	OS-20	Stockton USD	C	0096	0049	-	YES-35	NO-14	-	000	000	CA
05/28	SF-R-0032	D-56	Tamalpais UnHSD	C	0300	0306	AFT-159	CTA-138	-	003	006	000	RDD

1980 DATE HELD	R-No	CASE NO	SCHOOL DISTRICT	UNIT TYPE	No OF VOTERS	No OF VOTES	ORG WITH MAJORITY	OTHER ORG (OS-YES)	OTHER ORG (OS-NO)	NO REP	CHALC BALLOT	VOID BALLOT	TYPE OF ELECT
05/15	LA-R-0126	D-56	Torrance USD	C	1284	1013	CTA-640	AFT-368	-	004	001	006	RDD
09/24	S-R-0154B		Tulare COE	C	0033	0028	CSEA-20	-	-	008	000	000	CA
09/24	S-R-0375B		Tulare COE	CL	0089	0062	CSEA-53	-	-	009	000	000	CA
09/24	S-R-0375C		Tulare COE	CL	0040	0026	CSEA-23	-	-	003	000	000	CA
12/11	S-R-0602	OS-24	Winters JtUSD	CL	0037	0028	-	YES-25	NO-3	-	000	000	CA
10/22	S-R-0570	OS-21	Yosemite CCD	CL	0307	0165	-	YES-133	NO-32	-	000	002	CA

PUBLIC EMPLOYMENT RELATIONS BOARD  
HEERA ELECTIONS HELD - 1980

06/10	LA-RR-1003		CSIC		0166	0101	SUPA-98	-	-	003	000	000	RDD
08/07	SF-RR-1004	PC-1008	Regents of U.C.		0277	0203	SUPA-102	-	-	039	062	002	CA
11/20	SF-PC-1040		Regents of U.C.		2300	1529	-	FA-625	AFT-216	688	000	006	CA
11/25	SF-PC-1041		Regents of U.C.		0295	0205	FA-0082	AFT-49	-	074	000	000	CA

INJUNCTIVE RELIEF REQUESTS - 1980

Case Name	No.	Allegation	Filed	Disposition
1. RIO HONDO CTA v. RIO HONDO CC	LA-CE-1101	Proposed change in teaching assignments were reprisals.	1/23/80	2/4/80 Bd. denied request as class assignments restored. No irreparable harm shown.
2. CONGRESS OF FACULTY ASSOC. v. TRUSTEES OF CA. STATE UNIV.	LA-CE-11-H	Employer instructed department chairpersons that they are supervisory employees and are prohibited from joining organizational activities under HEERA.	1/31/80	2/26/80 Request withdrawn.
3. DRY CREEK T.A. v. DRY CREEK JT. ELEM S.D.	S-CE-139	District continues freeze of cost-of-living and step increases. Request arbiter's award be set aside as repayment to EERA.	1/29/80	3/6/80 No irreparable harm. Board issued order AD-81 ordering G.C. to investigate if arbitration award is repugnant to purposes of EERA.
4. RIO HONDO FACULTY ASSOC. v. RIO HONDO CC	LA-CE-1079	Employer placing letters of reprimand in personnel files.	2/7/80 3/11/80 (2d. req.)	4/30/80 Bd. denied request.

Case Name	No.	Allegation	Filed	Disposition
5. CULVER CITY FEDERATION OF TEACHERS v. CULVER CITY USD	LA-CE-1110	Employer assigned one extra period per week for teachers; illegal rescheduling	2/8/80	2/11/80 Withdrawn.
6. STATE TRIAL ATTORNEYS' ASSOC. v. STATE OF CALIF. (CALTRANS) and (GOER)	S-CE-2-S	Employer has denied access through the work site of mail by organizations unless censored to their members. Stay election for 120 days to communicate position.	2/20/80	3/80 Withdrawn.
7. EUREKA T.A. v. EUREKA CITY SCHOOLS/ HSD	SF-CE-445 451	Strike situation following impasse.	2/25/80 (1st) 3/10 (2d. req.)	3/28/80 Denied.
8. HEMANN, BOYD, ET AL. v. MT. DIABLO USD and MT. DIABLO ED. ASSOC.	SF-CO-112 CE-438	Employer and employee organization to initiate dismissal proceedings against employees who have refused to comply with organizational security clause in contract.	3/26/80	4/16/80 Withdrawn.
9. ASSOCIATED TEACHERS OF PLACER v. PLACER JT. UHSD	S-CE-317	Employer reassigns member of bargaining team, contrary to agreement without negotiating changes.	2/27/80	3/11/80 Withdrawn.
10. MODESTO CITY SCHOOLS v. MODESTO TA	S-CO-48	Strike situation	3/4/80	IR-11 Bd. req. more info. IR-12 CEASE & DESIST ORDER. TRO obtained.

Case Name	No.	Allegation	Filed	Disposition
11. MODESTO TEACHERS ASSN. v. MODESTO CITY SCHOOLS	S-CE-318, CE-319, CE-320	Strike situation	3/6/80	3/10/80 IR-11 Bd. req. more info. 3/12/80 IR-12 Bd. issued CEASE & DESIST ORDER. TRO obtained.
12. SANTA MONICA CLASSROOM TA v. SANTA MONICA USD	LA-CE-1098	Employer reassigns member of negotiating team, contrary to agreement without negotiating changes.	3/11/80	6/12/80 Withdrawn.
13. CSEA v. ROBLA S.D.	S-CE-321	Employer flatly refused to negotiate in re layoffs and effects of layoffs in custodian and cook helper classes.	3/20/80	Settlement agreement signed 3/26/80. Withdrawal 4/9/80.
14. ESPARTO TA v. ESPARTO USD	S-CE-322	Employer ordered two days makeup without negotiations during the previously scheduled vacation period of Easter vac.	3/21/80	3/26/80 Board denies request as negotiations would begin prior to vacation period.
15. BURBANK TA v. BURBANK USD	LA-CE-1132	Strike situation/work stoppage	3/26/80	4/4/80 Board dismissed as not a valid request in footnote of IR-15.

	Case Name	No.	Allegation	Filed	Disposition
16.	BURBANK USD v. BURBANK TA	LA-CO-125	Strike situation/work stoppage	3/28/80	4/4/80 IR-15, Board denies requestas no valid inj. relief request filed.
17.	EUREKA CTA v. EUREKA CITY SCHOOLS/HSD	SF-CE-453	Employer demanding reprisals against classified and certificated personnel who participated in strike action.	3/27/80	3/28/80 Parties reached agreement.
18.	CORNING ELEM. FACULTY ASSN. CTA/NEA v. CORNING ESD	S-CE-331	Employer harassing and proceeding with dismissal charges without allowing organization representation because of employee's union activities.	4/2/80	6/5/80 Letter to charging party. Closed, documentation not completed.
19.	UNITED TEACHERS OF RICHMOND CTA/NEA v. RICHMOND USD	SF-CE-459	Employer would not negotiate time of day for negotiations on layoff.	4/14/80	G.C. denied request as improperly filed. Gave CTA until 4/21 to support request.
20.	JANE WILLOUGHBY v. CARUTHERS USD	S-CE-338	Employer denies personal necessity leave to employee who wishes to attend christening of granddaughter in Mississippi. She is to be docked \$100 a day.	4/21/80	4/30/80 Request denied.

Case Name	No.	Allegation	Filed	Disposition
21. ESPARTO TA v. ESPARTO USD	S-CE-322 (amended)	Employer threatens disciplinary actions against cert. employees who were absent two days of Easter vacation which were designated "make-up" time by employer.	4/28/80	4/30/80 Request granted.
22. CDFEA and CCOAV v. CAL. DEPT. OF FORESTRY	S-CE-4-S, 18-S, 19-S	Usual PERB appellate procedures would not provide relief soon enough.	5/9/80	6/20/80 Denied.
23. CSEA v. MONTEBELLO	LA-CE-1149	District unilaterally changing health and welfare agreements.	5/6/80	6/9/80 Denied. No irreparable harm.
24. CSEA v. LOS ANGELES USD	LA-CE-1159	District improperly continues dues deduction for rival organization after it reverted to status of professional organization.	6/2/80	6/27/80 Denied.
25. OAKLAND SCHOOL EMPLOYEES ASSOC. v. OAKLAND USD	SF-CE-476	District laid off 17 employees prior to negotiating effects of layoff.	6/11/80	6/27/80 Denied.
26. AFSCME v. OAKLAND	SF-CE-472	District unilaterally reduces work year and implements layoffs before negotiating effects of layoff.	6/24/80	7/9/80 IR-16 issued. Denied.

Case Name	No.	Allegation	Filed	Disposition
27. SEIU v. SOLANO	SF-CE-480 SF-CO-129	All unfairs and representation cases before PERB should be resolved before District makes agreement with another union.	6/25/80	7/15/80 Denied.
28. COLLINS, HIDALGO v. SAN LEANDRO	SF-CE-477	Transfers of teachers are reprisals for joint efforts to oppose policy on extra-duty assignments.	6/26/80	7/21/80 Withdrawn.
29. PRINTING TRADES ALLIANCE v. U.C. PRINTING DEPT.	SF-CE-5-H	Unilateral changes made in hours, working conditions and wages.	7/3/80	7/15/80 Denied.
30. SEIU v. U.C. DAVIS MED. CENTER	SF-CE-24-H	Employer's new absenteeism policy jeopardizes union ability to obtain witnesses in unit determination hearings.	7/8/80	7/15/80 Denied.
31. AFT LOCAL 1521 v. LOS ANGELES CCD	LA-CE-1170	District replacing certificated employees with classified employees in learning skills center.	7/8/80	7/16/80 Withdrawn.
32. AFSCME v. UCLA (Learning Skills Center)	LA-CE-19-H	Refusal to meet and confer re reorganization	7/8/80	Withdrawn.
33. UNITED HEALTH CARE EMPLOYEES, UNIV. DIV. SERVICE EMPLOYEES INTL. UNION v. U.C. IRVINE	LA-CE-20-H	Union steward discharged for organizing activities.	7/17/80	7/22/80 Withdrawn.

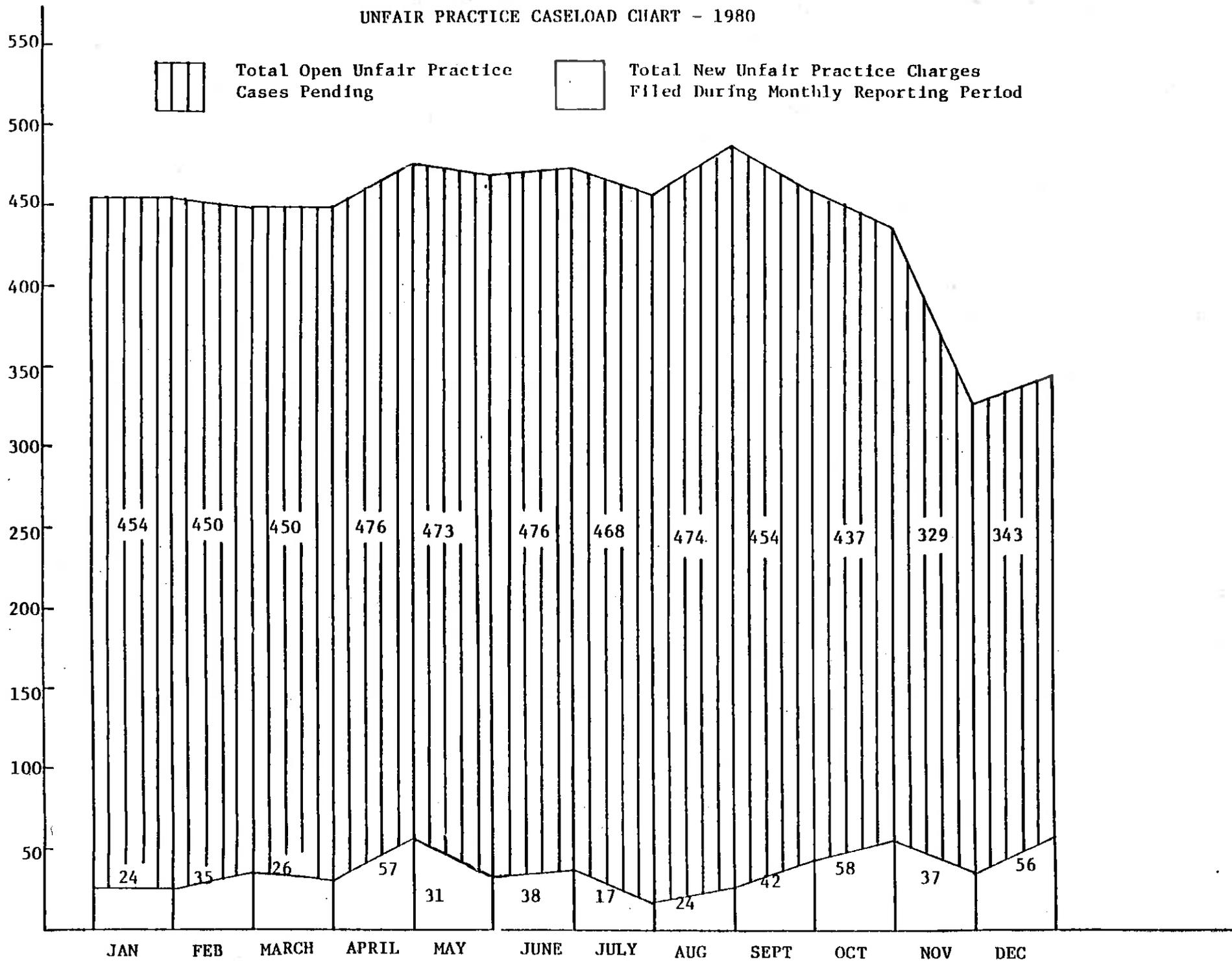
	Case Name	No.	Allegation	Filed	Disposition
34.	UNITED HEALTH CARE EMPLOYEES, SEIU LOCALS 434 and 660 v. U.C. IRVINE MED. CEN.	LA-CE-21-H	Unilateral change in work week (termination of pilot project consisting of 4-10 work week by employer).	9/12/80	Denied.
35.	SAN BERNARDINO TEACHERS ASSOC. v. SAN BERNARDINO CITY USD	LA-CE-1193	Unilateral changes in assignments and hours worked of certificated employees.	10/3/80	10/9/80 Withdrawn.
36.	UTLA v. LOS ANGELES USD	LA-CE-1225	Unilateral changes in wages, hrs., conditions, e.g. class size, leave, sub. salaries, etc. after contract terminated.	10/14/80	10/29/80 IR-17, Request denied.
37.	CANTUA CREEK FED. OF TEACHERS v. CANTUA CREEK ESD	S-CE-374	Unilateral change in work sched. of librarian.	10/20/80	10/30/80 Request withdrawn.
38.	AFSCME v. UNIV. OF CAL. (SANTA BARBARA)	LA-CE-24-H	Irreparable harm in closing campus for Christmas vacation.	12/19/80	12/19/80 Denied.
39.	CULVER CITY FED. OF TEACHERS v. CULVER CITY USD	LA-CE-1251	After Assoc. called boycott of curriculum meetings, District warns teachers will be docked for non-attendance.	12/16/80	12/19/80 Withdrawn.

PUBLIC EMPLOYMENT RELATIONS BOARD

	1978	1979	1980
		<u>EERA</u>	
Elections	137	122	91
Excl Rep	68	44	26
Decert	24	47	38
OS	45	31	25
Runoff			2
Req/Int	73	75	69
Unit Mod	68	122	138
Mediation	305	563	412
Factfinding	48	85	63
Public Notice	8	14	11
Unfair Practice	564 *	962 **	445
Admin Appeals	28	25	22
Request for Injunctive Relief	11	35	26
Requests for Judicial Review	3	1	1
Other Court Actions	2	6	16
		<u>HEERA</u>	
Admin Appeals	--	--	6
Elections	--	--	4
Unfair Practice	0	15	54
Request for Injunctive Relief	--	2	6
		<u>SEERA</u>	
Unfair Practice	15	16	55
Request for Injunctive Relief	3	--	2
Admin Appeals	--	5	1

\*200 Proposition 13 related filings.  
 \*\*500 filings related to one case.

UNFAIR PRACTICE CASELOAD CHART - 1980



SEERA and HEERA

UNFAIR PRACTICE CASELOAD CHART - 1980

